

**April 19, 2007**  
**Zoning Board of Appeals Minutes**  
**Oswego Town Hall**

**Chairman:** Greg Auleta  
**Board Members:** Robert Baker, Timothy Anderson,  
Debra Jaskula, Robert Dexter  
**Attorney to the Board:** Kevin Caraccioli  
**Secretary:** Marjorie Best

**Call To Order:**

At approximately 7:15 PM, Greg Auleta, Chairman of the Zoning Board of Appeals called the meeting to order.

**Attendance:**

Those in attendance were:

Greg Auleta, Chairman  
Robert Baker, Member  
Debra Jaskula, Member  
Robert Dexter, Member  
Kevin Caraccioli, Legal Advisor  
Marjorie Best, Secretary

Absent was:

Timothy Anderson, Member

**Acceptance of Agenda:**

Greg said as to the agenda, we will have to go through some ritual. He made a change to the agenda which he assumes his colleagues will agree. Through an oversight of his, when he was coordinating the publication of our agenda, he miscommunicated with the secretary. He proposes the following change. It lists an Area Variance request by Wesley Mauer, and that the public hearing was scheduled to start at 7:15 PM, which is under New Business, which would start first, and under Old Business, we have the continued discussion of the Application of United Group Development. This is scheduled for 7:10 PM. Of course, 7:10 comes before 7:15, yet they have the reverse order. He asked that the agenda be amended so the application by Wesley Maurer be first.

Approval of March 15, 2007 Minutes:

Deb Jaskula made a motion that the March 15, 2007 Minutes be approved. Bob Dexter seconded the motion. All ayes. Motion carried:

Application #200704 - Wesley Mauer - Area Variance - Public Hearing:

Greg asked the representative for Mr. Mauer to please step forward and state his name and tell us what he wants to do.

Jeff Cuyler stepped forward, stated his name, and that he is with Powerhouse Construction. He stated he is applying for an Area Variance on the two side yard set backs of the proposed house of Wesley Maurer at 170 County Rte 89. Wes is still in Arizona, and Jeff is representing

him. What he proposes to do is tear down the existing building, and build a new one. To do that, he wants to rotate the building so that it will be in line with the other cottages along the water front. Wes owns the property to the East of him also. Greg asked if he is going to straddle the property line, and Jeff said no. It meets the set backs from the front and back, but it is just the two side lines. The new home will be on a separate deed. Greg said it looks like he is looking for an 8 foot variance on the West side, and a 6.4 foot variance on the East side.

Jeff said the house he is replacing is an old dilapidated building, and nobody can even live in it, and it will be torn down, as well as the foundation taken out.

Greg said that the application is not in conflict with the existing map of the coastal erosion area, so that is not an issue in terms of consideration.

Greg said for the record that he has a letter from the Oswego County Department of Planning, regarding the request, and they conclude with the statement "Based on the information submitted with this referral, it was determined that no significant county impact is involved; therefore this should be decided as a local issue".

Greg asked if there was anyone who would like to speak regarding the application. Francis Castaldo said he is representing Mrs. Dominic Castaldo. He said the legal notice requested a 12 foot variance, so would like that clarified. Greg said the distance is 12 feet, but the variance would be 8 feet. Mr. Castaldo asked what other documents would be required. Kevin said a Building Permit would be required, and a requirement by the County Planning Board, Section 239 review. That was presented to the County, and their response was read into the record that there was no county impact. There will be a determination with respect to SEQRA (State Environmental Quality Review Act). A variance of this nature would be determined to be an unlisted action, so that would require a short form SEQRA. The coastal erosion was mentioned. It is also called the red line established by the DEC. In looking at the map, parts of the town are included in the red line area. This property is not included within the red line. Mr. Castaldo Mr. Castaldo said another concern is the septic system. Kevin said this would go through the Building Permit Process and the County Department of Health. Francis Castaldo said it certainly would be an improvement to the property, as long as everything is done correctly. Deb asked Jeff if there is a concrete slab there now, and Jeff said there is and it would be removed.

Bill Naun came to the table, and also wanted clarification of the variance measurements. He also agreed with Francis Castaldo, that if everything is complied with, it will improve the area.

Greg asked for a motion. Deb Jaskula made a motion that we allow an Area Variance of 8 feet on the West side, and 6.4 feet on the East side, contingent on the SEQRA being approved, and the criteria being met "Whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or buildings involved, but in no other case; that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to public welfare" Bob Dexter seconded the motion. All ayes. Motion carried.

### **Old Business:**

Greg said there is the continuation of consideration of the application of United Development Corporation regarding the proposed student housing development on which Mr. Smetana will be speaking. Since this is not without some controversy, he advised the people of how he would like the meeting to be run. A presentation will be made by United Group, then he would ask the people to address the issues that came out of our last meeting. However, we have 3 particular items that relate to this Board; one being the issue of front set back variance based

upon the initial projection of the Southeastern most building; the height, and the issue of the definition of a dormitory. We will entertain other concerns, but these are the items this Board is authorized to consider.

Jeff Smetana took the floor and stated he is the Executive Vice President of United Group Development, and introduced David Clemenzi of Einborn Yaffee Prescott, who is the Architect and Engineer of the project. Jeff said he would like to summarize some of the issues so the Zoning Board could understand them. He feels there is a significant need and demand in the community for college students; that being apartments that would create an environment where there are a number of amenities; a high level of supervision and security. Critical to any real estate transaction is location. We need a site that creates a prone connection to the college, physically and also visually. Jeff showed maps, concept plan and topography maps. He pointed to a yellow area on the topography map, and have drawn a half mile circle around the area so as to give a sense of perspective of distances. It is close to the main entrance to the college and other parts of the campus. Immediately to the East are facilities such as Laker Hall. He pointed to the college campus, and said there is limited parking there for employees, and residents. He indicated that students in the apartments would use other means of transportation to get to the campus, primarily the bus. It is highlighted where the bus would go. The bus would travel very regularly, between 7:30 AM and 4:30 PM about every 10 minutes. The early shuttle would be at 6:30 AM at 30 minute intervals until 11:30. We do understand that there are some residents in the section of the town that have some concerns. We are hoping to adequately address those concerns. Specifically, a lot of these issues would be addressed through the Planning Board. Some of the things we have talked about would be to discourage vehicular traffic, as to the logical route they would be taking. One of the aspects they are looking at would be reducing the speed limit along Johnson Road from 40 to 30 miles per hour. We will be looking into traffic analysis with professional engineers. We will be going through the SEQRA Process.

Jeff said there are a number of issues that bring them to the Zoning Board, and they have identified several of them. At this point he asked David Clemenzi to speak.

David Clemenzi said he would like to back up to the overall ideas of the project impact. Some of the history of EYP are specializing the design as an aspect of what they do for colleges and universities. The reasons for this is primarily to minimize the impact of the site, and that it would support the financial cost of the overall project. Some of the other items are highlighted in the drawings. The area in blue is a designation of the wetlands. The area is not fully running water, so we are trying to back off from that area to build in such a way working with the topography. The areas on the opposite side of the wetlands, closest to the road is really unsuitable for building. If you look at the overall parcel, the area to build is up more in the area of the existing residents, and to the South. There are less concerns about erosion. These are things they are trying to incorporate in this designed. When they met the first time, they talked a bit about the aesthetics. Pointing to the plan, he said this is a rendering depicting the 4 story lodge in the upper most portion of the site. They are trying to make a feature almost like an icon building. There will be public spaces in the entry level that allow for gatherings, as well as a fireplace. This building will be seen from afar, a welcoming building.

Dave again pointed to the map and said the wetland elevations are down here, and they are rising up across the site 60 feet as the rise or fall; from high to low across tht section. In terms of site lines, they are nestled into this high point of the site; they are slightly excavating down, on the high side approximately 13 or 14 feet; and slightly on the front side in order to maintain a more level site. Greg asked how much rise to the cupola, and Dave said it is 40 feet. Dave again pointed to the drawing, and said there is an existing grade line that is up here and then down here. They would cut up here and fill down here to make it a more buildable site. As to the height, what they are asking for is - the local Zoning Code limits the height 2-Ω stories - 35 feet. There is a question of the definition in terms of height and where it is measured. They

have looked at more standard zoning guidelines as to what the height is, where it is measured, and a sloped structure is measured to the midpoint of the sloped surface. What they are proposing here is a 4 story structure, which is the lodge building, and when measured to the average grade of the front of the building to that midpoint, we have approximately 44 feet in height. The typical building, they have a 3 story structure, and when measured to the average grade, the front of the building to the midpoint in height, it is approximately 35 feet.

Greg said the issue of height is related to concerns regarding fire. He asked if anyone was here from the Fire Department. Scott Pritchard, who is Chief of the Fire Department said they have addressed that concern with United Group, and have come to the determination that this building is not out of compliance anymore than some of the other structures, such as the college buildings that they protect.

Greg quoted part of a letter sent to United Group from the Fire Department: "After careful consideration of the plan submitted by The United Group to construct student housing on County Route 7 and review of present multi-story structures in the Town of Oswego, the members of the Board of Fire Commissioners of the Town of Oswego Fire District have determined that there is a clear need to add an aerial truck to the current fleet of apparatus".

Dave Clemenzi brought up the concern as to whether it is a dormitory or apartment building - it is as they interpret zoning and building codes, and any state and federal regulations out there, looking into the New York State Dormitory Authority, any of the guidelines that any of these agencies put forth, this project is an apartment complex, a multiple housing structure. Dormitory structures have single sleeping quarters along the corridor. At the end of the corridor, you may have a bathing facility, common showers, bathrooms, and a floor for cooking accommodations. These units as defined by the building code are approximately 1,100 square feet - about 1,050 feet of living space. When they look at their unit, they have a 4 bedroom apartment. They have a large living space in the center. They have a full bath on each side; one is an ADA, or adaptable bathing facility, so that if someone is physically impaired, and in the center area. They have a full kitchen. So by all definitions, this is an apartment.

Dave said there is one other point they wanted to make is safety. They are in compliance of all State and Federal Regulations. In addition to that, they are providing a full sprinkler system throughout the entire facility. It is a safe and secure facility.

Jeff brought up the issue of parking. This will be specifically for the Planning Board, but there are some issues that need to be discussed. They will have 3 parking spaces per apartment. Most codes require 1 space to 2 spaces per apartment. They will be working with the Planning Board on that issue. 3 spaces per apartment will give them a ratio of .75 per resident. The college has 1,680 residential parking spaces for 3,500 residents on campus. They have found that .75 works well. He explained that the Concept Plan shows 2 phases. They will build Phase 1 first, and if the demand is sufficient somewhere down the road, they will build a second phase. So they have this extra space to deal with in this initial phase if need be, they could use that area for parking.

Kevin said he wants to put a clarification on the record. On the previous Mauer application, he indicated that the Area Variance would require the short form SEQRA. That is incorrect. The Use Variance requires a SEQRA Review. An Area Variance is determined to be a Type II Action under the SEQRA regulations. As such, it is exempt from environmental review. With respect to Mr. Mauer's application, a SEQRA is not required. As it relates to the Zoning Board, determination on United Group's application for an Area Variance for height and set back issues, that would also be determined exempt. Or a Type II Action. Not that United Group is off the hook from SEQRA, as the Planning Board has a site plan process, and in respect to the height issues, he would imagine they will get into and coordinate a visual impact, as well

as the storm water runoff and some of the other issues. But for our purposes, an Area Variance is an exempt application.

Kevin said the latest Concept Plan addresses the set back requirements and maybe he missed this early on, but in the R-3 District, the side yard set backs are 20 feet. The only Area Variance that the Zoning Board is considering is the height. The other issue we want to hear is the dormitory versus the apartment house argument which may or may not trigger further review. He also wants to clarify this is an R-3 District and as such, apartment houses, apartment complexes is a permitted use, dormitories are not permitted.

Dave Clemenzi went through the design and code considerations. Some of them are general use elements and might change someone's idea of the difference, and talk about leasing or licensing. We talked how we often use a residential license for the students for residence here, because it provides a certain element of control, and it would work very well. A rental agreement could be a lease agreement, and we certainly could do that. I wouldn't want that to be an issue that will cloud the definition. We have been communicating with the Planning Board about the SEQRA process, and what their expectations are. We have consultants who will address some of those concerns, and do independent special data for the Planning Board.

Greg asked if there were any questions He said he has a notice from the State Department of Transportation. It addresses the issue of whether or not the Planning Board would be the lead agency for SEQRA purposes, and they indicate they have no trouble with that action. We have a letter sent from the Town of Oswego to the City of Oswego, regarding an appropriate hearing on the application. The City has been put on notice of the Procedure. We are in receipt of a letter part of which I read earlier from the Fire District. They indicated they have no problem, as they worked out a number of concerns. For the record, we are in receipt of an e-mail directed specifically to Greg, from Mario Rabozzi. Basically, he addresses a number of issues regarding traffic, and occupancy, and is opposed to the project. He also received a letter from Samuel Sugar, addressed to the Board, and he approves the project 100%.

Greg then opened the floor to the audience. He said he would call the people up in order of those who signed the sheets, as residents of the town. He said to be advised that the members of the Board can interrupt.

Scott Pritchard:

He separated himself from Fire Chief, and talked as a town resident. He thinks this project is positive for the Town. No one has been interested in large industry here. Here is a chance for the Town to grow. There is no cost involving the town. He worked with United Group through the Fire Department, and they are very supportive, He hopes both the Planning Board and Zoning Board will look at all these issues, and make a decision in favor of this project.

Ann Kirk:

Ann stated her name, and that she is a resident of Thompson Trailer Park. As she understands it, the new facility is going to be located behind the park. Greg didn't think that is quite accurate. Jeff pointed to the topography map to show Ann where the project is, and where the trailer park is. Her concern is wildlife that is back in the woods. The animals have to go someplace, and they will come right into the park. When they took the woods down on Thompson Road to put in the Alliance Church, they upset a population of fox. At one point, she couldn't even go out her door in the summertime, because there were foxes on her porch. There are a lot of residents in the park.

Bernie France:

Bernie said he has lived in the town for 3 years. He said he spent 41 years in the military. He was a volunteer fireman with Alcan. His concern is he doesn't feel United Group has done their homework on the traffic coming off Johnson Road. You have 18 wheelers coming through there hour after hour, and all these kids are going to cross 104. It's not going to happen. They are going to get someone killed there. 104 comes from two lanes to one lane. He lives on Thompson Road, and he said he has a hard time getting off that road at times. So they better go back and do some homework on the traffic.

Janet Dexter:

She said from a business prospective, it is a nice project. She likes the way it looks, and she thinks it would be good for us.

Matt Spagnoli:

He said if the town grants the variance for the height, if before the Fire Departments gets the equipment, perhaps there could be a tragedy there. Would the town be liable?

Kevin said that is a very loaded questions. It depends on a number of factors. The Planning Board and Zoning Board are changed with the following procedures. Any time there is a question of liability on a Town's part as it relates to injuries, from something a town approved, the Court looks at whether the town followed the procedures correctly. Accidents happen regardless of whether it is the town, or private residents. The key to any liability is whether the process was followed. It is not a yes or no answer. Any person who gets injured on their property, is more likely going to get sued. Landlords know that more than any of us here.

Don Neels:

He said he owns a couple of parcels in Oswego Town - one of them is within a half mile radius of the project. The issues we are talking about is the height, and whether it is an apartment or dormitory, and the set back. Greg said the Zoning Board of Appeals is directed to address the issues which the Code Enforcement Officer denies. Don asked about traffic. Greg said the issue of traffic at this point is not something that we are in a position to address. Don asked about the wetland setbacks. Kevin said it is a SEQRA issue. The Site Plan Review encompasses the entire project, and it relates to the environmental issues, traffic, noise, the aesthetics of the project - all of these items that many of you care about. The Zoning Board is very specific - we are a Board that interprets the Zoning Ordinance and the determinations made by the Zoning Enforcement Officer. In this particular case, determinations have been made that the set back did not meet the Town's Ordinance. The height exceeded the height restrictions, and that the use constituted a dormitory. Don asked Dave to show him the 4 story lodge again. He said they determined the height of that building, you did an average of the back side and front side basically. Dave said he took the mid-point of the slope which is right there (pointing to the drawing). It is under the New York State Building Code, and typical zoning guidelines to these points we measured to. Don asked about the cupola. Dave said cupolas, chimneys and lanterns, all those types of things are all exempt from height restrictions. Don said the floor plans show 4 bedrooms, 2 different bathrooms, kitchen and dining area. Don said "And you say they are apartments - not dormitories" Don asked if anybody can rent one of these? Dave said he is not involved in management, so turned it over to Jeff. Don asked if they are going to charge so much per month. Jeff said they rent apartments several different ways. Sometimes they rent by the month, and sometimes by the year. Don said "So anybody could come in, say 4 people and rent an apartment".

Jeff said they are going to cater primarily to students at the college. We need to go along with the legal restrictions Don said "If someone wants to rent as a family, you couldn't stop them".

Jeff said that would be a legal issue. Don said if it is just for students, that would be a dormitory.

Greg asked that the audience try to keep their remarks down to 5 minutes. He wanted everyone to get their chance to speak, but we would like to leave here sometime tonight.

Tom Dunsmoor:

Tom said he has been a life resident of Oswego Town. He had a copy of the District Regulations of the Town of Oswego. He stated out by going to Page 2, Section C in Definitions. "Apartment House - A building or portion thereof used as a residence for three (3) or more families living in separate, complete housekeeping units" "Dormitory - A building or part thereof, used as group quarters for unrelated individuals sharing common cooking, social and hygienic facilities. Includes fraternity and sorority houses."

He said the last meeting that he attended, several questions were asked whether this was an apartment complex or dormitory. Someone had said they thought it said "dormitory" in one of the drawings. He said he did not see it, but several people did. When questions about the actions of the students living in what he considers a dormitory, it was stated if there was a problem amongst the 4 living in the apartment; if one was having a problem or creating a problem, he would be removed, but the other 3 would be left in the apartment, and they would be renting the rooms individually.

Now as to the parking issue. In the District Regulations Ordinance, on Page w, Section C, No. 4 - "There is adequate permitted off-street parking to accommodate automobiles for all of the adult members of such group". That would mean 4 parking spots per unit. He went further to the set back variance. On Page 7 of the Regulations, Section B, "Exceptions and Modifications" down to No. 2, letter c - "Public, semipublic, or public service buildings, hospitals, institutions, or schools, where permitted, may be erected to a height not exceeding 60 feet, and churches and temples may be erected to a height not exceeding 70 feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located." This building is exceeding by 10 feet, which means that the building should be set back an additional 10 feet.

The last thing he asked, if he could see that picture of the 2 buildings that are located down by the river. He asked "Is there a road that goes down to those buildings, or a walkway?" Jeff said it is a pedestrian walkway that doubles as a fire lane. Don said "So in the winter when it is full of snow, they will be able to get a ladder truck in there?" Jeff said "Absolutely, and it will be maintained".

Patricia Tyrie:

She submitted a Petition from 100 residents who are against the project. She has a list of concerns to speak about. She knows the Board wants to stick to those 3 points. By allowing a complex of that size and height will make a huge impact. It will no longer be a quiet area. Mr. Clemenzi understood we were concerned about the increase in population. We are concerned about the traffic increase, safety and noise. The traffic pattern needs to be changed in a residential area. Her second point is United Group is saying this is a less disturbing use. Last week, Russ Johnson said in the paper that April 21st through the 29th was Earth Week in Oswego County. Here's his quote - "Oswego County residents are fortunate to live in a county rich in natural resources and scenic beauty". Pat said "You say over and over again how beautiful this project is, but to me, when I walk and where I walk, the trees are what's beautiful to me. I don't want to come out of my house and see an apartment complex, and all the noise, traffic and congestion." She brought up the issue of a dormitory. When you get into the

concerns of the concern of the neighborhood's safety - the students are 20 or 21 years old. It is going to invite drinking. She said she saw "dormitory" written on the maps and drawings. So where is the map or drawing with the word "dormitory" on it? It is a dormitory, there is no question about it. She said "Last week you said there would be no drinking - what about in the bedrooms. If I am a 21 year old student who gets some beer and brings some friends to the apartments, can you legally not allow me to go in there and drink". Then on the way home, they will pass her house, and that is when her flowers will be stepped on. Mr. Pritchard had said it would improve the town. The residents in our area are concerned about the noise, traffic pollution, and the environmental impact. She had a letter that goes along with the Petition, which she quoted a portion of "We the residents of Oswego Town are writing to request a denial of the apartment complex proposed by United Development Group (UGC). The decision to build a complex that will house anywhere from 700-900 students will forever change the nature and character of the neighborhood".

Greg said "For now, I am just trying to follow the rules that have been set up".

Sam Cernaro:

He said he lives on Johnson Road. Down the road is a fraternity house. There are 6 people there. They have parties. "I'll show you on the map where it is". There are motorcycles, cars and trucks going 80 miles an hour. People live in that house. 600 students are going to be a mile away from his house. He is talking about a lot of people going by his house. He moved out there 4 years ago to get away from the city, harbor fest and the college students. There should be 1 parking spot per person, not .75. He said to Jeff "You are a great salesman, and you seem like a nice person, but you are sugar coating a lot of stuff, and you got kicked out of the city. You committed it to out here. I am totally opposed to it".

Jack Tyrie:

Jack said he lives on Baylis Street. He would like to address the Board with procedures and other things which have come up. We are about what Zoning has in height requirements. He said to United Group - "You aren't here to tell about what zoning does in other areas. You are here to tell us what our zoning says. He said he disagrees with Mr. Caraccioli's comments on SEQRA from the way he has read the law - properties up to 3 family homes. A project of this magnitude, he believes a Court would say it requires the SEQRA. When you talk about environmental impact, the DEC says there's no wetlands, and no endangered species, but if you look at the State Environmental Quality Review Act, it says that localities are to interpret the terms of the environmental impact in a broad way. Also, he has heard a number of people say the traffic and parking are not your concerns. "You can't say you can do this with the road, and that with the road". He said you are permitted to consider those things. He is not sure about the Area Variance and the Use Variance. Every time we drive down our street, instead of seeing trees, we are going to see this huge 4 story structure. No where in the Town Zoning are 4 story buildings permitted. We are not talking about an old Zoning Law. We're not talking about a town that has not been engaged in active comprehensive planning. When he first became involved with the Town in January of 1994, all the way to December of 2001, the Town of Oswego has done a tremendous amount of work and money, holding repeated work shops, combined joint meetings of the Zoning Board, the Planning Board, and Town Board. We contracted for several years with the County Planning Department, where they came in, and we paid them a good chunk of money over the years to make certain that we came up with land use planning that was both rational, and arbitrary. There were specific reasons for all of those things being in there. A major part of this was that people of the Town, did not want tall buildings located in the town. It is the Zoning Board's job to prove that their project will not go against the Town's comprehensive planning. According to the Use Variance, there are 4 positions that must be met. He said "Kevin, you said there was an audience full of landlords". There are a lot of landlords here, and I object to the claim that there is an audience full of

landlords. There are a lot of people here who are concerned about other issues. The second standard they have to establish is the hardship unique to their property. They are not allowed to building above 2-Ω stories, is not unique to their property. This applies to the entire town. The third one they have to meet is granting the variance will not alter the character of the neighborhood. That is where the traffic and the noise come into play.

Bob Baker said "Mr. Chairman, I am getting tired of being lectured to" Jack said "I'm sorry, I am not lecturing". Bob said "What do you think you are doing?" Kevin said the Board is aware of the obligations. Greg said in the beginning of the audience session, he had asked that each speaker take 5 minutes to air their concerns.

Doug Waterbury hollered from the back of the room "Let the man speak". Greg stated "This is my meeting as Chairman, and I will run it the way I see fit. I know Mr. Tyrie has reasonable comments, I am just asking that he speed it up".

Jack said the 4th thing is that the hardship is not self created. He said "I am sorry that you feel that my views was lecturing you. That was not my intent. I guess you don't want to hear it".

Kevin wished to state a few points that he didn't want to let go. He never said this project was not subject to SEQRA. This particular application - an Area Variance is subject to SEQRA for at least two reasons. Mr. Tyrie sited one. But the property being 10 acres or more also triggers the Type I review. The overall review is going being fore Planning Board. There are 3 types of actions - Type I, II and an unlisted action. Specifically, the State Environmental Quality Review Act indicates that an Area Variance is a Type II Action, which is exempt from the SEQRA review process, where you file either a long form or short form. A Use Variance is subject to SEQRA requirements, but a fundamental question before this Board. Whether this is a dormitory or apartment complex. If it is a dormitory, and a dormitory is not allowed in an R-3 zone, their application would be for an Area Variance. This is what this board determines. There are a number of landlords here, and I made the point that they, probably more than anyone understand the issues of liability, where multiple people are living in one building. He said "Jack, you stick to your point, and I am comfortable with my explanation".

Greg told Jeff Smetana that he may respond to some of the issues the audience had.

Jeff Smetana:

In terms if wildlife and trees, the trees are cleared almost to the West boundary. In regard to apartments and living arrangements - what we are proposing is different from what a lot of landlords are doing - we want to put up an appropriately managed rental housing facility. We are doing all we can to make a better managed, better quality living environment. We will have a central point of entrance, and a corridor where residents would come down the corridor to their apartments. Our apartments are designed to be a very high level.

Mary Fitch:

As to traffic in Ontario Heights, whether it be vehicular or walking, she questions the partying. Baylis Street is the most logical street where the walkers would be coming from Johnson Road. She mentioned Jeff's comments on the aesthetics of the building will catch the eye of people coming East and West. She doesn't agree with that. The way it is designed with the roads, nobody is going to be looking at the building. They will be looking to take care of themselves so they won't get clobbered.

Jeff said the scale of the buildings would certainly be in line with the other buildings, like Laker Hall. We will have a beautifully landscaped project.

Mary said "You are missing my point. I don't look at Laker, I don't look at Romney. I am

looking at traffic coming this way and that way. I would really like to invite you to come and live on our street, so you could see what goes on. You are coming into a quiet neighborhood with addition of all these students. I don't question our Fire Department. I think they are great. I am concerned with all the other things that you can't possibly control."

Jeff said he has a good means of addressing those kinds of issues - Good management, and good engineering are a good way of address these concerns. Mary said we don't wan any more that what we have. Mary repeated that they are asking the Planning Board and Zoning Board to take into consideration all the issues, and we would like you to put it on paper.

Greg said he would like to allow some of the people who live outside the town to speak.

Bill Dunsmoor:

He said he is a landlord, and does own property in the Town of Oswego. He had a couple of issues. First of all, these men have been complete gentlemen, and that is nice to see with a heated issue. He said he doesn't see how the complex is anything but a dorm. The definition in the Ordinance is quite clear. It is unrelated people living in an area with a common and shared kitchen and bathroom facilities. They said they were going to have RA's on the floors. That is the style of a dormitory The way the buildings are set up, there is a common hallway where you go into the apartments. In regard to the drinking that they were going to prevent, if it wasn't a dorm, you wouldn't be able to control it. If it is an apartment, you wouldn't be able to control it, as you can't go into people's apartments. It is somebody's home. The liability issue with the fire truck - it is a big issue - The Fire Chief has mentioned a couple of times with reference to other buildings in the town being highrises. The Town had no options as to whether they were built or whether they weren't. There is nothing the Town can control what the State built. For liability for the town, you could get sued for somebody getting hurt. If you allow the complex to be built, and if there is a child in that building, and if you don't have the fire apparatus to save that child from a fire, the town will be sued. He things that is something we should have before allowing it to be built. The economic impact, as talked about earlier, he is sure they will get an IDA, and a pilot agreement. There has always been discussions with Mike Treadwell and the IDA Program. So what the taxes are going to be in the Town of Oswego, it is going to be a lot less that you believe you are going to get. The jobs that are going to be created - are maybe going to be the building aspect, but on site jobs, I don't see many. The economic impact as landlords, is that the money that he and the other landlords here will be spent in Oswego. There is Vona's, Canales - we buy our groceries and get gas here. He doesn't think the developers are going to spend the money here. Their investment is going to be in those buildings, but their money is going to go elsewhere with their investors. We have had problems in the city with students as they do in every city. If there are problems in the city, the cops respond within a couple of minutes. What about the students in this project? It will take a lot more than a couple of minutes for the Sheriff's Department to get there. The only thing else he had to say is "Too bad we couldn't have a longer time to speak. When these gentlemen have had an hour and a half to present their case - I think everyone should speak until they are done".

Barbara Cummings:

She said her family has owned property in the town for 100 years. She feels the changes. When the college came it changed from farmland to college land. She said "Do I want more college kids in that area. After 100 years of what happened in her area - No!"The college is going to building more dormitories, and we have to deal with that. You have to make a decision and look to see what you are doing. She was speaking from her heart. They are life residents. And her family still wants to live there. But if they decide it is not a dormitory, and you put in apartments, that's not putting development in Oswego Town. Let's not bring in any more problems. She wanted United Group to know - 100 years in this community, and what

are they doing to her family. When they are living off campus, there will be the problem with parties. Her family still wants to stay in the community.

Bill Dunsmoor:

He said the law here applies - It says that "the applicant shall send, by registered mail, or shall personally deliver, to each owner shown on said list, not less than five(5), nor more than ten (10) days before the date set for a hearing upon this application" He said he received his on the 29th of March. This was sent way beyond the requirements of the law. So he would think because all the residents that live within the 1,500 feet, the meeting is sort of null and void in his opinion.

Gentleman who did not sign in. Didn't catch his name)

He said his wife owns property in the town. Two words that he has heard - the one word Mr. Dunsmoor mentioned - pilot. We went through pilot in the city. Now are all in trouble. The other thing was, he went to the other board - Planning Board, and they plan on using their own sewer, and connecting to the city. For 32 years, he was a fireman in the City of Oswego. The building plans are great. The sprinklers are great. But you are going to buy an aerial ladder that is going to cost \$350,000 for one building, and then it is going to sit there, or go out for show. It doesn't make sense to him. They are very good speakers, and they did a good job. He said he'd hire them himself to do speaking for him. He said "It is in your hands, and remember you represent the people, so represent them well".

Greg asked Jeff Smetana to address the sewer issue, as a matter of information. Jeff said Barton and Loguidice would be contracted with the town to design and engineer the sewer, but they will pay for it, and they are looking at the alternative. They have looked at some options at this point. Everyone knows where the sewer runs. We are here (pointing to the map) and we have get there. That will be determined on an engineering basis. There are some legal matters in determining the organization of adding to an existing sewer district.

Kevin Kehoe:

He is a resident of the City of Oswego. He has been to all the meetings so far, and has listened to everything that United Group has had to say. One is the definition of a dormitory. Basically they are saying they are going to do the same thing that we do. He is a landlord in the City of Oswego. The one thing they do to protect themselves is when they sign a lease with a group, they make them all liable. That means that if one of them leaves, the other 3 people are going to pay his rent. He just had the occasion to visit some of their properties last weekend, and that's not the case of their properties in the Albany area. Basically, each one is renting a room and sharing the kitchen. That would be a dormitory. At the last meeting they were questioned as to what the rents would be, and they said they didn't know. The figures I got were from the Albany project, which is similar to this one. In Albany, they charge for one year approximately \$7,000 per kid. That's \$28,000 a year. His guess is that they are never going to get anyone to pay \$28,000 in Oswego. These kids won't do it. Previously when they were talking about what the cost of these units were, some in the audience suggested it was approximately \$45,000 to \$50,000 per unit. If it is not that much, and they are charging \$28,000 per year, per apartment, they are not spending \$25,000 to build them. They certainly don't need a variance, to make it economically viable. They could go one story and be economically viable. He doesn't see any logic to giving them a variance for height. The final thing is whether or not they are going to pay taxes. The response constantly was they are going to pay their fair share, based on their history of other projects. What their fair share is - is not what we pay, which is based on the value of the property. He would say the very least, if you grant variances to this group, based upon if they agree to pay the full assessed value of the property. At least that way, they can compete with them. We will have a level playing

ground. We are already using 30 - 40 percent of our rents to pay taxes on these properties. If you give it to them, make it contingent upon paying full property taxes, just like the rest of us.

Greg then asked if the Board had any questions. Bob Baker said the one issue that Tom Dunsmoor brought up, the set backs and the height. Greg said he is going to exercise his prerogative as chair, and not coming to any conclusions at this time on the matters before us. The exchanges have been good. He had been advised by counsel that the issue raised by Mr. Dunsmoor regarding Article III, Part B, Section 2-c, may in fact be an issue. If we are going to continue the application without creating subsequent legal problems

Regarding setbacks, that they would have to be addressed.

Kevin stated one of the questions he had with Article III, Sec. B, 2-c; the question becomes whether you consider this facility would fit the term public, semi-public - he was not sure about service building, and it is not a hospital, institution or school, but public or semi-public seems to be an issue. He wondered if Mr. Smetana could comment on that - if it is designed as public or semi-public building.

Jeff said it is not designed as being a public building at all. It is a secure entry, that all the residents can enter. He thinks Phase 2 is close to the set back line. He thinks he could go a little bit taller with the 3 story - 35 foot building - that they could set it back further from the property line (pointing to the drawings). He thinks it also applies to the front set back. Kevin said it would be the side and rear. Jeff said if the requirements would be to move this building further away from the set back line, that would be an acceptable contingency to them. Kevin said it would be his recommendation that the Board absorb the information not only of tonight, but previous hearings, and not rush to a decision. He is certainly willing to advise the Board of his opinion and directions on the legal issues, but he will advise the Board to make the decision - not the Town Attorney. Kevin also said he wants to clarify for the record "Are you in any way associated or affiliated with finance with the SUNY of Oswego," and Jeff said no. This is entirely a private project - private ownership, and they are committed to pay their fair share. They will still need to work that out.

Mary Fitch:

She stated, that in Oswego, they are thinking of closing 2 elementary schools due to the lack of enrollment, and people are moving from the area. She asked if United Group is aware of this study, and could they comment on that?

Jeff said that every seminar he goes to, there is a projection for increased enrollment for colleges. It becomes a better opportunity for more and more people as a requirement for the job market. We wouldn't be investing in this, if we didn't feel strongly about that.

Tom Dunsmoor:

In the definition of dormitory, there are other parts of that definition. He said "If you would like, I will read them for you". Greg she he would consult with counsel to attempt to reach a conclusion that is consistent on how we interpret the law. This would apply to New York State Law also. Kevin said we have been asked to interpret the Zoning Enforcement Officer's Declaration if this is a dormitory.

Jeff said he is sure we can resolve all the issues that people have concerns about.

Greg said he is going to adjourn the meeting. We are missing a member tonight. He thinks this vote is something that should include all members. When we discuss and vote, he wants us all to have clear minds, and not at 10:00 o'clock at night. The Public Hearing is closed. We

will come to a decision in a month.

**Adjournment:**

At approximately 10:15 PM, Deb Jaskula made a motion to adjourn the meeting. Bob Dexter seconded the motion. All ayes. Motion carried.

Respectfully submitted,

Marjorie Best  
ZBA Secretary