

**December 16, 2004**  
**Zoning Board of Appeals Minutes**  
**Oswego Town Hall**

**Chairman:** Greg Mills  
**Board Members:** Greg Auleta, Robert Baker,  
Brad Livesey, Timothy Anderson  
**Attorney to the Board:** Kevin Caraccioli

**Call to Order:**

At approximately 7:00 PM Greg Mills, Chairman of the Zoning Board of Appeals called the meeting to order.

**Attendance:**

Those in attendance were:

Greg Mills, Chairman  
Greg Auleta Member  
Robert Baker Member  
Timothy Anderson Member  
Brad Livesey Member  
Kevin Caraccioli Legal Advisor  
Marjorie Best Secretary

**Acceptance of Agenda:**

Greg Auleta made a Motion to accept the Agenda. Bob Baker seconded the Motion. All ayes. Motion carried.

**Approval of November 18, 2004 Minutes:**

Greg Auleta moved that the November 18, 2004 Minutes be approved. Tim Anderson seconded the Motion. All ayes. Motion carried:

**New Business:**

At approximately 7:10 PM, Greg Mills stated the first application as #2004-07, by the State University of New York at Oswego, regarding a New Business Permit, and a Sign Permit. This is for a Business Variance in an R-1 District. He requested that the representative of the application step forward and state his name, and his association with the application, the address of the subject property, and the purpose of the application.

Jerry DeSantis stepped forward, and stated his name, and that he is Associate Vice President of the Facilities Services at the State University of New York at Oswego. The property is located at 316 Washington Blvd., and the use of the building will be for office space, and a permit for a sign to be put up front with the name of the office. The sign will be 4 feet by 4 feet.

Greg Auleta asked if there would be employees in the building in direct relationship with the college. Greg said he is employed by the college, but feels he can engage in debate, unless advised by counsel to recluse himself. Kevin Caraccioli said Greg has no direct involvement with the administration.

Greg Auleta asked Mr. DeSantis to describe the use of the building and how it will be equipped. Jerry said the use of the building would be general administrative offices. There will be a relative amount of student traffic. The office will be open from 8:00 in the morning until 4:30 in the afternoon. It should have little impact on the neighborhood, and the building would be unoccupied after 4:30 PM. Greg asked what the nature of the activity would be. Would it generate traffic that would be normal in a residential area? Jerry said the building would be occupied by employees of the university, and there would be occasional traffic. Greg asked how many employees would be in the facility, and Jerry said probably no more than 4 or 5. Greg asked about the materials that would generate the activity, for example, via mail and telephone. Jerry said the only traffic would be people who have business in the office. Brad Livesey asked Jerry if he had 4 or 5 employees, where would they park. Jerry said there is a lengthy driveway that would accommodate 4 or 5 cars. Greg asked if people would be able to get in and out, and Jerry said they would probably park diagonally. The driveway is in front of the garage, and there is a doublewide section.

Greg Mills asked how long of a term would they be using this property, and Jerry stated they would use the space during construction period on the campus, probably from now until 2007. After that, we have a continuing renovation program for other buildings, which they may want to use the house until 2009, which is when it is funded for. Bob Baker asked if the university owned the building, and Jerry said they did not own it yet; they have a purchase offer for the house. Kevin asked Jerry if he had a survey. Jerry said he did not, but believes the lot is about 3/4 of an acre, and the building itself is about 2,100 square feet.

Greg Auleta stated he would like to address the conditional use of an R-1 District, under Article IV, Section A, and he quoted "In an R-1 district, the following uses and uses respectively incidental thereto shall be permitted only with specific authorization by special permit applied for and granted by the Board of Appeals as hereinafter provided:(a) Church, place of worship, parish house; (b) Public Park; (c) Public Library; (d) Public or private school having a curriculum approved by the State of New York; (e) The office of a public official in his place of residence." Greg asked how we would address the issue, being that there are inadequacies in the Ordinance. Kevin stated we would have to work with the regulations that we have. A public school having a curriculum approved by the State of New York. It certainly is a public school. The application should be by Special Permit as opposed to New Business Permit. Greg Mills said that we as a Town body sometimes have lack of clarity and communication. He agrees when he looked at the application, that a Special Permit should be used in an R-1 District. He received a couple of calls saying that Mr. DeSantis was applying for the Permit on his residence, rather than the house on Washington Blvd. He hopes when the public expresses their concerns, we can make a fair decision.

Greg Auleta said one of his concerns is the parking. He believes there is room there, but without a site plan, it makes it a little tough. He asked Jerry again what he believes the traffic will be with the use of the building. Jerry said the facility is directly across the street from Snigg Hall and Swetman Hall. The office would be administrative and related to the functions of Snigg Hall, and some of the nearby buildings. There may be meetings at times. It would not be large groups at one time. He does not foresee any truck traffic. From time to time there may be service people to make repairs in the building. Brad Livesey asked Jerry if he had to, could he increase the parking. Jerry said they could widen the parking area. He said he could now clarify the size of the lot. It is 110 feet by 250 feet, and the building itself is 1,673 square feet.

Greg Auleta asked why a 4 feet by 4 feet sign should go in front of the house. What about a sign on the building itself. Jerry said he wants a sign identifying the office, so people can find it. The size of the sign goes along with our sign standards. Greg asked Jerry to check out the validity of such a large sign. Kevin asked what would happen in 2009 after they are through with the initial use of the building, and perhaps other offices. Jerry said it is too far in advance,

but perhaps they would sell the house.

Greg Mills then opened the public comment session. He asked that each one who wishes to speak, come up front, identify themselves, and state their address.

Dave White, 54 Franklin Ave.

Dave stated there is no Business Permit stated in the Ordinance. It requires a Special Permit. It is not fair to the people out there, to apply for a Business Permit, when it should be a Special Permit. The other problem he had, was a public school. He said it is not a public school. He looked up the law, 68 Jurisprudence. It states colleges are not considered public schools. Education Law 201 states it is a corporation. He said he is not a lawyer, but he can read the law. He asked Kevin what the legal definition of a public school is.

Kevin stated we are here for public comment, not a debate over definitions. Secondly, all the Ordinance has to go by is the language within the Town Ordinance. The Ordinance does not specifically define a public school or private school. This application should be under Special Permit, relative to a public or private school. Dave continued to argue regarding public school and Special Permit. Kevin stated to him, he made his point.

Joan Butler, 50 Baylis Street

Joan stated that twice Mr. DeSantis said "probably" that this was going to be an office. It could be "probably" anything. Jerry DeSantis stated they would have to use it for office space, that they would not be able to use it for any other purpose. Greg Mills explained that if the building was used for any other purpose that is stated in the application, a citation could be issued.

Joan stated another issue is the traffic on that street. If you drive up and down that street, people coming out of that driveway will drive right out in front of you.

Todd Donahue, 55 Franklin Ave.

Todd put together a list of concerns he has. First of all, it is a residential neighborhood, and people have large investments in their property. If the house is used for commercial, it would have a negative impact on the value of the houses surrounding it. Also, as to the driveway, it is not wide enough for 4 or 5 cars. It would have to be widened, and it would not do much for the looks of the property. If zoning is approved for this site, what prevents other properties being approved for commercial use in the future. He asked if this a one time deal, or would it set a precedent for future commercial developments. Also, what is the guarantee that the property will be maintained after it's use. Look what happened to Fallbrook, and other properties. After 2007 or 2009, if the house is not used for office space, what will happen to it? Just let it run down. He asked if there other places on campus they could temporarily use as offices. Why in a residential neighborhood? Todd also questioned the college being a public school. He said it is a university. People pay to go to school there. He also questioned the 4 or 5 employees. Would that fluctuate? You could end up putting 10 or 11 employees in there. Jerry DeSantis said if that were to happen, they would have to file another application with the Town. Mr. Donahue said the driveway is an important issue. They would have delivery trucks, UPS, and Fed-Ex. It would increase traffic.

Andrew DiBlasi, 314 Washington Blvd.

Andrew said he would be one of the most impacted, as he lives next door to the property. He also questioned the parking and the public school issue. He asked why this property couldn't be a residential hall. A residential hall is not built to any specifications as commercial. A residential hall would not take the abuse and wear as a commercial building. As to the

driveway, a truck wouldn't be able to go up that driveway without landing on the grass, which means they would have to install a parking area, which would look out of place in a residential neighborhood. Ontario Heights is a good neighborhood with nice homes, and we would like to keep it that way.

Linda Doty, 312 Washington Blvd.

She had a lot of concerns, but some of them were answered tonight. There will be cars coming in and out, some of them may be college students. She said she and her husband can look out any time, and see cars parked illegally. She said they cannot park along the road, and think the college has taken advantage of that. Also, there are students who are picked up and dropped off by the Oswego City School District. When the cars come around that corner, she fears for their lives. She appreciates the area, and wants to keep it a safe area.

Joan Butler, 50 Baylis Street:

She asked if this is approved by the Board, how does it work? Greg Mills said if we approve the application; we actually have two, the Special Permit and the Sign Permit. We could approve the Sign Permit, and approve the Special Permit at a later time. If they are approved, they would then go to the Code Enforcement Officer, after a Resolution is drawn up. It has to go to the Code Enforcement Officer within 5 business days of the hearing.

Margaret DiBlasi, 314 Washington Blvd.

She stated she lives next door to the property in question. On the East side, up until 5 years ago, the foundation was 5 feet from the property line. She gave 10 feet of her property, bringing it to 15 feet. You cannot put a driveway on 15 feet of land, and there would be no access to the back of the house. The other side is not much better. There is room for 1 car, and maybe 3 behind it. Everyone would have to move to get one car out.

Bill Austin, 31 New Street

He asked the Board if this property is a Zoning change. Greg Mills said it is not. What our function is, is a Zoning Board of Appeals. This area is classified as residential. The applicants go to the Code Enforcement Officer, and if he says it is not a permitted use, then the applicant has the opportunity to appeal that decision. It came to us, and we approve the appeal if we see fit. Bill stated we need to do something. This is a residential area, and the college is trying to sneak it under the definition in the Ordinance. We need the true definition of a public school. He said he lives on New Street, the college has a building across the street that is in disrepair. He thinks other options should be considered. That area is congested, and there is a 90 degree turn in the road. There have been accidents there. The college students do not stop for traffic. Ontario Heights would like to keep it a residential area. We are slowly losing our residents.

Todd Donahue, 55 Franklin Ave.

He was wondering if there is a conflict of interest because one of the members of the Board works at the college. Kevin stated that Mr. Auleta does work for the university, and is also a voting member of this Board. It is determined that he has no direct involvement with any curriculum office, so it would not be a conflict of interest.

Andrew DiBlasi, 314 Washington Blvd.

He said so much has been said about the inadequate definitions, that the application should not be passed.

Bob Vaughn, 178 Swift St.

His concern is that the traffic is so bad in the area. The office should be put somewhere other than a residential area.

Jim Finn, 161 Swift Street

He said he bought his property 12 years ago, to be in a residential area. He prefers the neighborhood to stay as it is. He doesn't want any changes that would take the families out of the neighborhood.

Two letters were sent to the Board in opposition. One was written by Mario Rabozzi of 18 Baylis Street, and the other was written by Daniel Tice of 160 Swift Street. Greg Mills read both letters to the Board and the public.

Greg Mills closed the public session at approximately 8:45 PM. At this point the Board can make a Motion on Application #2004-07, Jerry DeSantis on behalf of SUNY Oswego. Greg Auleta said there are two ways we can proceed. First, that the application before us is flawed. The other would be to offer a motion that the application be defeated. I would like counsel to review the definition of a public school. Another alternative is for the Board to accept the application as is.

Jerry DeSantis stated he went to the Town, and went through the process as directed. He said they are licensed under the State of New York, and their curriculum is approved by the State. He said he provided all documentation. There was nothing in the Ordinance that requires us to address the issue of parking, or how wide the driveway is. He said they aren't asking for permission to create a parking lot. If it is inconvenient to put cars in a row in that driveway, they can make arrangements for them to park at another location on campus. The property is across the road from two of the largest buildings on campus.

There are parking facilities there, and it would be a very short walk for employees and visitors. He asked the Board to consider that they have complied with every request of documentation. To extend this for another month would be an undue burden to them.

Greg Auleta stated that the college acted in good faith with the conditions they were given. The issue of the parking, it is legitimate for us to ask "Where are you going to park?" Brad Livesey asked Mr. DeSantis if he had any other alternatives to put the office. Mr. DeSantis did say he had a couple of more options, but this one on Washington Blvd. is his first priority.

Greg Mills said he would like a motion to either table the matter, or vote on the application tonight. Kevin Caraccioli said to make a motion to consider the application. The motion should be affirmative to consider approving the Zoning Application as submitted. Greg said we would have two motions. The first one would be the Business Permit, and the second for the sign would be mute, if the first one was not passed.

Tim Anderson made a motion that we accept the application by the State College based on the documents we have. Greg Mills seconded the motion. The vote was all nays. Motion Denied.

Jerry DeSantis thanked both the Board and the public for their time.

#### **Application #2004-08 - Richard Mulcahey, Jr. - Area Variance**

At approximately 9:00 PM, Greg Mills brought up the matter of Richard Mulcahey's Application #2004-08. He asked Richard to state his name, address and the purpose of the application. Richard stated his name, his address as 1609 Rathburn Road, and the purpose is to put an addition on the back of his house. He is asking for an Area Variance as he is 4 feet over

setback. Greg asked if there were any questions from the Board. Bob Baker asked what would be included in the addition. Richard said he planned on adding a bathroom, laundry room, and extending his kitchen. He said he is tearing down the back of the house, and adding the new addition. Greg said if you look what exists now, 34.08 feet is the measurement from the corner of the house, and now is changing it to 26.08 feet, so you are encumbering on the left by an additional 8 feet. Richard stated that is correct.

Tim Anderson asked if he was going to have a contractor build the addition, and Richard said for the areas he cannot do, he would have a contractor.

The Board Members were impressed by Richard's application. Greg Mills stated for the record, that the Board appreciates Richard following the guidelines.

Greg Auleta moved that we approved the Application #2004-08, the approval of the side yard set back of 3.92 feet. Brad Livesey seconded the motion. All ayes. Motion carried.

**Old Business:**

Greg Mills said issues need to be addressed as to the Coastal Erosion, as well as the Comprehensive Plan Map and Definitions, especially the definition of Rural Transitional. Kevin Caraccioli stated we must work on the Zoning Ordinance. He said we have done everything appropriately with what we have to work with. All someone would have to do is bring an action in Court to have the Zoning Ordinance declared null and void. Greg Auleta also stated we don't have a Parking Ordinance.

**Public Comment:**

No public present

**Open Board Discussion:**

Open Board Discussion was covered under Old Business

**Adjournment:**

At approximately 9:30 PM, Tim Anderson made a motion to adjourn the meeting. Brad Livesey seconded the motion. All ayes. Motion carried.

Respectfully submitted,

Marjorie Best,  
ZBA Secretary