

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the matter of:  
Barry J & Marian H. DeBone

Special Exception  
Section 265-128

Property Location:  
34 Kenneth St.

Hearing Date:  
February 20<sup>th</sup>, 2008

PROCEDURAL BACKGROUND

The application dated November 19<sup>th</sup>, 2007 by Barry J. & Marian H. DeBone of 713 Curtis Road, are requesting that a determination be made by the Zoning Hearing Board for a Variance to the City Code, Section 265-128 in relationship to the distance requirement for student housing for the property they own and lease to students at 34 Kenneth St. Subject property is within 500' of a registered student home. Subject property is zoned R-2 General Residence District.

Members of the board present: Charlotte Kuhns, Chairwoman, Anita Simpson, Mary Clymer, Patsy Iapalucci and Marilyn Crimboli.

Also Present: Lou DeRose, Solicitor and Barbara J. Ciampini, Planning Director.

There were no objections to advertising or procedure at the hearing. Mary Clymer made a motion to accept the DeBones' proposal for a Variance in accordance with the application they've presented. Charlotte Kuhns seconded the motion. The motion passed, 4 to 1 vote.

## DISCUSSION

The property is located at 34 Kenneth Street, City of Greensburg. Barry J. and Marian H. DeBone of 713 Curtis Road are requesting a determination to be made by the Zoning Hearing Board, to the City Code, Section 265-128, in relationship to the distance requirement for student housing for the property they own and lease to students at 34 Kenneth Street. Subject property is within 500' of a registered student home. Subject property is Zoned R-2 General Residence District.

Charlotte Kuhns: At last month's meeting we had Barry and Marian DeBone here. They are asking for a Variance and it was tabled at last month's meeting. We are going to bring it up again tonight and take a vote on it tonight.

Lou DeRose: Mr. Silvis the way we left this the last time was that we had concluded testimony on the DeBone matter at 34 Kenneth St. The only thing that I think we reserved was that if you, as their counsel, had anything you wanted to add today or acquaint us with will give you that opportunity.

Jim Silvis: It's come to our attention in fact this afternoon that the house at 434 N. Main Street does not have a permit so the 500 foot requirement would not apply to us. I understand that they applied for a permit but that was 2 ½ years ago I do believe and the house is for sale. There is a for sale sign on it. I believe the 500 feet is off the table. They are not permitted.

Lou DeRose: Before we deal with that, do you have anything else you want to say?

Jim Silvis: No.

Lou DeRose: Ms. Ciampini do you have any information on that?

Barbara Ciampini: If I might explain to Jim and Mr. and Mrs. DeBone. The first step in the process is to register your student home and they have registered 434 N. Main Street as a student home and they have been working with us for 2 years. The last step is the permit. When a property owner registers, they then begin working with us and yes it has taken quite some time. They are working towards that goal at 434 N. Main Street.

Jim Silvis: Their working but at this time their not permitted.

Barbara Ciampini: That's correct.

Jim Silvis: They may or may not comply.

Barbara Ciampini: They do, I believe there is just one outstanding building code issue. They've been through the entire building code process and there is one outstanding issue.

Jim Silvis: And it is for sale, is that right?

Barbara Ciampini: There is a sign in the window, your correct. If it would change and they sold it and it wasn't a student home anymore then you're correct that wouldn't be an issue. This registration document starts the process.

Jim Silvis: It starts it but it's not completed. We just don't agree with that.

Barbara Ciampini: Okay.

Lou DeRose: Another thing I want to mention to you and I guess it applies to Gary's because they're similar. These are applications for one year permits but if the house sold, the one that Jim is making reference to on Main and O'Hara then not only could you, if it wasn't student housing at that point it would be pulled off the roster but there may be a change the second year if somebody wanted it. Like wise like the DeBone property if their request is for a Variance because they're a little shy of the 500 foot rule that City Council has established in this Ordinance if that Variance were granted that is good for one year and they may or may not be in the position the second year. Jim is that you're understanding as well?

Jim Silvis: Yes.

Lou DeRose: Okay. This isn't a Variance that runs with the land as with so many Variances we deal with. This is a Variance in order to get the permit or the registration. The board has some options here with the DeBone property. You've had roughly a month to consider the value of the testimony for or against but there is a very good likelihood given some new testimony you're going to have from the other applicant for three properties that we will be taking an executive session either during or immediately after this meeting. You may want to keep the DeBone property and discuss it in a larger contact but you don't have to. Someone can move to grant them the Variance for the 100 feet or the 101 or 102 feet that they need or someone can make a motion to deny their request for a Variance and maybe there are some other motions you can think of that I haven't. That's up to you, you can deal with that now or simply indicate that you prefer to wait until we've completed our discussions of the entire student housing that's before us here today. If you say nothing I will take that as an indication you want to wait.

Mary Clymer: I make a motion to accept the DeBones proposal for a Variance in accordance with the application they've presented.

Lou DeRose: Your motion is for the board to grant them whatever footage they need to qualify under the Ordinance to get the registration and the permit?

Mary Clymer: Correct.

Lou DeRose: For the one year?

Mary Clymer: Correct.

Lou DeRose: I just wanted to clarify that. Jim there was a parking issue in sorts that came with this problem? Have you dealt with that?

Jim Silvis: We are exploring the alternative and there are ways we can supply the off street parking I believe.

Lou DeRose: Okay, that you will have to work out with the office. It wasn't as large as a problem as some other people's. There is a motion on the floor. Do I hear a second to that motion?

Charlotte Kuhns: I second the motion.

Lou DeRose: The question is now, do you want to vote or take any comments from the members? It's too late to talk about the pros and cons.

Charlotte Kuhns: We're going to take a vote on the motion. Are there any questions on the motion?

Barbara Ciampini: They will come to me to work out the parking problem.

VOTE:

Patsy Iapalucci Abstain, I was not here for the last meeting and did not get to hear all the pros and cons.

Mary Clymer Yes

Marilyn Crimboli Yes

Anita Simpson Yes

Charlotte Kuhns Yes

The motion passes 4 to 1.

Charlotte Kuhns: "Within thirty (30) days of the date of the decision by this Board, this decision may be appealed to the Court of Common Pleas of Westmoreland County. It is important that you understand that the person (s) requesting action may take an appeal if the decision of this Board is against him, but those opposed to his or her request may also take and appeal within the thirty (30) day period." "If an action of this Board results in an approval of the request o an individual no work may proceed on the property until the thirty (30) day

appeal period has expired” “Any person wishing a copy of this decision please leave your name and address with the Secretary”.

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the Matter of:  
MBG Properties

Appeal of the Zoning  
Officer

Property Location:  
433 Harrison Ave.

Hearing Date:  
February 20<sup>th</sup>, 2008

PROCEDURAL BACKGROUND

The application dated January 31<sup>st</sup>, 2008 by MBG Properties of 757 Jeffrey Street, is requesting an Appeal of the Zoning Officer, regarding property they own located at 433 Harrison Avenue that was refused a Student Home occupancy/registration. Subject property is zoned R-2 General Residence District.

Members of the board present: Charlotte Kuhns, Chairwoman, Anita Simpson, Mary Clymer, Patsy Iapalucci and Marilyn Crimboli.

Also Present: Lou DeRose, Solicitor and Barbara J. Ciampini, Planning Director.

There were no objections to advertising or procedure at the hearing. Marilyn Crimboli made a motion to overturn the decision of the Zoning Officer and grant the student housing registration because of a preexisting nonconforming use. Charlotte Kuhns seconded the motion. All were in favor.

## DISCUSSION

The property is located at 433 Harrison Avenue, City of Greensburg. MBG Properties of 757 Jeffrey Street is requesting an Appeal of the Zoning Officer, regarding property they own located at 433 Harrison Avenue that was refused a Student Home occupancy/registration. Subject property is zoned R-2 General Residence District.

Lou DeRose: Mr. Falatovich, you and I have had some legal discussions concerning this. I think it's important if your willing to stipulate on the record with the City that the procedure being adopted for today concludes not just the appeal of the citation or whatever technically that is that you've received on the property but we've expanded that to include your right to raise any issue you want including the Variance at this hearing. I think technically that would get us over the hurdle of a no file for a Variance.

Gary Falatovich: That's correct.

Lou DeRose: And you've agreed to enter into that stipulation?

Gary Falatovich: That's correct and I believe if you take a look at the issues that we've raised in the attachment through the appeals that were filed I think we've outlined our arguments that we will be presenting. If the board is willing to accept that attachment and put into evidence as well then I think we can reach that stipulation.

Lou DeRose: Well, we would certainly accept your argument for what it's worth.

Gary Falatovich: That's fine.

Lou DeRose: That did not come out the way I meant. We understand that is a slightly irregular procedure but it was designed to raise the issue centrally for the issues before us today. Since we are charged under the Municipality's Planning Code being the decision maker I thought we had to get to the issue before you.

Gary Falatovich: I agree.

Lou DeRose: It's really your show at this point. You can call any witnesses you want as to each property and why we should consider it. We have the burden on an appeal, you understand that?

Gary Falatovich: Yes.

Lou DeRose: For ease of operation we are going to ask you to tell us your arguments.

Gary Falatovich: We think that the issues are going to be similar regardless of what happens. For the members of the board my name is Gary Falatovich and I am an attorney here in Greensburg. I am here today representing MBG properties, which is the owner of two of the properties subject to this proceeding. Dennis Fellers and Kristi Fellers, his wife who as Ms. Kuhns indicated the owners of the property at 420 Concord Ave. MBG Properties are owners of 433 Harrison Ave. and 347 Harrison Ave. We will present copies of deeds and tax maps to conform property ownership of the two facilities. There are a variety of issues that are similar to each property. There are however some issues that are different and peculiar to certain properties. For example the property at 433 Harrison Avenue you are going to hear testimony that that property was actually purchased and renovated and in use for student housing prior to the date that the City of Greensburg enacted ordinance number 1993 which is the student housing on November 15, 2005. So one of the arguments that we will be making is that property is entitled to nonconforming use treatment and that the distance requirement and off street parking requirements as well as the licensing requirements that are imposed under this Ordinance do not apply to this unit. With respect to the unit that is owned by Mr. Fellers and his wife at 420 Concord Avenue; there is sufficient off street parking, however the only preclusion for occupying that space as a student home under the Ordinance is that it does not meet the 500 foot requirements. That is an issue we will be addressing. The property at 347 Harrison Ave. has issues with both the 500 foot requirement and off street parking requirements and we will address those issues as well. If the members of the board have no objections we would like to do two things. First we would like to introduce a copy of Ordinance number 1993 which is the City of Greensburg's student housing Ordinance that was adopted by the Council of the City of Greensburg on November 14<sup>th</sup>, 2005.

Lou DeRose: We would take notice of it anyhow, and you may send it to us.

Gary Falatovich: We will mark that as the applicant's **Exhibit A**. Mr. DeRose, just so we're clear, the exhibits that we are going to be introducing will actually apply to all three appeals. I think that makes some sense.

Lou DeRose: Yes, thank you.

Gary Falatovich: Also since all three properties are located in R-2 zoning districts that are literally within six (6) streets of one another. They are located in the general area of North Pennsylvania Ave. Harrison Ave. Concord Ave., Liberty St... O'Hara St., and College Ave. In that particular area of the City of Greensburg we have a site map showing the over all area in that district and showing those streets. We would introduce that as applicant's **Exhibit B**.

Lou DeRose: These may be admitted.

Gary Falatovich: And with that I would call Mr. Fellers. Denny can you state your full name please?

Dennis Fellers: Dennis Fellers.

Gary Falatovich: Where do you reside?

Dennis Fellers: Currently at 189 Silvis Farm Road, Greensburg.

Gary Falatovich: And Mr. Fellers are you a partner in an entity known as MBG Properties?

Dennis Fellers: Yes.

Gary Falatovich: What type of entity is that?

Dennis Fellers: It's a partnership between myself and another person and we are in the real estate business.

Gary Falatovich: And your partner is a fellow by the name of Tim Zoretich?

Dennis Fellers: Yes.

Gary Falatovich: How long has that partnership been around?

Dennis Fellers: Since 2005.

Gary Falatovich: Does that partnership own property in the City of Greensburg?

Dennis Fellers: Yes.

Gary Falatovich: What type of properties does the partnership have?

Dennis Fellers: We own several different properties. Two single family homes as well as a property on W. Otterman St. which is a complex of apartments.

Gary Falatovich: Is MBG Properties the owner of a parcel of property located at 433 Harrison Ave.?

Dennis Fellers: Yes.

Gary Falatovich: When did MBG purchase the property at 433 Harrison Ave.?

Dennis Fellers: April 29<sup>th</sup>, 2005.

Gary Falatovich: And that was purchased from individuals by the name of Giron and Kimmel?

Dennis Fellers: Yes.

Gary Falatovich: And can you describe to the members of the Zoning Hearing Board what the property was like when you purchased it?

Dennis Fellers: When we purchased the property it was a duplex and there was an upstairs apartment and as well as a main floor apartment. Both floors had its own kitchen, living area, bedrooms.

Gary Falatovich: Did you take any steps to convert that property from a duplex into a single family unit?

Dennis Fellers: Yes.

Gary Falatovich: And what steps did you take?

Dennis Fellers: We removed one partial wall that was apparently installed when the place was turned into a duplex the wall was installed to make the duplex and we removed that wall to make it a single family residence.

Gary Falatovich: And whenever those repairs were performed did you contact the representatives from the City of Greensburg concerning those renovations?

Dennis Fellers: No, not that particular one.

Gary Falatovich: Okay. At some point and time did you begin leasing this particular property to two individuals?

Dennis Fellers: Yes.

Gary Falatovich: Was the property leased when you purchased it?

Dennis Fellers: No. It was vacant.

Gary Falatovich: And when did you first begin leasing this property after the renovations were complete?

Dennis Fellers: The first of August 2005.

Gary Falatovich: And to whom did you lease the property to?

Dennis Fellers: To four (4) Seton Hill students.

Gary Falatovich: And do you recall their names?

Dennis Fellers: Chad Fitzgerald, Lindsay Dixon, Thomas Toplak, Alana Daniels.

Gary Falatovich: Mr. Fellers I am going to show you copies what we will mark collectively as the applicant's **Exhibit C** and I am going to ask you if you can identify these documents as copies and leases that were entered in August 2005 to the individual's whose names you just mentioned.

Dennis Fellers: Yes, they are.

Gary Falatovich: What are the terms of those leases? What is the length of time?

Dennis Fellers: It's a one year lease.

Gary Falatovich: Was that lease for the entire house?

Dennis Fellers: Yes that's correct.

Gary Falatovich: After you removed the wall and converted this property from a duplex into a single family unit or returned it to a single family unit what was the property like? Can you describe it for us?

Dennis Fellers: As you walk into the front door you enter a living room and behind the living room is a dining room and also a kitchen area. There is a master bedroom on the main floor with its own bathroom. The upstairs includes four (4) separate bedrooms and its own bathroom on the up stairs.

Gary Falatovich: It also had a kitchen?

Dennis Fellers: Yes there is a full kitchen.

Gary Falatovich: A dining room?

Dennis Fellers: Yes.

Gary Falatovich: Laundry facilities?

Dennis Fellers: Yes, the laundry facilities are in the basement.

Gary Falatovich: Did those individuals occupy that residence consistent throughout the term of the lease?

Dennis Fellers: Yes.

Gary Falatovich: Do you know whether or not the individual's names you mentioned were students at the time?

Dennis Fellers: Yes, they were.

Gary Falatovich: Do you know where they were enrolled?

Dennis Fellers: At Seton Hill University.

Gary Falatovich: Do you know if they were full time or part time students?

Dennis Fellers: Full time, as far as I know.

Gary Falatovich: I believe you said they occupied the property consistently through the end of that lease which would have been July 31<sup>st</sup>, 2006?

Dennis Fellers: That is correct.

Gary Falatovich: Has the property been leased consistently to students since August 1<sup>st</sup>, 2005?

Dennis Fellers: Yes.

Gary Falatovich: And was it leased to the same individuals that was in the original lease for the first term?

Dennis Fellers: Yes. Some of those students did return for the second year however we have leased it to other students as well.

Gary Falatovich: Is the property currently being leased to students?

Dennis Fellers: Yes.

Gary Falatovich: Does this particular parcel have access to off street parking?

Dennis Fellers: No.

Gary Falatovich: I am going to show you Mr. Fellers what we will mark as **Exhibit D** and we are going to indicate that this is a photograph of the property at 433 Harrison Ave. and I am going to ask you if you can identify what is in this photograph?

Dennis Fellers: It's a photo of the residence at 433 Harrison Ave.

Gary Falatovich: Who took this photograph?

Dennis Fellers: I took the photograph.

Gary Falatovich: And when did you take it?

Dennis Fellers: Approximately two (2) months ago.

Gary Falatovich: And does this photograph accurately depict the condition of the property as it existed when the photograph was taken?

Dennis Fellers: Yes.

Gary Falatovich: I am then going to show you what we will mark as **Exhibit E** and I am going to ask you if you can identify this photograph as well?

Dennis Fellers: Yes, it's a picture of 433 Harrison Ave.

Gary Falatovich: And will also show you what we will mark as **Exhibit F** and I am going to ask you if you can identify the photograph?

Dennis Fellers: Yes.

Gary Falatovich: What is that photograph?

Dennis Fellers: It's also a picture of the residence at 433 Harrison Ave. including a vacant lot across the street.

Gary Falatovich: Were these photographs taken the same time as the first photographs?

Dennis Fellers: Yes.

Gary Falatovich: And do they fairly and accurately depict the condition of the property at 433 Harrison Ave. on the date they were taken?

Dennis Fellers: Yes.

Gary Falatovich: Mr. Fellers are you aware or can you describe the dimensions of this property at 433 Harrison Ave.?

Dennis Fellers: It looks like 37 feet by 58 feet.

Gary Falatovich: Is this a corner lot?

Dennis Fellers: Yes it is.

Gary Falatovich: Is there any place on this particular lot that you can fit off street parking?

Dennis Fellers: No.

Gary Falatovich: Is this property located in a permit parking area?

Dennis Fellers: Yes, it is.

Gary Falatovich: When you made the renovations to the property did you make any alternations to the exterior of the property?

Dennis Fellers: No.

Gary Falatovich: Did you expand it at all?

Dennis Fellers: No.

Gary Falatovich: Is the exterior of the structure the same as it was when you purchased it?

Dennis Fellers: Yes.

Gary Falatovich: Mr. Fellers, I am going to show you what we have marked as Exhibit G and I am going to ask you if this is a copy of the appeal form that was filed by my office on behalf of MBG Properties on January 31<sup>st</sup>, 2008 which include a copy of the tax maps showing the location and the size of this property and a copy of the deed from the Giron's and the Kimmels to MBG Properties.

Dennis Fellers: Yes.

Gary Falatovich: If it may please the board we will offer **Exhibits C, D, E, F, and G** at this point and time.

Lou DeRose: Mr. Falatovich your **Exhibit C** are those the leases?

Gary Falatovich: Yes.

Lou DeRose: What I heard was your offering leases from the first year of ownership. Did you include in there leases for the second of 2006 and 2007?

Gary Falatovich: No, but we can make photo copies of those.

Lou DeRose: If you can supplement that exhibit we can accept it.

Gary Falatovich: We can do that.

Lou DeRose: Other than that, **Exhibits C,D,E,F and G** are accepted.

**See motion on page 66:**

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the Matter of:  
MBG Properties

Appeal of the Zoning Officer

Property Location:  
347 Harrison Ave.

Hearing Date:  
February 20<sup>th</sup>, 2008

PROCEDURAL BACKGROUND

The application dated January 31<sup>st</sup>, 2008 by MBG Properties of 757 Jeffrey Street City of Greensburg is requesting an Appeal of the Zoning Officer, regarding property they own at 347 Harrison Avenue that was refused a Student Home occupancy/registration. Subject property is zoned R-2 General Residence District.

Members of the board present Charlotte Kuhns, Chairwoman, Anita Simpson, Mary Clymer, Patsy Iapalucci and Marilyn Crimboli.

Also Present: Lou DeRose, Solicitor and Barbara J. Ciampini, Planning Director.

There were no objections to advertising or procedure at the hearing. Marilyn Crimboli made a motion to uphold the decision of the Zoning Officer due to the distance requirement from another registered student home not being met. Anita Simpson seconded the motion. All were in favor.

## DISCUSSION

The property is located at 347 Harrison Avenue, City of Greensburg. MBG Properties of 757 Jeffrey Street is requesting an Appeal of the Zoning Officer, regarding property they own located at 347 Harrison Avenue that was refused a Student Home occupancy/registration. Subject property is zoned R-2 General Residence District.

Gary Falatovich: Mr. Fellers, does MBG Properties also own the property located at 347 Harrison Ave.

Dennis Fellers: Yes.

Gary Falatovich: When was that property acquired?

Dennis Fellers: September 2005.

Gary Falatovich: Can you describe to the board the condition of that property when it was first purchased?

Dennis Fellers: It was a vacant property and deteriorating on the interior.

Gary Falatovich: Did you undertake any improvements to the property at 347 Harrison Avenue after you purchased it?

Dennis Fellers: We did general sprucing up of the interior, painting and installing some handrails along the stairwells and installing a hard wire smoke detection system.

Gary Falatovich: Were the renovations that took place at 347 Harrison Avenue more extensive than those taken place at 433 Harrison?

Dennis Fellers: Yes.

Gary Falatovich: Did it take some time to make those renovations?

Dennis Fellers: Yes it did.

Gary Falatovich: Why were you renovating that particular unit?

Dennis Fellers: With intentions on renting it to students.

Gary Falatovich: When was the first time that property was rented to students?

Dennis Fellers: August of 2006.

Gary Falatovich: Is there a reason why it took so long to rent the property to students?

Dennis Fellers: Due to the lengthy renovations, interior and exterior renovations and just the fact that students only need housing at the beginning of their semesters. There were no students available to rent the house out to.

Gary Falatovich: So you purchased the property in September of 2005 and the academic year was already in place?

Dennis Fellers: Yes.

Gary Falatovich: After the renovations were made can you tell the board what this particular unit consisted of?

Dennis Fellers: Inside the main front door is a large entry with a stairwell leading up stairs to three (3) bedrooms and a full bathroom. On the main floor there are two (2) other bedrooms also a bathroom and laundry facilities, a large dining area, a large kitchen and an enormous living room.

Gary Falatovich: You indicated that you first rented this property to students in the fall of 2006, has it been rented to students since then?

Dennis Fellers: Yes.

Gary Falatovich: Is it currently rented to students?

Dennis Fellers: Yes.

Gary Falatovich: Can you describe for the members of the board the exterior lot size?

Dennis Fellers: It's approximately 50 feet by 77 feet.

Gary Falatovich: Is this property on a corner or is it surrounded by other properties?

Dennis Fellers: It is surrounded by other properties.

Gary Falatovich: Does it have any access from the rear?

Dennis Fellers: No.

Gary Falatovich: So there is no alley running along the rear lot line of the property?

Dennis Fellers: No.

Gary Falatovich: Mr. Fellers, I will show you what will be marked as **Exhibit H** and I am going to ask you if you can identify that photograph?

Dennis Fellers: It's a picture taken of the property at 347 Harrison Avenue.

Gary Falatovich: This will be **Exhibit I** and can you identify this photo as well?

Dennis Fellers: It's also a picture of 347 Harrison Avenue with some surrounding properties.

Gary Falatovich: How about **Exhibit J**?

Dennis Fellers: Also a picture of 347 Harrison Avenue.

Gary Falatovich: When were these photographs taken?

Dennis Fellers: About two weeks ago.

Gary Falatovich: And who took them?

Dennis Fellers: My partner, Tim Zoretich.

Gary Falatovich: You are familiar with what this particular property looks like?

Dennis Fellers: Yes.

Gary Falatovich: Does these photographs actuarially depict the condition of this property as it existed within the last few weeks?

Dennis Fellers: Yes.

Gary Falatovich: Mr. Fellers does this property have access to off street parking?

Dennis Fellers: No.

Gary Falatovich: Due to the properties location and for the fact that it doesn't have a rear entrance, do you have the ability to provide off street parking for this particular unit?

Dennis Fellers: No.

Gary Falatovich: Whenever the property was being purchased and you were doing the rehabilitation work did you make any alterations to the exterior of the structure to cause it to be expanded?

Dennis Fellers: No.

Gary Falatovich: So this property has the same exterior dimension that it had whenever you purchased the property?

Dennis Fellers: Yes.

Gary Falatovich: Mr. Fellers, I am going to show you what we are going to mark as the applicant's **Exhibit K** then I am going to ask you if you can identify this document which is a copy of the appeal form filed by MBG Properties dated January 31<sup>st</sup>, 2008 along with a copy of the tax map showing the location of the property at 347 Harrison Avenue a copy of the deed two MBG Properties for the property at 347 Harrison Avenue and a statement of matters complained by the Appeal.

Dennis Fellers: Yes it is.

Gary Falatovich: If it may please the board we will offer **Exhibits H, I, J and K** at this point and time.

Lou DeRose: They may be admitted. Do you have leases on this unit?

Gary Falatovich: I'll supplement directed on that.

Lou DeRose: You will call that **Exhibit L**?

Gary Falatovich: Yes.

**See motion on page 65.**

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the Matter of:  
Dennis and Kristi Fellers

Appeal of the Zoning Officer

Property Location:  
420 Concord Avenue

Hearing Date:  
February 20<sup>th</sup>, 2008

PROCEDURAL BACKGROUND

The application dated January 31<sup>st</sup>, 2008 by Dennis and Kristi Fellers of 189 Silvis Farm Road, Greensburg are requesting an Appeal of the Zoning Officer, regarding property they own located at 420 Concord Avenue that was refused a Student Home occupancy/registration. Subject property is zoned R-2 General Residence District.

Members of the board present: Charlotte Kuhns, Chairwoman, Anita Simpson, Mary Clymer, Patsy Iapalucci and Marilyn Crimboli.

Also Present: Lou DeRose, Solicitor and Barbara J. Ciampini, Planning Director.

There were no objections to advertising or procedure at the hearing. Marilyn Crimboli made a motion to uphold the decision of the Zoning Officer for the distance requirement not meeting the Ordinance for student housing. Anita Simpson seconded the motion. All were in favor.

## DISCUSSION

The property is located at 420 Concord Avenue, City of Greensburg. Dennis and Kristi Fellers of 189 Silvis Farm Road are requesting an Appeal of the Zoning Officer, regarding property they own located at 420 Concord Avenue that was refused a Student Home occupancy/registration. Subject property is zoned R-2 General Residence District.

Gary Falatovich: Mr. Fellers you are also the owner of property located at 420 Concord Avenue, are you not?

Dennis Fellers: Yes.

Gary Falatovich: You do not own that as part as MBG Properties is that correct?

Dennis Fellers: That is correct.

Gary Falatovich: With whom do you own that property?

Dennis Fellers: My wife Kristi Fellers.

Gary Falatovich: How long have you owned that property?

Dennis Fellers: Since February of 1999.

Gary Falatovich: Whenever you purchased this property was it purchased to rent out when you originally bought it?

Dennis Fellers: Originally no.

Gary Falatovich: Did you reside in this property?

Dennis Fellers: Yes.

Gary Falatovich: Who lived at this property?

Dennis Fellers: My wife and ultimately two children.

Gary Falatovich: How long did you reside at that address?

Dennis Fellers: Approximately 7 years.

Gary Falatovich: When did you leave those premises?

Dennis Fellers: On July of 2006.

Gary Falatovich: When you left the premises did you intend to rent it out to other individuals?

Dennis Fellers: Yes we did.

Gary Falatovich: Did you make a determination at that point that you were going to rent it to college students?

Dennis Fellers: Yes.

Gary Falatovich: Do you recall when you first began leasing these premises to college students?

Dennis Fellers: Yes.

Gary Falatovich: And when was that?

Dennis Fellers: In August of 2006.

Gary Falatovich: Did you have to make any type of repairs or do any remodeling to these premises to rent it out to college students?

Dennis Fellers: No, we basically rented as we lived in it.

Gary Falatovich: Can you describe the interior of this building to the members of the Zoning Hearing Board?

Dennis Fellers: Property has a foyer when you walk in and there is a large living room, dining room, and kitchen. The upstairs consists of 4 separate bedrooms a bathroom and a finished basement with a laundry room.

Gary Falatovich: Does this property have access to off street parking?

Dennis Fellers: Yes it does.

Gary Falatovich: How many spaces are available?

Dennis Fellers: Four (4) spaces.

Gary Falatovich: Mr. Fellers I am going to show you what we are going to mark as **Exhibit M** and I am going to ask you if you can identify what's depicted in this photograph.

Dennis Fellers: It's the rear of the property at 420 Concord Avenue and it's showing the off street parking.

Gary Falatovich: And how about **Exhibit N**?

Dennis Fellers: Front picture of 420 Concord Avenue.

Gary Falatovich: And how about **Exhibit O**?

Dennis Fellers: Also the rear of 420 Concord Avenue.

Gary Falatovich: When where these photographs taken?

Dennis Fellers: Approximately 2 months ago.

Gary Falatovich: By whom where they taken?

Dennis Fellers: They were taken by myself.

Gary Falatovich: And do these photographs fairly and accurately depict the condition of the premises at 420 Concord Avenue whenever it was vacant?

Dennis Fellers: Yes.

Gary Falatovich: Mr. Fellers, I am also going to show you what we will mark as the applicant's **Exhibit P** and I am going to ask you if you can identify this document of being a copy of the appeal form that was filed on behalf of you and your wife for the premises at 420 Concord Avenue along with a copy of a tax map showing the location, copy of the deed to the property and a copy of the matters that were complained on appeal?

Dennis Fellers: Yes.

Gary Falatovich: If it may please the board we will offer **Exhibits M, N, O and P**.

Lou DeRose: They may be admitted. Are you going to show leases under **Exhibit Q**?

Gary Falatovich: That's correct. Mr. Fellers how many students currently occupy the property at 420 Concord Ave.?

Dennis Fellers: Five. (5).

Gary Falatovich: How many individuals occupy the premises at 347 Harrison Avenue?

Dennis Fellers: Four (4).

Gary Falatovich: How many individuals occupy the premises at 433 Harrison Avenue?

Dennis Fellers: Five (5).

Gary Falatovich: Now Mr. Fellers at some point and time you were contacted by Ms. Ciampini from the City of Greensburg Zoning Office concerning the necessity for permits for these particular units, correct?

Dennis Fellers: Yes.

Gary Falatovich: Can you tell the board what the circumstances under which you were contacted and how you found out about this?

Dennis Fellers: I got a phone call from Barb in regards to our property that we own on 433 Harrison Avenue.

Gary Falatovich: What was the nature of the discussion?

Dennis Fellers: She apparently had driven past and noticed some college aged people on the front porch and assumed they were college students and in turn called me and notified me that our property needed to be registered as a student house.

Gary Falatovich: Did you attempt to do that?

Dennis Fellers: Yes we did.

Gary Falatovich: What was the success of doing that?

Dennis Fellers: There still has not been any success.

Gary Falatovich: Did Ms. Ciampini tell you or did you have any conversation with Ms. Ciampini concerning the issue that would preclude these properties from being registered as a student home?

Dennis Fellers: Barb and I talked on several occasions in regards to a specific property and also all three (3) properties as a whole.

Gary Falatovich: Did you have discussions with Ms. Ciampini concerning the lack of off street parking for the premises at 433 Harrison Ave. and 347 Harrison Ave.?

Dennis Fellers: Yes, we did.

Gary Falatovich: And these properties are in permit parking areas, is that correct?

Dennis Fellers: That is correct.

Gary Falatovich: I believe that you already testified that you were unable to provide off street parking for these particular units because of the size of the units and the location and the nature of the property. Did you attempt to secure additional permits or the rights to obtain on street parking from surrounding units?

Dennis Fellers: Yes through conversations with Barb it was suggested that we may contact some neighbors in the neighboring properties that are not using their on street parking and have an agreement produced that we maybe able to in turn use their parking. Permits or on street parking on street.

Gary Falatovich: To that end Mr. Fellers did you contact an attorney to prepare the document known as Revocable License Agreement and a license agreement?

Dennis Fellers: Yes, we did.

Gary Falatovich: And where those documents prepared with intent to secure the rights of other residents on street parking permits for use at the properties at 433 Harrison Ave. and 347 Harrison Ave.

Dennis Fellers: Yes.

Gary Falatovich: Were you able to get signatures on the Revocable License Agreements and License Agreements?

Dennis Fellers: Yes, we were.

Gary Falatovich: And what did you do with those agreements?

Dennis Fellers: We submitted them to the Zoning Office and were denied the request.

Gary Falatovich: You submitted those to the Zoning Office and those where rejected?

Dennis Fellers: That is correct.

Gary Falatovich: So you still had parking problems that precluded these uses from being registered as student's homes?

Dennis Fellers: Yes.

Gary Falatovich: I am going to show you Mr. Fellers as we have marked as the applicant's **Exhibit R** and the applicant's **Exhibit S** and I am going to ask you if you can identify these as copies as the Revocable License Agreements and the License Agreements that you have prepared by an Attorney.

Dennis Fellers: Yes they are.

Gary Falatovich: You do not have in your possession actual signed documents?

Dennis Fellers: No.

Gary Falatovich: And do you know where those are?

Dennis Fellers: The last I saw them they were on the desk in the Zoning Office.

Gary Falatovich: Do you know how many of these license agreements you had obtained?

Dennis Fellers: Two. (2)

Gary Falatovich: Was that two for each unit or two in general?

Dennis Fellers: Two (2) total.

Gary Falatovich: Where they for any particular unit?

Dennis Fellers: It was marked for the 347 Harrison Ave.

Gary Falatovich: At your request Mr. Fellers did you direct my office to make inquire of the City of Greensburg with respect to making application to qualify these properties for treatment as student homes?

Dennis Fellers: Yes, we did.

Gary Falatovich: And that is all three properties, 433 Harrison Ave. 347 Harrison and 420 Concord Ave.

Dennis Fellers: That is correct.

Gary Falatovich: Did you direct my office to send a correspondence dated December 18<sup>th</sup>, 2007 to the City of Greensburg Zoning Office asking for information regarding how these properties could qualify as student's homes?

Dennis Fellers: Yes.

Gary Falatovich: I am going to ask you Mr. Fellers what we will mark as **Exhibit T** and I am going to ask you if you can identify this document and a copy of the inquire letter dated December 18<sup>th</sup>, 2007 from my office to the City of Greensburg Zoning Office.

Dennis Fellers: Yes it is.

Gary Falatovich: And I am also going to show you what we will mark as **Exhibit U** and I am going to ask you if you can identify this document as the response that came from the City of Greensburg Zoning Office dated January 2<sup>nd</sup>, 2008?

Dennis Fellers: Yes.

Gary Falatovich: We will offer **Exhibits R, S, T, and U**.

Lou DeRose: They can be admitted.

Gary Falatovich: Now Mr. Fellers with respect to the property at 433 Harrison Ave. would you advise that this property did not meet the requirements for off street parking to qualify as a student home?

Dennis Fellers: Yes.

Gary Falatovich: Were you advised as to whether or not this property was within 500 feet of another student home.

Dennis Fellers: No.

Gary Falatovich: With respect to the property at 347 Harrison Avenue were you advised that this property did not comply with the off street parking requirements necessary for student homes?

Dennis Fellers: Yes.

Gary Falatovich: Were you ever advised as to whether this property was within 500 feet of another registered student home?

Dennis Fellers: No.

Gary Falatovich: Are you aware of the other registered student homes in that particular area?

Dennis Fellers: Not for certain, I know there is one on Liberty that maybe within the 500 foot radius.

Gary Falatovich: You as an individual don't know that for sure?

Dennis Fellers: No.

Gary Falatovich: With respect to the property at 420 Concord Ave. were you advised that this property was within 500 feet of another registered student home?

Dennis Fellers: Yes.

Gary Falatovich: And the other registered student home at 426 Concord Ave.?

Dennis Fellers: Yes.

Gary Falatovich: And to your knowledge this property meets the off street parking requirements necessary for registration as a student home?

Dennis Fellers: Yes.

Gary Falatovich: So the only impediment registration would be the 500 foot requirement?

Dennis Fellers: That is correct.

Gary Falatovich: Since purchasing these homes, let's talk about all three (3) of them collectively. Have you had any problems with the people that you are leasing to?

Dennis Fellers: No.

Gary Falatovich: You've had no disturbances that you've had to attend to?

Dennis Fellers: No.

Gary Falatovich: Have the individuals that you've been renting to, how would you describe them as tenants?

Dennis Fellers: I would describe them as very good tenants. They are responsible they pay their rent on time and very easy to get along with.

Gary Falatovich: You also indicated that you have other non student tenants in other rental units?

Dennis Fellers: Yes.

Gary Falatovich: How would you describe your student tenants as apposed to non student tenants?

Dennis Fellers: The student tenants are a lot easier to get along with. They pay their rent on time, there is no trouble. To me they just seem like better people, nicer people all around.

Gary Falatovich: In preparation for today's hearing did you ask my office to make inquires of the City of Greensburg's Police Department concerning the number of incidents or incident reports responded to by the City of Greensburg's Police Department in the area of these three rental units?

Dennis Fellers: Yes.

Gary Falatovich: Did you ask me to contact the City of Greensburg's Police Department to obtain the number of incidents reported on N. Pennsylvania Ave. and Harrison Ave., Concord Ave., Liberty St., Brushton Ave., O'Hara St., College Ave., and at Seton Hill University?

Dennis Fellers: Yes.

Gary Falatovich: Just so we are clear on the record and Ms. Ciampini can correct me if I am wrong, there are three registered or currently permitted student homes in this area at 450 N. Pennsylvania Ave., 426 Concord Ave. and 107 Liberty St.

Barbara Ciampini: And, there is one at 218 N. Pennsylvania Ave.

Gary Falatovich: Is that one that is licensed or does it have a permit?

Barbara Ciampini: It has a permit. 218 N. Pennsylvania, 426 Concord Ave. and 107 Liberty St. are all permitted student homes.

Gary Falatovich: Mr. Fellers I am going to show you what we will mark as applicant's **Exhibit V** and I am going to ask you if that is a copy of correspondence that was sent by my office to Chief Wally Lyons of the City of Greensburg Police Department dated February 13<sup>th</sup> 2008 making a request for incident information?

Dennis Fellers: Yes it is.

Gary Falatovich: Mr. Fellers does this request all include a request for all incidents reported at 433 Harrison Ave. and 347 Harrison Ave. and 420 Concord Ave. the three properties subject to this appeal?

Dennis Fellers: Yes, it does.

Gary Falatovich: And does it also request incident reports from 450 N. Pennsylvania Ave. and 426 Concord Ave. and 107 Liberty Ave.?

Dennis Fellers: Yes.

Gary Falatovich: I apologize for no reports for 218 N. Pennsylvania Ave. I might ask to supplement the record on those as well.

Lou DeRose: Very well.

Gary Falatovich: Does it also request copies of incident reports for permit parking violations on those streets?

Dennis Fellers: Yes.

Gary Falatovich: Mr. Fellers I am going to show you we've marked as applicant's **Exhibit W** and I am going to ask you whether or not this is a packet of documents that we've received from the City of Greensburg's Police Department concerning the incident reports that we requested during the February 13<sup>th</sup>, 2008 request?

Dennis Fellers: Yes, it is.

Gary Falatovich: Following the generation of that document did you call my office to send out another request for supplemental information on February 15<sup>th</sup> 2008?

Dennis Fellers: Yes.

Gary Falatovich: Let me show you what we will mark as **Exhibit X** and I am going to ask if you can identify that document as a copy of a supplemental request sent out on February 15<sup>th</sup>, 2008?

Dennis Fellers: Yes, it is.

Gary Falatovich: Does this document request copies of the incident reports that were reported out for 433 Harrison Ave. 347 Harrison Ave. and 420 Concord Ave. 426 Concord Ave. and 107 Liberty Ave.?

Dennis Fellers: Yes, it does.

Gary Falatovich: With respect to the premises of 450 N. Pennsylvania Ave. did the City of Greensburg's Police Department indicate that there were no reported incidents at that address?

Dennis Fellers: Yes.

Gary Falatovich: Mr. Fellers, with respect to the incident reports that you've received from the City of Greensburg's Police Department through the time period of August 1<sup>st</sup>, 2006 to February 13<sup>th</sup>, 2008 of a time period of approximately 18 months for N. Pennsylvania Ave. Harrison Ave. Concord Ave. and Liberty St., O' Hara St. and College Ave. can you tell the members of the board total number of incidents reported?

Dennis Fellers: 1,469 incidents.

Gary Falatovich: Can you tell the members of the board the number of incidents that were attributable to the properties of those incidents that were attributable to the properties at 450 N. Pennsylvania Ave. 426 Concord Ave. 107 Liberty St. which are the registered homes and 433 Harrison Ave. 347 Harrison Ave. and 420 Concord Ave. the three properties subject to this appeal?

Dennis Fellers: Total for all six (6) would be nineteen 19 incidents.

Gary Falatovich: That would be approximately (1.3%) percent of the overall incidents reported attributable to these 6 student home units?

Dennis Fellers: Yes.

Gary Falatovich: Also to respect to the number of permit parking violations for all housing units on those 6 streets did the City of Greensburg what is the number of permit parking violations that were reported?

Dennis Fellers: A total of 327.

Gary Falatovich: And how many of those reported incidents were attributable to these six (6) units?

Dennis Fellers: Seven (7.)

Gary Falatovich: That would be about (2.1%) percent of the overall incidents reported out being attributable to these six (6) units?

Dennis Fellers: Yes.

Gary Falatovich: If the board would please I would offer **Exhibits V, W, and X** and with respect to **X, Exhibit X** collectively as the response from the City of Greensburg's Police Department it has a recapitulation of the incidents reported out as well as copies of the actual incident reports that were received from the City of Greensburg's Police Department and a recapitulation. I don't have any

more questions for Mr. Fellers at this time. We would like to supplement the record by submitting the additional leases we had requested.

Lou DeRose: What time frame do you need on that Gary?

Gary Falatovich: I can get them by next Monday of next week. I actually have most of them in my files I just need to photograph them.

Lou DeRose: To the extent that you do not have this to us by Monday you'd wave any time problems in getting our response out?

Gary Falatovich: Absolutely.

Lou DeRose: Could you have Mr. Fellers indicate on the record, perhaps he did and I didn't hear it, the leases on the three properties as to whether they are all one year leases?

Dennis Fellers: Yes, they are all one year leases.

Lou DeRose: And whether or not there's been a turn over within the year of any of those leases?

Dennis Fellers: No.

Lou DeRose: On each of the properties how many vehicles historically since your time in using that property as student housing have there been on each of the addresses before us?

Dennis Fellers: At 433 Harrison Ave there are five (5) vehicles, at 347 Harrison Ave. there are four (4) vehicles and at 420 Concord Ave. there are five (5) vehicles.

Lou DeRose: And the supplemental lease agreement that you have for parking, did I understand that you said that would just be two (2) additional spaces that are attached to 347 Harrison Ave.?

Dennis Fellers: The other residence that we have in agreement with a license agreement with is for two (2) each parking permits. It would be a total of four (4) additional permits for 347 Harrison Ave.

Lou DeRose: You were never able to secure a permit the one you're entitled to perhaps under the right circumstances for any of the properties?

Dennis Fellers: That is correct.

Lou DeRose: Mr. Falatovich do you have other witnesses in support of your application?

Gary Falatovich: Yes I do. First I would call Tom Billeck. Where do you reside?

Tom Billeck: I live at 434 Concord Ave.

Gary Falatovich: How long have you lived at that address?

Tom Billeck: I purchased the house in July of 1997.

Gary Falatovich: And do you know Mr. Fellers?

Tom Billeck: Yes I do.

Gary Falatovich: How do you know Mr. Fellers?

Tom Billeck: He was my neighbor for 7 years.

Gary Falatovich: And you are familiar with the Concord Avenue area in the area of 420 and 426 Concord Ave?

Tom Billeck: Yes.

Gary Falatovich: Can you describe the area to the members of the board?

Tom Billeck: It's always been a nice community for the past 10 years that I've lived there.

Gary Falatovich: And have you had an occasion to become familiar with the tenants that occupy the property at 420 Concord Ave. after Mr. Fellers and his wife left the area?

Tom Billeck: Very little. It's pretty quiet. I don't have a lot to talk to them about.

Gary Falatovich: Are there other problems in the area of Concord Ave.?

Tom Billeck: I've had the Police to my house twice in the last year.

Gary Falatovich: What were those occasions?

Tom Billeck: Some vandalism where I knew the parties involved but I couldn't prove and there were a couple of younger kids and then some eighteen year old

kids shooting b-b guns at a house with a scope on and they were high school or that age doing it.

Gary Falatovich: Have any of the incidents that you who observed been involved in involved any of the college students who may have been living at Mr. Feller's property at 420 Concord Avenue?

Tom Billeck: No.

Gary Falatovich: I have no other questions of Mr. Billeck.

Lou DeRose: Are there any questions from the board for Mr. Billeck? Thank you very much sir.

Gary Falatovich: I call Mr. Joe Catalano. Can you state your name please?

Joe Catalano: I am Joe Catalano.

Gary Falatovich: How old are you?

Joe Catalano: 19 years old.

Gary Falatovich: Where are you originally from?

Joe Catalano: 214 Bailey Road, Curwensville Pennsylvania

Gary Falatovich: Where is Curwensville Pennsylvania?

Joe Catalano: In Clearfield County.

Gary Falatovich: Is that your permanent residence?

Joe Catalano: Yes.

Gary Falatovich: Who would make up your household in Curwensville?

Joe Catalano: My Mom and my Step dad.

Gary Falatovich: You are currently enrolled in school?

Joe Catalano: Yes.

Gary Falatovich: Where are you enrolled?

Joe Catalano: Seton Hill University.

Gary Falatovich: What year are you in school?

Joe Catalano: I am a sophomore.

Gary Falatovich: Are you a full time student?

Joe Catalano: Yes.

Gary Falatovich: How many credits do you currently carry?

Joe Catalano: 15 credits.

Gary Falatovich: When do you anticipate graduating?

Joe Catalano: The spring of 2010.

Gary Falatovich: You are currently renting property I believe at 433 Harrison Avenue?

Joe Catalano: Yes.

Gary Falatovich: When did you begin renting this particular property?

Joe Catalano: August 1<sup>st</sup>, 2007.

Gary Falatovich: Who else is renting that property with you?

Joe Catalano: Justin Ryan, John Stepanick, Nathaniel Goal and Nick Dickson.

Gary Falatovich: How long have you been occupying that particular property?

Joe Catalano: About 6 or 7 months now.

Gary Falatovich: How did you find this particular unit?

Joe Catalano: Nick's older sister lived there previously and we also new some of the other kids that lived there.

Gary Falatovich: How would you describe the unit?

Joe Catalano: It's very big. You walk and my room is downstairs with a bathroom attached to my bedroom, we have a nice big living room, big dinning room, nice kitchen. Upstairs there are 4 bedrooms, bathroom.

Gary Falatovich: Now the five (5) of you lease the entire house is that correct?

Joe Catalano: That's correct.

Gary Falatovich: Do you occupy this home as you would like a normal family with your brothers?

Joe Catalano: We hang out in the living room and cook in the kitchen and eat in the dining room sometimes.

Gary Falatovich: Are you employed?

Joe Catalano: Yes.

Gary Falatovich: Where are you employed?

Joe Catalano: Luzar Lumber. The corporate office is in Curwensville. And I connect to the internet to work.

Gary Falatovich: How many hours generally do you work?

Joe Catalano: About ten (10) hours a week.

Gary Falatovich: Do the other occupants of the property at 433 Harrison Avenue also work?

Joe Catalano: Some of them, yes.

Gary Falatovich: Can you tell the members of the board which others of the co-tenants where they might work?

Joe Catalano: Nathaniel Goal works at the Olive Garden and the Texas Road House, Justin Ryan works at Ruby Tuesdays, and John Stepanick just got laid off because of Natures Habitat closing down in the Mall.

Gary Falatovich: Do you know how many hours a week these individuals worked?

Joe Catalano: Nathaniel works probably between 20 and 25 hours a week, Justin works about 12 hours a week and John worked anywhere between 5 and 15 hours a week.

Gary Falatovich; Do each of you have vehicles?

Joe Catalano: Yes.

Gary Falatovich: Do you use those vehicles for both school and work?

Joe Catalano: Yes, except I don't go to work I work at home.

Gary Falatovich: How about your other roommates?

Joe Catalano: To school and to home or to the grocery store, trips that are necessary.

Gary Falatovich: The property at 433 Harrison Avenue does not have off-street parking, is that correct?

Joe Catalano: That's correct.

Gary Falatovich: Do you ever have any difficulties finding places to park these vehicles on the street?

Joe Catalano: No. No, real difficulties.

Gary Falatovich: Have you ever been convicted of a felony or misdemeanor?

Joe Catalano: No.

Gary Falatovich: Thank You. I don't have any more questions for Mr. Catalano.

Lou DeRose: Does the board have any questions for Mr. Catalano? Thank you Mr. Catalano and welcome to Greensburg.

Gary Falatovich: I call Ms. Brittney Giovannelli. Can you state your name for the board? And what is your age Brittney?

Brittney Giovannelli: I am 21 years old.

Gary Falatovich: Where are you from?

Brittney Giovannelli: I am from Perryopolis at 276 Fayette City Road in Fayette County.

Gary Falatovich: That is your permanent residence?

Brittney Giovannelli: Yes it is.

Gary Falatovich: Who makes up your permanent residence?

Brittney Giovannelli: My Mother and Father.

Gary Falatovich: Are you currently enrolled in school?

Brittney Giovannelli: Yes I am.

Gary Falatovich: Where do you go to school?

Brittney Giovannelli: University of Pittsburgh at Greensburg.

Gary Falatovich: What year in school are you?

Brittney Giovannelli: I am a senior.

Gary Falatovich: When will you be graduating?

Brittney Giovannelli: April 26<sup>th</sup>, 2008.

Gary Falatovich: How many credits are you currently carrying?

Brittney Giovannelli: My last 15.

Gary Falatovich; Do you currently resided at 347 Harrison Avenue?

Brittney Giovannelli: That is correct.

Gary Falatovich: How long have you resided at that address?

Brittney Giovannelli: Two (2) years.

Gary Falatovich: Do you reside with anybody else at that address?

Brittney Giovannelli: Yes, three (3) other female roommates.

Gary Falatovich: What are their names and their ages?

Brittney Giovannelli: We are all 21 and living with me is Amanda Susky, Katie Bonderanko and Brean Bell.

Gary Falatovich: How long have you lived together at that address?

Brittney Giovannelli: Katie, Amanda and myself have lived together for two (2) years and Brea moved in this year.

Gary Falatovich: So you have lived at that address since 2006?

Brittney Giovannelli: That's correct.

Gary Falatovich: How did you find this particular home?

Brittney Giovannelli: We'd like to say by pure luck. Amanda and I were driving around Greensburg while we were still living in the dorm and were looking for a place to live off campus and we found Mr. Fellers number on a sign in Greensburg. We just got lucky.

Gary Falatovich: Can you describe this particular unit to the members of the board.

Brittney Giovannelli: Yes. It has a very small front yard and back yard. When you walk in the front door there is a small foyer, to the left is our first bedroom downstairs to the right is a small storage cabinet underneath the stairway. There are two stairways. As you walk down the hall to your right is what we've turned into a sitting room and then you continue down to your left there is a dining room and a large kitchen and then to your right is a very large family room and a laundry facility a downstairs bathroom and in the dining room is where the second stairway connects and when you go upstairs there are three bedrooms a walk in closet and a bathroom.

Gary Falatovich: The lease that you've entered for this property at 347 Harrison Avenue is for the entire house is it not?

Brittney Giovannelli: Yes it is.

Gary Falatovich: It's not just for a single room it's the whole house?

Brittney Giovannelli: Correct.

Gary Falatovich: Do you occupy this home with your roommates in the same fashion that you would occupy it with siblings?

Brittney Giovannelli: Yes, we occasionally have what we like to call our "family dinners" and we all cook together and watch TV in the family room and study together.

Gary Falatovich: Are your roommates also students?

Brittney Giovannelli: Yes they are.

Gary Falatovich: And were are they enrolled?

Brittney Giovannelli: At the University of Pittsburgh at Greensburg.

Gary Falatovich: Are they all seniors as well?

Brittney Giovannelli: Yes.

Gary Falatovich: And do you work?

Brittney Giovannelli: I don't work.

Gary Falatovich: How about your roommates?

Brittney Giovannelli: They all three work. They work at Holister at the Mall and Katie also works on campus.

Gary Falatovich: Do you know how many hours a week they work?

Brittney Giovannelli: Approximately 20 hours an individual.

Gary Falatovich: Do you all have vehicles?

Brittney Giovannelli: Yes we do.

Gary Falatovich: How many vehicles do you have at this property?

Brittney Giovannelli: We each have one vehicle for a total of four (4).

Gary Falatovich: Are these vehicles used for both work and school?

Brittney Giovannelli: Work and school and school activities such as clubs, meetings things like that.

Gary Falatovich: I believe that Mr. Fellers testified that this property does not have access to off-street parking?

Brittney Giovannelli: That is correct.

Gary Falatovich: And where do you park your vehicles?

Brittney Giovannelli: Right in front of our house.

Gary Falatovich: Have you ever had any difficulties finding a place to park?

Brittney Giovannelli: No. In fact when we are all home there are still places to park in spots.

Gary Falatovich: One more question Brittney, have you ever been convicted of a felony or a misdemeanor?

Brittney Giovannelli: No, I haven't.

Gary Falatovich: I have no other questions.

Lou DeRose: Does anybody from the board have any questions for Ms. Giovannelli? Thank you.

Gary Falatovich: I don't have any other witnesses.

Lou DeRose: The board may have some questions of your client Mr. Fellers.

Patsy Iapalucci: I do, Mr. Fellers do you have four (4) parking spaces at 420 Concord Avenue?

Dennis Fellers: Yes, I do, off street parking.

Patsy Iapalucci: Will you show me on this piece of paper how you get four (4) in there?

(Denny approaches Mr. Iapalucci and shows him the off street parking.)

Patsy Iapalucci: Isn't this interfering with this door here for emergency exit?

Dennis Fellers: No, there is about 3 feet between the doors.

Patsy Iapalucci: This one is facing the alley.

Dennis Fellers: Yes, it is.

Patsy Iapalucci: It sticks this way. Okay.

Lou DeRose: Any other questions from the board?

Marilyn Crimboli: Two (2) of the properties are less than 500 feet from another property?

Dennis Fellers: Okay.

Marilyn Crimboli: How far exactly are they? Do you know?

Dennis Fellers: I don't know exactly.

Marilyn Crimboli: That is 420 Concord Avenue and 426 Concord Avenue.

Gary Falatovich: According to Ms. Ciampini the property at 420 Concord Ave. is approximately 89 feet from 426 Concord. Although we are advised that at

347 Harrison Avenue is within 500 feet of the premises of 107 Liberty Street and we are not certain what the actual distance is. I think you will see that the way the City of Greensburg does its 500 foot zone it does it on a circle so it's kind of tough to determine.

Lou DeRose: I didn't say what it should be it's what it is. Are there any other questions of Mr. Fellers? Mr. Falatovich any other offerings or witnesses?

Gary Falatovich: I have no other offerings or witnesses. I have some comments and argument at the end but I have nothing else to present to the board at this time.

Lou DeRose: There maybe some persons in the room who want to speak in favor of the application. Are there any? That means that there also may be people who want to speak against the application. The procedure for that is the you must be recognized raise your hand or stand up and come to the podium and please indicate whether or not you've been sworn in and tell us your name and address before you begin to say whatever it is of substance that you wish to say.

Joyce Chmel: I live at 130 Kenneth St. The board has done a very fine job of looking into other college towns and could see the problems that they've had and that is why they came up with the 500 foot minimum. I applaud them for doing what I call "do diligence". Everything I think has been in order and it's been well documented and it's gone before the Supreme Court and there is no question about it being legal. What I ask is that we follow what you have adopted which I think is very fine. It protects the students and protects us. What I am looking at these addresses we are talking about major density here and a lot of different parking problems. What we want to ask is that you just continue with the Ordinance that has been approved and we absolutely support you and thank you for doing it.

Lou DeRose: Thank you very much. Do you have any questions for the witness Gary?

Gary Falatovich: Just a couple. Mrs. Chmel you mentioned studies that the City of Greensburg may have done, are you part of those studies?

Joyce Chmel: No.

Gary Falatovich: You didn't participate?

Joyce Chmel: No.

Gary Falatovich: That is all I have.

Lou DeRose: Anybody else wish to address the board in opposition to the applications that are before us?

Mike Olbeter: I live at 414 Concord Avenue not too far from where Dennis used to live at.

Lou DeRose: Michael have you been sworn in?

Mike Olbeter: Yes I have. I am also a real estate investor in the area. I currently have three (3) homes and will be purchasing one in the next couple of weeks in that area of Concord and O'Hara. I actually live in one property; I have to park there too. My only problem with this you set a variance and you open a flood gate. If you're going to have a law you should try to enforce it. If it means reducing it from 500 to 250 feet that is fine but if your going to give these individuals variances you might as well give everyone a variance. I have four (4) properties and I will just put students in there and I'll provide off-street parking and I'll satisfy all your needs. Personally I moved to the area because it's a better community. I am currently on with a bunch of other neighbors and we are currently fixing up Coulter Ave. playground and why would we do that with more college kids because they don't play on swing sets and they just usually try to destroy them sometimes with too much to drink. We are doing a lot with the City and Community to build that area up and with the Elm Street Program coming in to help facilitate that and the residents themselves are doing things. I would prefer to see that we keep single family homes and not college kids. I think we should try to inter fix but I do prefer to have home owners instead of renters. My father and I do this as a business and we don't rent to college students because they tend not to take care of the home. If you like I can give you the addresses of the properties that I currently own and you would not believe that there are people that rent those properties because they look better than people who own their own homes across the street. I went to school at the University of Pittsburgh. I lived down in Oakland and I know what it's like, it's kind of living in a slum and college kids tend to not take care of anything. I am hoping this is a better quality of students a better quality of people coming from Seton Hill. If we open this up as a variance then it will become a college town. It's still the City of Greensburg and still going to raise our families here and this is one of the better sections of the area that we live in. The last stance is if you're going to change it changes the variance to accommodate more landlords like Denny but you still have to have some requirements. If you're going to have it as a law, just like the lady just said, you have to stick with it some way or another. If that's not the case just take it off the books. Let's give everybody the opportunity to rent to whomever they want. If it's our homes let us do what we want don't have any code on that that would be ridiculous. If everyone comes up here and gets a variance. I may do that and if you don't give me a Variance then I am going to say you're going against your word on that. You have to have a stand sometime. Push for what your community wants and to grow; it's truly up to you. Do you have any questions?

Gary Falatovich: No I don't.

Lou DeRose: Anybody else from the audience?

Wilda Kaylor: I live at 430 Concord Avenue. I've not been sworn in.

Charlotte Kuhns: (Swears her in.)

Wilda Kaylor: I also want to say adding my comments to my neighbors. I congratulate the Zoning Hearing Board they have been forward with thinking about some of these issues knowing the direction we would be taking in Greensburg. I also want to say in terms of this request, it's a slippery slope when we start to grant variance after variance and I agree no use having any rules if this is what is going to happen each time. I definitely live in an area where there is student housing and parking is a major issue. Most often I can't park in the front of my house to unload groceries if I wanted to do that or if I had something heavy. I do have off-street parking and an integral garage. Sometimes there are things that are just too heavy for me to carry upstairs. Another thing that comes about is that we are talking about 4 or 5 residents and with each resident we can always assume there is a car and we're talking about college students. In addition to that there are visitors and on an average evening and especially on weekends we may be talking a lot more cars. I have to tell you that I very rarely invite company to my home because there is no parking. I also have a question when you own a home like I do and I decide to turn it into a rental property do I have to come to the zoning board to do something, get approval for that or can I automatically do that?

Barbara Ciampini: Are you talking about just a general residence?

Wilda Kaylor: I am talking about Mr. Feller's residence on Concord. His family use to reside there because I am wondering if that is another issue in addition to this.

Barbara Ciampini: The rule is if the property is non owner occupied you should at the minimum have a building inspection so we can check for property maintenance and safety issues, mostly a safety issue for single family.

Wilda Kaylor: Changing from an individual family residence to a rental requires a building inspection?

Barbara Ciampini: Yes, if it's more then one unit there are other requirements.

Wilda Kaylor: Some of the other issues, even if Mr. Falatovich brought up incidents there is a voice involved. I am not just talking about incidents reported

to the Police I am talking about a daily basis. Students have a different lifestyle and come and go at different hours.

Gary Falatovich: I am going to object to that. If she is not going to testify as to actual observations then I am going to object to a generalization.

Lou DeRose: I understand your objection but she just got into what she is saying and I don't know if she is talking about this particular neighborhood or these particular properties or not. Ms. Kaylor would have that opportunity to do that.

Gary Falatovich; One of the things that we think is important for the board to avoid is this speculation about what college students are like. The board can't look at unfounded or baseless opinions they have to base their determination on the facts and the evidence as before them. So if Mrs. Kaylor is going to engage in generalizations I would hope there would be some factual first hand knowledge that would support it in this area.

Lou DeRose: I am sure the board understands your objection.

Wilda Kaylor: I'll accept that I don't mean to generalize. My experience is my experience on my end of the street based on the two homes that are close to me. In terms of noise issues it's much better because there is a new owner next door to me the one that is approved. Still, there is noise. I've just put new windows into my home at a higher expense in my bedroom and it does not alleviate the noise. A car pulling in at night, this is what I hear which is my experience, maybe a student coming home from work I don't know. I am not going to generalize, but if there is a radio blaring, if I was asleep I am now awake and it may take me an hour or two to go back to sleep. These triple pane windows I had high hopes it would make a difference and they have not. Those are my experiences. Do you have any questions?

Gary Falatovich: No.

Anita Simpson: We're not to generalize but we also have to keep in mind that those particular students are not going to be there forever. There has to be some generalization to students.

Lou DeRose: Please keep in mind that it's Mr. Falatovich that told you not to generalize. Are there any other persons in the audience that wish to address us?

Gene James: I have not been sworn in.

Charlotte Kuhns: (She swears him in.)

Gene James: Most of what we've heard today has been largely irrelevant and I am sure most of you know that. Statistics that have recently been presented are

probably not significant and certainly not significant enough to a student neighborhood, it's not established. I think we've heard an awful lot of discussion about whether or not students are people. That would be wrong for us to generalize that they're bad neighbors. My experience has been fine with students as neighbors. I don't think this is an issue for you to consider, the issue for you to consider is do these people have the right, they ignored the law that you have to grant a variance to let him take more parking spaces than our City's Council has deemed appropriate. Since this is an emerging student neighborhood I would urge you to air on the side of caution, deny the variance and revisit it in a couple of years. City Council may revise the Ordinance but it stands now and I don't think anybody in this room can provide documentary evidence that it's wrong. That's all I have to say.

Lou DeRose: Does anybody else have any questions?

Gary Falatovich: No I have nothing.

Paul Bieterman: I live at 554 N. Main St. Just briefly on October 10<sup>th</sup>, 2007 basically Bill Number 12 an Ordinance of the City of Greensburg amending chapter 265 entitled Zoning Ordinance number 1646 the code of the City of Greensburg and there are numerous items in here, these are minutes from your meeting they are on the computer is where I got them from. Basically what I am finding here is one of the intents from this Ordinance when originally drawn up was to eliminate clustering quoting from here, plus basically you've set up the guidelines with your little circles there on the chart and in that particular area which everyone thought would possible become a nice little Yuppie community with maybe some college professors and graduate students from Seton Hill would like to move in there with their families it just didn't happen to end up that way. You folks know better than I do, you see it everyday when you drive up and down that street. My daughter graduated from Seton Hill and it is a fine college, fine students but I know from my personal experience that when you're a freshmen you have a completely different behavior and demeanor than when you're a senior. The young lady who spoke is obviously headed for a bright future. Next year there might be some freshmen and I urge you to just please try and comply with the current Ordinance as stated.

Gary Falatovich: Mr. Bieterman, where do you reside?

Paul Bieterman: I live at 554 N. Main St. the corner of Barclay and N. Main Street. I live approximately 3 blocks from this area.

Gary Falatovich: You said your daughter graduated from Seton Hill?

Paul Bieterman: Yes she did.

Gary Falatovich: Did she live with you while she was going to school?

Paul Bieterman: She did indeed.

Gary Falatovich: When did she graduate?

Paul Bieterman: She graduated in, I have 4 children and I'm not good with dates. It's been approximately 12 years ago and she is employed with the State of Pennsylvania she is a Psychological Counselor.

Gary Falatovich: Do any of your other children go to college?

Paul Bieterman: I have another daughter who attended IUP and lived in student housing and took one semester off for a nervous breakdown. She did graduate with honors.

Gary Falatovich: Did she return to live with you in the summers?

Paul Bieterman: She did in her first two years and in the last two years she did not because she had a restaurant and bar illegally basically in the house she was living in.

Gary Falatovich: The other two students did not go to college?

Paul Bieterman: No I have a son who lives in Ligonier and is involved with computer business and he did not go to college and he is pretty well known in the area, he's a genius. I have another daughter who works at Wal-Mart in the bakery and is very happy. Any other questions?

Gary Falatovich: That's all I have.

Lou DeRose: Anyone else?

Wanda Thompson: I have not been sworn in. I live at 431 Concord Ave.

Charlotte Kuhns: (She swears her in.)

Wanda Thompson: Basically the reason that I am here is because I agree with most of the conversation today that we should uphold the 500 foot Ordinance that you already have in place. I've had first hand experience with not only this year's student housing in my neighborhood but also ones' that have proceeded them. Some of it has been good and some of it has been bad. Fortunately we've had an unusual quiet semester. In the past we've had some unruly students who have rented from different property owners in the area and I'm afraid that if you grant this variance that we don't know what type of students we are going to get in the next crop and I just think like my other neighbor said it's a slippery slope. I've had neighbors, the students, peeing in my hedges. I've had Solo

drinking cups, beer bottles and alcoholic containers and what I ended up doing was bagging it all and opening up their screen door and dumping it in there and closing it because I am tired of picking it up. I've had students where the police have been to their house so many times that they have tried to stop the rowdy. They've taken it to the street, they've kicked out the back window, the kid was a student and his car was parked on the street and they jumped on his car and in the meantime I've got my kids looking out their bedroom window looking down at these drunk kids and misbehaving on the street. We have three vehicles and only allowed to park two. We can only get stickers for two and my husband has a bad knee we can't even get parking on the side of the street, I need parking on O'Hara and I live on Concord. My legal address is on Concord and I can't get a variance for that. However when he parks on O'Hara somebody else is in our parking spot with a handicapped plaque and I am saying how rude would that be to take a handicapped persons parking space. It has the marker on there he has his plaque and still another person on the weekends constantly parks in his spot. We then have to park on O'Hara and take a chance on getting a ticket ourselves. We've had where my kids are playing in the yard and college kids being drunk seeing them out there by themselves or what they think is by themselves on a Friday or Saturday evening or after a football game or a sporting event from one of the schools and they come back and they start joining in on the activities. These are preteen's and you're are an adult, and you do not interact on private property with youths without the permission of the parent. I do not have off-street parking and I have to find a neighbor who will allow me to park in her off-street parking. The people on Harrison Ave. that are unable to find parking, were he comes in and out on O'Hara were we are taking a chance though if another person from O'Hara can't find a place to park everybody on that side including the residents who do not have parking passes issued to them get tickets even though your house is on the corner you still get a ticket because your suppose to be on the street you live on. It's very dense and I can only see it getting more and denser as you allow more and more cars. If you got 5 people with 5 cars and I've got three and can't even park myself. The weekend parties are just out of hand. Sometimes I'll be leaving for work and get chased back in to the house and had to have my husband walk me out or call the Police and have them walk me to my car. Does anybody have any questions?

Gary Falatovich: Ms. Thompson you say you live at 431 Concord Ave. and where is this home in relationship to your property?

Wanda Thompson: They are diagonal.

Gary Falatovich: Across the street?

Wanda Thompson: No. That would be Wilda

Gary Falatovich: Is that the property at 426 Concord?

Wanda Thompson: Yes.

Gary Falatovich: You indicated that there are times when there are parties going on and you see individuals that are outside at this residence?

Wanda Thompson: Not this year.

Gary Falatovich: Not in the 2007-2008 school years?

Wanda Thompson: Not in this year.

Gary Falatovich: When you say this year do you mean this academic period.

Wanda Thompson: Yes.

Gary Falatovich: In reference to seeing sometime young people that you believe were students that were outside and jumping on cars and those type of things, how do you know they are students?

Wanda Thompson: Because the individuals who were at 426 Concord my kids saw them and when the Police came they identify the people who were jumping on the vehicles and that's how they knew who broke into their cars.

Gary Falatovich: So they came from that particular house? And you called the Police?

Wanda Thompson: No, I didn't call the Police that was none of my business.

Gary Falatovich: So the Police came. You said that was in the last academic year is that correct? You said it wasn't in the 2007-2008 academic year.

Wanda Thompson: It would have been, I would have to say I don't know. I don't recall.

Gary Falatovich: Have you ever reported any of these incidents to the Greensburg Police?

Wanda Thompson: I've only called once and that is when they chased me back into my house.

Gary Falatovich: And that would have been over a year ago?

Wanda Thompson: Yes.

Gary Falatovich: Are you aware of any other problems on Concord besides those that are associated with this can you describe 426 Concord?

Wanda Thompson: Yes.

Gary Falatovich: What other type of problems are you aware of?

Wanda Thompson: The ones that Wilda had indicated, I am aware of those. I was a college student at one time and I understand that you need to release some of your system.

Gary Falatovich: There is only one registered student home on Concord Avenue at this point and time. Are you aware of that?

Wanda Thompson: Yes.

Gary Falatovich: Would it be fair to say that some of the other problems that exist on Concord Avenue are created by people that are not college students?

Wanda Thompson: I know that they are college students.

Gary Falatovich: Do you check ID's?

Wanda Thompson: My children have a paper route and so we pretty much know the neighborhood intimately.

Gary Falatovich: Would you agree with me that there are people on Concord Avenue that cause problems either with off-street parking or with disturbing the peace or other activities that are not college students?

Wanda Thompson: Yes.

Gary Falatovich: I have no more questions?

Lou DeRose: Any more questions?

Marilyn Crimboli: You said that the biggest part of the problem is from a property at 426 Concord Avenue, is that right?

Wanda Thompson: That is my example.

Marilyn Crimboli: That's your example, 426 Concord Avenue, but there is another one right? You have one at 420 Concord Avenue, so there are only two that we know of?

Wanda Thompson: One is at the top of Harrison Avenue, I don't know the address, there are college kids at that one and maybe two doors down because they can look over and see my kids jumping on the trampoline.

Marilyn Crimboli: Thank you.

Lou DeRose: Anyone else?

Kathy Lowry: I live at 208 Walnut Avenue in Greensburg. I have been sworn in. I do want to commend the City for passing the Ordinance limiting student housing to a 500 foot radius. During my life time I've been a college student and I have lived in a college town and I've also spent years living in New York City where parking is a major problem. I can sympathize with anyone who's trying to walk 2 or 3 blocks away from where they live and carry groceries and heavy objects. I've also seen first hand what happens to a community when a fraternity row gets set up. When I was going to college I was a lot like the college students that are here today, I worked and carried a full force and I didn't have time to party. I personally didn't want to live next door to a Frat house because is all they did was party had loud music and I think what the City was thinking about is we don't want that either. The good college students don't want to live next to that either anymore than a home owner does. I am just asking the City to enforce the Ordinance that they put in place and to go back and think why that was put in place to begin with, why it came up as a bill to City Council and why it was signed into an Ordinance. Any questions?

Gary Falatovich: Where did you go to college Mrs. Lowry?

Kathy Lowry: I went to Youngstown State and I received a bachelor's degree and a master's degree there.

Gary Falatovich: Did you live on campus or off campus?

Kathy Lowry: I lived off campus.

Gary Falatovich: Did you rent a home?

Kathy Lowry: Yes, we did.

Gary Falatovich: You said you worked part time?

Kathy Lowry: I worked part time while I was getting my bachelors degree and I had a full time job while I was working on my masters.

Gary Falatovich: You didn't get into any trouble?

Kathy Lowry: No.

Gary Falatovich: You never had loud parties?

Kathy Lowry: Occasionally we did I can't say we never had anybody over. As an adult I occasionally have loud parties too and I define anyone else in this room to have a perfect history.

Gary Falatovich: When you were a college student did you have any restrictions in Youngstown on where you could live?

Kathy Lowry: It wasn't an issue when I went for my bachelor's degree I lived at home with my parents and commuted back and forth. By the time I went for my master's degree I was married and lived with my husband.

Gary Falatovich: When you were married and living with your husband were you working as well as going to school? Were you a full time student?

Kathy Lowry: Yes.

Gary Falatovich: Did you have any restrictions on where you could live with respect to other students while you were getting your masters degree?

Kathy Lowry: If there were any I wasn't aware of it.

Gary Falatovich: I have no other questions.

Lou DeRose: Does the board have any questions?

Brittney Giovannelli: I know the lady just mentioned about fraternity row and I just want to clarify that neither Seton Hill University nor Pitt of Greensburg has Greek life I just wanted to mention that. I know a lot of times when people think about college life excuse the expression "Animal House" does come to mind and it's really not the reality we're just people trying to study and get our degrees so we can better our lives and a better job then what would have been available if we didn't go to school. I just wanted to clarify that one point.

Lou DeRose: Anybody else?

Gary Falatovich: Can I just ask Mr. Fellers one other thing?

Lou DeRose: Yes.

Gary Falatovich: This was raised with respect to Ms. Ciampini's comments about inspections. Mr. Fellers have each of these units gone through Occupancy permit inspections from the City of Greensburg?

Dennis Fellers: Yes.

Gary Falatovich: When did they go through the inspections?

Dennis Fellers: During the time they were purchased.

Gary Falatovich: Did they pass?

Dennis Fellers: They did not pass initially but we did make repairs and they are up to date at this time.

Gary Falatovich: So these properties where inspected repairs are done and then they were re-inspected and past?

Dennis Fellers: That is correct.

Gary Falatovich: I have no more questions.

Lou DeRose: Because the board has the burden of going forward and did this backwards Ms. Ciampini will you tell us by the initial citations issued against the properties that Mr. Fellers is discussing.

Barbara Ciampini: I believe Mr. Fellers, I know he did, he testified to the fact that I did drive by 433 Harrison Avenue at some point in August of 2006 and called Mr. Fellers because what I saw was a party and assumed it was student housing. I spoke to Denny, called him on the phone and asked him to start the registration process and that didn't happen so a violation was issued in late August of 2006 for 433 Harrison Avenue. For 420 Concord Avenue my office the Planning Department found out that an inspection was done by our Building Code Inspector Dave in regards to the applicant Mr. Fellers calling into the office and scheduling an appointment for a building inspection. So that is how we found out and Vicky my secretary, seated directly behind me, had a conversation with Denny sometime in August of 2007 and she questioned him if it was going to be a student home and at that time Denny indicated that he didn't know yet.

Anita Simpson: And this is the one that he testified that he rented it in 2006 to students but in August of 2007 they told Vicky that they weren't sure if it was going to be a student house?

Barbara Ciampini: That is correct; according to our records, the file on that property. The property at 347 Harrison Avenue I am not exactly sure how I found out about that one. It could have been through the City's permit parking process. We revamped the whole permit parking process in 2007. Students were coming in for permits and unless their homes were registered with our office they weren't issued permits. I don't recollect how I found out about that one. That was sent a violation letter in April of 2007.

Lou DeRose: As the properties sit today, let's deal with 433 Harrison Avenue in the City's view the Zoning Officer does that property comply with the Ordinance in regards to student housing?

Barbara Ciampini: No.

Lou DeRose: And it doesn't in what particulars?

Barbara Ciampini: Specifically for parking I have talked with Denny and he came up with that licensing idea and I don't remember if it was 433 Harrison Avenue or 347 Harrison Avenue to have a licensing agreement to try and lease on street parking spaces for his students but when we checked with the legal department and our Chief of Police we found that it was not a lawful action and I couldn't give him approval. In the meantime through all of this people are also registering other properties and getting permits, so there are time lapses. We started that one in August of 2006 and it's now February 2008.

Lou DeRose: So 433 Harrison Avenue is a parking issue at the moment.

Barbara Ciampini: Yes.

Lou DeRose: Is it a distance in anyway?

Barbara Ciampini: Yes in relationship to the student home registered at 107 Liberty St.

Lou DeRose: How many feet?

Barbara Ciampini: I would have to refer to the map. It's close to two (200) hundred feet.

Gary Falatovich: That was 347 Harrison Avenue isn't it?

Barbara Ciampini: No, it's 450 N. Pennsylvania Avenue. The two Harrison properties are both about 200 feet away from the registered use at 107 Liberty St. for the 347 Harrison Avenue and 433 Harrison Avenue for the 450 N. Pennsylvania Avenue.

Lou DeRose: They're both therefore short 300 feet?

Barbara Ciampini: That's correct. They are both on the north side of Harrison Avenue which means there is no rear access; there is no alley on the north side of Harrison Avenue.

Lou DeRose: On 347 Harrison Avenue does that conform to the City's student housing?

Barbara Ciampini: No.

Lou DeRose: It violates it in what way according to the City's Zoning Office?

Barbara Ciampini: Again because of the parking, it can't conform to the parking and the distance to 107 Liberty St. the registered and permitted student home.

Lou DeRose: And again that one is two hundred (200) foot difference?

Barbara Ciampini: Yes.

Lou DeRose: Or three hundred (300) feet difference if you go for what's needed?

Barbara Ciampini: If they needed a 300 foot Variance.

Lou DeRose: 420 Concord Avenue, does that conform to the City's Ordinance at this time?

Barbara Ciampini: No.

Lou DeRose: It violates it in what way?

Barbara Ciampini: In respect to the distance. It has the off-street parking but it is approximately eight-nine (89) feet from 426 Concord Avenue which is a registered student home.

Lou DeRose: Can you repeat that?

Barbara Ciampini: 426 Concord Avenue is a registered student home and 420 Concord Avenue is approximately eight-nine (89) feet from that property. It does comply with parking.

Lou DeRose: So therefore it's 411 feet to close?

Barbara Ciampini: Right.

Lou DeRose: Are there any other violations that you are aware of that would keep it out of compliance with the City's student housing Ordinance?

Barbara Ciampini: No, the applicant has worked towards complying with the inspections, all of the building inspections. He has diligently worked towards that goal. Those are the only issues.

Lou DeRose: Thank you very much. Are there any questions of the Zoning Officer from the board?

Patsy Iapalucci: They are all over 300 feet short?

Barbara Ciampini: That's correct. One more so.

Patsy Iapalucci: One a little more then 300? And the other two an average of 300 feet?

Barbara Ciampini: Yes.

Gary Falatovich: Do you mind if I ask Ms. Ciampini some questions?

Lou DeRose: No, she invites it.

Gary Falatovich: Just so I am clear on this, the property at 433 Harrison Avenue is within 500 feet of another registered unit at 450 N. Pennsylvania Ave.

Barbara Ciampini: That's correct.

Gary Falatovich: That's on a different street then this property?

Barbara Ciampini: That's correct.

Gary Falatovich: The permit parking permits are they on street permit parking permits that are issued, they are issued per street are they not?

Barbara Ciampini: That's correct.

Gary Falatovich: A permit that is issued for the property on Harrison Avenue would not be able to be used to park a vehicle on North Pennsylvania, is that correct?

Barbara Ciampini: That's correct.

Gary Falatovich: So vehicles that would be parking on Harrison Avenue would not necessarily be permitted to park on Harrison Avenue but not necessarily be impacting on vehicles that would be parking on Pennsylvania Avenue?

Barbara Ciampini: Not necessarily.

Gary Falatovich: The same thing would hold true for 347 Harrison Avenue if it was proximity to 107 Liberty Street?

Barbara Ciampini: That's correct.

Gary Falatovich; Liberty Street is a completely different street?

Barbara Ciampini; That's correct.

Gary Falatovich: And Liberty Street has its own permit parking requirements?

Barbara Ciampini: That is correct. Plus the students at 107 Liberty St. have their own off-street parking.

Gary Falatovich; Just so I am correct on this, student homes are only eligible for one permit parking permit, is that right?

Barbara Ciampini: That's right.

Gary Falatovich: Where as a traditional single family would be eligible for two?

Barbara Ciampini: Two plus a visitor's pass.

Gary Falatovich: Plus a visitor's pass?

Barbara Ciampini: That's correct.

Gary Falatovich: Multi family units within the City of Greensburg, duplex's which are permitted uses in this zoning classification would be allowed two per dwelling unit?

Barbara Ciampini: Not necessarily, we now look at whether or not they have off-street parking. If there is off-street parking available it's based on the unique property itself. Between the Police Department and the rest of us we've all worked at this to get people to park "off street." As much as possible.

Gary Falatovich: In terms of the zoning ordinance itself is there not a provision in the zoning ordinance to respect to off-street parking that requires multi family homes to have two off street parking spots per unit?

Barbara Ciampini: Correct unless there is a situation where they were grandfathered and did not have it. If it was new, yes.

Gary Falatovich: There are circumstances under the terms of the City of Greensburg zoning ordinance that if the property has some type of physical characteristics that precludes it then providing off-street parking that the zoning hearing board has that ability to grant that request by Special Exception, is that correct?

Barbara Ciampini: That's true. We've never done that though.

Gary Falatovich: Also with respect to student homes the way the ordinance is phrased they're required to provide a maximum of four (4) off-street parking spaces?

Barbara Ciampini: If they have the maximum number of students. If there are five students they are required to have four (4) off street parking spaces.

Gary Falatovich: If there are five (5) people occupying the traditional single family, mother, father three kids, they are only required to have two (2) off street parking spaces, is that right?

Barbara Ciampini: It depends on the property again. If there is existing off street parking and they are on a permit parking street we would take that into consideration for issuing permits. If it's a street such as mine with no permit parking, there is absolutely no requirement for off street parking.

Gary Falatovich: With respect to the property at 420 Concord Avenue that complies with at least the off street parking requirements is that right?

Barbara Ciampini: That is correct. Out of the three that is the only one that comply.

Gary Falatovich: We are only talking about the distance requirement is that right?

Barbara Ciampini: That is correct.

Gary Falatovich: Is the unit at 426 Concord Avenue the only other licensed pending student home that is within 500 feet of that unit?

Barbara Ciampini: To the best of my knowledge yes.

Gary Falatovich: I have no other questions.

Lou DeRose: Ms. Ciampini, would you indicate whether or not on the two properties that have parking issues before us the ones on Harrison Avenue whether there was any non permit parking or other public parking available within a few blocks of those parcels.

Barbara Ciampini: I don't know, that was something that I asked Denny to try to do some research on and determine if there was another area that he could lease for his students. Our concern is to try to accommodate. That never happened.

Lou DeRose: As of this moment for this hearing purpose you know of no streets that are within one or two blocks that are not permit parking streets?

Barbara Ciampini: No.

Lou DeRose: How about public parking areas or private parking areas.

Barbara Ciampini: The City owns a public lot down on Harrison at Seton Hill but that would only be available after 5 o'clock PM.

Lou DeRose: Thank you.

Michael Olbeter: I ask only one thing, if you are lenient with Mr. Fellers that's great because he's one of the few honorable landlords that do rent to college students that at least would make an effort to fine the other ones because there are these other two properties on Concord Avenue themselves that would violate.

Barbara Ciampini: Are you reporting those Mike?

Michael Olbeter: Yes, I can't give you an exact address but it's at the corner of Liberty and Concord there is a duplex that has college students and since you guys aren't aware of that, they're in violation so if your going to give him leniency because he has gone through all the right processes you have to be aggressive and go after the others because they have college students in them. He's doing the right thing. You have to be harder on the other ones that haven't gone through the process. Thank You.

Lou DeRose: The board is in a decision now where it could if it chose to, to make some motion upholding the validity of the citation.

Gary Falatovich: May I say something.

Lou DeRose: Let me finish then I will. The board can make a motion one way or the other or as I indicated earlier after Mr. Falatovich is done with his closing remarks. We can take an executive session for legal purposes to discuss the issues so whatever motion you make hopefully meet the necessary issues and requirements to finalize this matter on our level. Mr. Falatovich by all means.

Gary Falatovich: If it may please the members of the board part of the challenge that we had filed was associated with challenging the substance of validity of portions of this particular ordinance. We do not necessarily challenge the ability of the Municipality like the City of Greensburg to take action to regulate problematic rental units. Our problem is with the manner in which the City of Greensburg has chosen to do that. The City of Greensburg and I am sure that the members of Council were acting on good intentions choose to take a sweeping approach to this form of regulation which we believe does not have a rational base. In order for an Ordinance to be upheld and for an Ordinance to be declared valid, it has to promote the public health, safety and welfare as

provisions to substantially relate to the purpose it's intended to serve. It can't be arbitrary it has to bare a rational relationship to what is actually trying to be achieved and evil that is supposed to be remedied. Here if you take a look at the Ordinance on its face it doesn't have a stated purpose. The Ordinance doesn't tell you what it is suppose to remedy it only says it's suppose to relate to student homes and student housing. Some of the members of the audience who came in to testify talked about it relating to regulating density and making sure there are no problems with off-street parking and regulating problems that one would customarily think what would arise from homes being occupied by students. However we don't believe that there is a rational bases based on what you've heard today. We are distinguishing residents that are occupied by students from residents that are occupied by nonstudents. What you have to do is take a look at your Ordinance itself to see how it defines students and student homes and how those classifications are related to the definition of a family. For example the definition of a family under the terms of your Zoning Ordinance is an individual or two or more persons who are related by blood or marriage adoption and live together in a dwelling or a group of not more then 3 persons who are not related by marriage or adoption living together has a single house keeping unit or dwelling and sharing common facilities considered reasonably appropriate. The definition of family after this ordinance with student home ordinance was adopted excluded student home from that definition. Also this ordinance created a definition for student home calling it a living arrangement for a maximum of five (5) students is defined in this chapter and goes on to define a student as any individual who is enrolled or made application to and has been accepted to any University, College or Trade School and at least taking six (6) credit hours and who's primary occupation is as a student or someone who was on semester or summer break from studies at college. It also goes on to say that a student is someone who is either an undergraduate or a graduate student. When the ordinance caps the number of students that are able to occupy a single family dwelling, we believe that it draws an impermissible distinction it doesn't have a rational basis when you relate it's occupancy to the number of people that are permitted in an R-2 Zoning District to occupy a home that is a single family residence. For example, if you have and especially in this day and age, a Brady Bunch situation where you have a parent with three children and another parent with three children you now have 8 people living together in a single family dwelling. Those individuals under those circumstances would be required to provide two (2) off street parking spaces for that single family dwelling and they would also be eligible for permit parking in this situation for two off-street parking permits and one guest pass that would go along with it. In areas where there is no permit parking they would be able to have as many vehicles as they want, however once these people get classified into student homes the requirements that are imposed upon them increased and we do not believe there is a rational basis for a rational reason why you would distinguish off street parking requirements that are imposed on married couples with adult children and five (5) cars in their home from unrelated students who are living together as a family unit with five (5) cars in their home. There are no rational bases for that distinction.

So it does not appear to be rational bases for requiring a five hundred (500) foot distance between these types of uses. For example you have to take a look at the permitted uses under the terms of your Zoning Ordinance for an R-2 Residential Zoning. There is no site requirement, no distance requirement between traditional single family homes that are occupied by traditional families. We noticed the number of people that are occupying them regardless of the size or the structure. There are no site distances that require to be between single family homes that are occupied by three unrelated non students, none at all. If you are an individual or three individuals who are living together and unrelated by blood or marriage you are not a student, you do not have to live five hundred (500) feet away from another similarly situated set of circumstances. There are no site distances that are required there. There are no site distances five hundred (500) foot requirements imposed upon multi family dwellings. You can have duplexes that may be occupied by four individuals each, four individuals on each side with their own off-street parking but there is no five hundred (500) foot limitations between those types of uses regardless of the number of people occupying them or regardless of the number of vehicles they have or the number of off street parking spaces they have. Your Ordinance permits group homes to exist in an R2 District. A group home can be a home that is occupied by any number of handicapped or otherwise disabled people who are living under the same roof together regardless of the size. The only size limitation that is required or opposed upon a group home is one that is required imposed by the Department of Public Welfare. There are no off street parking requirements imposed on a group home and there are no site distances that are imposed upon a group home. You could under the terms of your Ordinance have seven (7) group homes on Concord Avenue one right next to the other, there is no five hundred (500) foot requirement and there is no rational bases for imposing a five hundred (500) foot requirement student home and not imposing it on those same uses regardless of the number of people that are occupying the structure and regardless of the number of vehicles that may be coming in and out. This Zoning board has the ability to grant home occupation uses which permit business uses to exist in these areas as well. So in theory you can have 4 barber shops or 4 beautician shops right next to each other and there is no five hundred (500) foot requirement that's imposed on those type of uses regardless of whether or not you have 20 people going in and out those home occupation uses on a daily bases or not. So when you are talking about this five hundred (500) foot requirement imposed by the City of Greensburg Zoning Ordinance there is no rational basis imposing it on a student home because there is no difference in the number of occupants there is no difference in the number of vehicles that would be coming in and out and there is no rational basis for drawing that distinction under these circumstances. We think that the Zoning Hearing Board has to do under these circumstances is try to avoid what is generalized public opinion about what goes on within student housing. This board I am certain is intuitive to the individuals who have come up and may have express what they believe is happening or may believe what has happened. Not only with respect to these areas also they provide some testimony of their generalized belief on what goes on in student housing,

however, those opinions are contrary to what the City of Greensburg Police Department reports out for that particular area. As we indicated and as we supplied to the members of the board the number of incidents that were reported in this sixth street area comprised of N. Pennsylvania Ave., Harrison Ave., Concord Ave., Liberty, O'Hara and College Ave., are 1,469 incidents of those incidents according to the records from the City of Greensburg's Police Department, 19 of those incidents were contributable to one of these six student homes. That is (1.3%) percent, so with all respect to the individuals who have come before the board to testify about what they believe goes on in the student home. Or they may have testified about one bad experience or a couple of bad experiences that they have had with a student home in that area. With respect to their opinions the records from the Greensburg Police Department indicate there are a lot of problems in that area and those problems are not attributable to the six homes that are occupied by students that exist there. I think the board has to look at the hard facts that are before them and get away from accepting these broad generalizations. That's another reason why we believe this Ordinance is substantially invalid because if there is a 500 foot distant requirement between these student homes and if there are these additional off street parking regulations that are in place these are certainly not remedying the problems in this area. It's pretty clear from the incident reports that we've attached and the Police records that we've attached that these problems that are created have nothing to do with college students. In fact the most predominate problem that you will see when you go through these materials some of the problems have to do with off street parking. Out of these 1469 incidents 327 of them relate to permit parking or traffic violations. Of those at least 7 are related to these six units. So how much of a problem could these units causing in this six street area. The question is if it is a problem it's only (2.3%) percent of it. What we also did as part of what we believe is full and fair disclosure in this case is we attached copies to every incident report that was reported out for these six structures and we detailed them by structure. You'll see that out of these 19 incidents that were reported three of them was just for vehicle lock outs, that is kids calling up and saying I am locked out of my car can you please come and help. Out of all of the incidents that were reported out of the 19 incidents in an 18 month period only 4 of them required a Police Officer to be on the scene more then 15 minutes. So with all respect and to the individuals who have testified about the problems that are created by the student homes in this area that just doesn't stand up against the facts that this board should be dealing with. There are other ways to remedy these particular problems with these units. There are ways to remedy problems with rentals and ways to remedy difficulties with bad tenants. You don't have to engage in the sweeping type of legislation that the City of Greensburg engaged in to do that. Because when you do that you do engage in this sweeping type legislation and you also create propensity for some very absurd results and some very difficult times for Ms. Ciampini later on down the line because the way the City of Greensburg defines a student and a student home they make no distinction between a home that is particular occupied by a student or a home occupied completely by students who are 22 years of age or 25 years of age. For example,

Mr. DeRose in his private practice I am sure he sees this all the time, if I am a divorced mother and I am striking out on my own and I have an 18 year old and 19 year old child that are both in college at Penn State main campus and I am collecting spousal support or alimony and I am going to school full time at Seton Hill rehabilitating myself and I walk into a home on Concord I am a student home under the definition of your Ordinance. I don't think it was the intentions of the City of Greensburg to preclude the mother and a 18 year old and a 19 year old from qualifying as a student home under the terms of this Ordinance. If I am a family of four, husband, wife and two children who grow up on Harrison Avenue and all of a sudden I lose my job and I decide to collect unemployment compensation and I am going to travel to the University of Pittsburgh of Greensburg while my two children are traveling to WCCC and living at home. I am a student home through the terms of your Ordinance. I've created a student home without ever leaving, without ever renting it out. The terms of this Ordinance do not make that distinction and that's why these terms are invalid and that's why these provisions of this Ordinance are invalid. We understand that there are going to be difficulty with students occupying houses. We also understand that in 98.7 percent of the circumstances in this six street area the same problems are going to exist with homes that are occupied by non students and those are the facts that this board has to face. Those are the arguments on the ordinance, just very very quickly the use at 433 Harrison Avenue once we supplement the additional leases we believe we will show this property was in use for student housing or was housing students prior to the time this Ordinance was adopted and that it would be entitled to be registered as a student home as a preexisting non conforming use. With respect at the other two properties I think we've made our arguments with respect to the validity of the Ordinance. Also the 500 foot radius requirement in the extent that these properties impacted on it are impacted by the 500 foot radius on streets other then which permits are issued. We believe that is problematic as well and that would be bases for granting relief. Finally the Zoning Hearing Board has the ability when it finds that the physical circumstances of the property precludes a property owner providing necessary off-street parking that it can grant approval for single family occupancies or uses by Special Exception. I think Mr. DeRose will tell you that once a property qualifies for a Special Exception or for Special Exception treatment then the burden is on the Municipality to show why it should not be given that type of treatment. So under the circumstances we have 3 properties that have not been expanded, they've been rehabilitated and these properties have not experienced any greater frequencies of problems or difficulties then any other properties in those areas, in fact if the Police Statics are adequate and we would hope the City of Greensburg would be repealing this Ordinance and looking for more student homes in this area because at least according to the Police Statics there are less problems with those units then there are with the general population. Thank You very much for your time.

Lou DeRose: I am going to ask the Chair to declare an executive session but I want to thank you very much presentation it was orderly and very well thought out.

Gary Falatovich: Ms. Ciampini had originally indicated in the correspondence back to me that these uses at 347 and 433 Harrison Avenue did not qualify for non conforming use because they hadn't been registered a rooming house under the terms of the City of Greensburg's Ordinance regulated rooming houses. The problem that we have is the Zoning Ordinance does not define what a rooming house is and so I think you have to except it a definition Merriam Webster defines it as a of lodgings are provided for rent, the rooms are provided for rent and in this case we are not renting rooms, this does not qualify as a rooming house.

Lou DeRose: Thank you very much. We thank the citizens and the residents of Greensburg for you coming in and so thoughtfully presented testimony. We are going to adjourn to an executive session for what we hope will be for only a few minutes to the extent that if any of you wish to wait for us you may do so. It is at least our decision to come out with a decision but we also have the right as you know Gary to defer that decision until our next meeting.

Gary Falatovich: Given the fact that we're intending to supplement the record especially on the 433 property I might even welcome that.

Lou DeRose: And we may thank you for that. Charlotte would you be willing to declare an Executive Session.

Charlotte Kuhns: We will adjourn for an Executive Session for a couple of minutes.

Lou DeRose: Just note that we adjourned at approximately 6:35 PM.

Charlotte Kuhns: The executive session ended at 6:45 and we reconvene to our regular meeting. We are going to take a motions on the properties individually. First of all we are going to have a motion on the property at 433 Harrison Avenue. Would someone like to make a motion on that one?

Marilyn Crimboli: Let's do that one last.

Charlotte Kuhns: Okay, then how about 347 Harrison Avenue.

Marilyn Crimboli: I make a motion to uphold the decision of the Zoning Officer for not meeting the distance requirement of the Ordinance for student housing. Anita Simpson seconded the motion.

VOTE:

Patsy Iapalucci Yes

Anita Simpson Yes  
Mary Clymer Yes  
Marilyn Crimboli Yes  
Charlotte Kuhns Yes

Charlotte Kuhns: Now we will take a motion on 420 Concord Avenue

Marilyn Crimboli: I make a motion to uphold the decision of the Zoning Officer for not meeting the distance requirement of the Ordinance for student housing.

Anita Simpson; I second the motion

VOTE

Patsy Iapalucci Yes  
Anita Simpson Yes  
Mary Clymer Yes  
Marilyn Crimboli Yes  
Charlotte Kuhns Yes

All were in favor.

Charlotte Kuhns: The final motion will be on the property at 433 Harrison Avenue.

Marilyn Crimboli: For the property at 433 Harrison Avenue I make a motion to overturn the decision of the Zoning Officer and grant the student housing registration because of a preexisting nonconforming use before the Ordinance came into affect.

VOTE:

Patsy Iapalucci: No  
Anita Simpson Yes  
Mary Clymer Yes  
Marilyn Crimboli Yes  
Charlotte Kuhns Yes

Charlotte Kuhns: Motion passes 4 to 1 vote.

Charlotte Kuhns: “Within thirty (30) days of the date of the decision by this Board, this decision may be appealed to the Court of Common Pleas of Westmoreland County. It is important that you understand that the person (s) requesting action may take an appeal if the decision of this Board is against him, but those opposed to his or her request may also take and appeal within the thirty (30) day period.” “If an action of this Board results in an approval of the request o an individual no work may proceed on the property until the thirty (30) day

appeal period has expired” “Any person wishing a copy of this decision please leave your name and address with the Secretary”.

Meeting adjourned at 7:00 PM













