

**NOTIFICATION OF LOCAL ACTION
DECISION OF THE CITY OF ALBANY BOARD OF ZONING APPEALS**

ADDRESS OF SUBJECT PROPERTY: 222 AKA 234, 236, 240, 242 Spruce St. & 207 Elk St.
IN THE MATTER OF: Interpretation resulting from a review of a Use Variance allowing for the establishment of a retail and wholesale vehicle dismantling operation and an Interpretation that said Use Variance is null and void.

APPLICANT: Ronald E. Thompson Jr.

ADDRESS: 1227 Thatcher Park Rd., East Berne, NY 12059

CASE NUMBER: 6-10, 1868

DATE OF ORIGINAL DECISION: 9/21/10

DATE OF REVIEW: 6/8/11

DATE OF INTERPRETATION: 6/22/11

WARD: 3

N.A.: Sheridan Hollow

HISTORIC/ SPECIAL DISTRICT(S): N/A

The Interpretation is authorized by the following vote:

For: 5	Apostol: Y	O'Connor: Y	Viele: Y
Against: 0	Cronin: Y	Ray: Y	
Abstain: 0	Moran: NIA	Tucker-Ross: NIA	

Site Description

The site in question is located on Spruce Street between Lark Street and Henry Johnson Boulevard in a C-M Light Industrial zoning district. The 88'x 112' lot at 222 Spruce Street, subject of the appeal, is improved with a single-story, 11,268 square foot commercial / warehouse structure. The greater site area of the projected complex consists of six tax parcels are 107,000 square feet of interior building space.

Relevant Considerations

The prior appeal stated as follows:

The applicant seeks to utilize the subject property for the purposes of dismantling vehicles and selling the salvaged parts. The auto parts will be sold both wholesale and retail from the location. The wholesale and retail sale of automobile parts is a permitted use in the applicable C-M Light Industrial zoning district. The vehicle dismantling operation at the premises is, however, only permitted as a special permit use in the M-1 zoning district, and is not a permitted use in the applicable district. The use is defined in the City Zoning Ordinance as follows and is further classified as a "junkyard," per the district classifications...

...The applicant indicates that the proposed facility will be a significantly refined adaptation of the applicable zoning classification. Firstly, all dismantling activity will be conducted indoors and confined to the single-story, 11,268 square foot structure located at 222 Spruce Street. Subsequent to the removal of salvageable parts from the vehicles, the remaining frames of the vehicles and all unsalvageable debris will be promptly removed from the site and discarded elsewhere. The applicant owns and operates a vehicle junkyard facility d/b/a A-1 Auto Crushers at 8 Anderson Drive, which will be available to process the discarded vehicles. The applicant intends to limit dismantling activity to roughly three vehicles per day at the proposed location. The vehicles will be transported to and from the facility, one at a time, via flatbed truck.

The applicant sees the proposal as a beneficial and benign activity that will bring as many as twenty jobs to the immediate neighborhood. The applicant also intends to significantly invest in the

rehabilitation of the 107,000 square foot industrial building complex, which formerly housed a production facility for the Charles Freihofner Baking Company. That facility was closed more than two decades ago and sold to the current owner, Topos Mondial Corporation, on August 10, 1988. Shortly thereafter, the baking equipment was removed from the site, refurbished, and sent elsewhere. The building complex – consisting of 222, 234, 236, 240 & 242 Spruce Street and 207 Elk Street - has continued to sit vacant, leading to substantive deterioration, including a partially collapsed roof. The applicant indicates a purchase price of \$414,000, with subsequent investment likely to be in excess of the purchase cost.

The applicant argues that reuse of the structure is extremely complex and unlikely for another use. The owner of the property indicates that it has been marketed for upwards of ten years without success. Damian Morabito, the President of Topos Mondial Corp., states that, “because of the age, size, layout and condition of the property, we found that the market for such a property is extremely small, even considering the location in the City of Albany and the historic significance of the turn of the century bakery.”

The applicant describes the subject 11,268 square foot building and greater complex at the property as being uniquely suited to the proposed use. Despite its 200-foot proximity to numerous residential buildings located in the adjacent R-2B district, the applicant does not feel that the use will substantially impact the character of the area. The applicant makes note of the C-M zoning classification and the numerous uses permitted within that zoning district, to which he feels the proposed business is comparable despite its classification as a “junkyard.” He notes that the prior occupant of the property utilized it as a baking and distribution facility, which was a permitted use in the district. At its peak, the baking facility employed upwards of 100 employees at this location. The applicant underscores that all potentially adverse activity will be conducted indoors and thus will not impact adjacent properties. The applicant agrees to limit the daily number of vehicles dismantled at the site so as to decrease the amount of traffic, specifically trucks and heavy vehicles that may frequent the site.

The applicant indicates that he intends to provide off-street parking for his employees, though plans and delineations for the lot are not submitted with this application. The applicant will need to proceed with this proposal at a later date, if desired. Nonetheless, the buildings maintain approximately 450 feet of street frontage along Spruce Street and 320 feet along Elk Street, which should be more than sufficient to accommodate the projected twenty employees as well as serve the retail operation.

A Use Variance was approved with the following conditions:

- *The applicant shall consolidate all tax parcels associated with the project (65.72-4-23; 65.72-4-24; 65.72-4-25; 65.72-4-26; 65.72-4-27; 65.72-4-28) into a single tax lot.*
- *The Board shall maintain the right to conduct periodic inspections and review, to ensure that the proposed use and its operation is conducted in a manner compatible with the surrounding neighborhood and will not constitute a threat to the public health, safety, welfare or convenience, and to prevent or minimize adverse effects therefrom. The immediate approval shall be in place for a period of six (6) months, at which time the applicant shall return to the Board for a review and evaluation of the use.*
- *All vehicle dismantling activity shall be confined to the interior of the structure currently known as 222 Spruce Street, as depicted within the application documents, and shall not occur within any other structure or location upon the site.*
- *The applicant shall, where required, obtain a Parking Lot Permit for any newly proposed parking area.*
- *The applicant shall identify and strictly adhere to traffic patterns for trucks accessing and leaving the*

facility, to be agreed upon by the Board of Zoning Appeals.

- The applicant shall obtain all necessary permits and fulfill any additional obligations specified by the New York State Department of Environmental Conservation, New York State Department of Motor Vehicles and any other Federal, State and Local entities to which the proposed use is the subject of required regulation and review.

Findings

The Board finds that the applicant has failed to fulfill the conditions of approval, as specified in the determination for Case #6-10, 1868, as determined by a conditional review specified in said conditions. As such, the determination for Case #6-10, 1868 and corresponding Use Variance approval are null and void, as is expressly stated on the Notification of Local Action, otherwise known as the official decision document for the appeal:

“Unless otherwise specified by the Board, this decision shall expire and become null and void if the applicant fails to obtain any necessary zoning, building, or other permits or comply with the conditions of such decision within six (6) months of the date of signature.”

The applicant alleges that he has been preparing the premise for use as a vehicle dismantler. However, he expressed no concern or requested any extension of the Board decision so as to give him additional time to adhere to the conditions of approval. To the contrary, it would appear that the applicant had no intention of adhering to the stated conditions, as for example, he states that he cannot consolidate the tax parcels are required due to his lack of ownership of the premises in question. Applicant alluded to his pending purchase of the properties in the initial appeal and had ample time to clarify with the lessee whether or not this was feasible.

Further, periodic observation has indicated that the applicant had already begun utilizing the premise for the purposes of vehicle dismantling, notably, without a valid Certificate of Occupancy and without the required approvals from other applicable agencies, such as New York State Department of Motor Vehicles. Moreover, the applicants own photos show partially dismantled vehicles inside the premise.

The Use Variance granted in Case #6-10, 1868 is hereby voided and a new application will be required for any future use of the premise for the purposes of vehicle dismantling or any other non-permitted use.

I, G. Michael Apostol, representing the Board of Zoning Appeals of the City of Albany, hereby certify that the foregoing is a true copy of a decision of the Board made at a meeting thereof duly called and held on **June 22, 2011**.

Signed: _____



Date: 6/22/11

**NOTIFICATION OF LOCAL ACTION
DECISION OF THE CITY OF ALBANY BOARD OF ZONING APPEALS**

► **Important Note:** This is not a building permit. All building permits must be approved and issued by the Division of Building & Codes prior to the start of any construction.

ADDRESS OF SUBJECT PROPERTY: **222 AKA 234, 236, 240, 242 Spruce St. & 207 Elk St.**

IN THE MATTER OF: **Use Variance to allow for the establishment of a retail and wholesale vehicle dismantling operation.**

APPLICANT: **Ronald E. Thompson Jr.**

ADDRESS: **1227 Thatcher Park Rd., East Berne, NY 12059**

CASE NUMBER: **6-10, 1868**

DATE APPLICATION RECEIVED: **5/13/10**

DATE OF HEARING: **6/9/10**

DATE OF DECISION: **9/21/10**

WARD: **3**

DECISION: **Approved w/Conditions**

N.A.: **Sheridan Hollow**

HISTORIC/ SPECIAL DISTRICT(S): **N/A**

The request is **Approved**, by the following vote:

For: 6	Apostol: NIA	O'Connor: Y	Viele: Y
Against: 0	Cronin: Y	Ray: Y	
Abstain: 0	Moran: Y	Tucker-Ross: Y	

Site Description

The site in question is located on Spruce Street between Lark Street and Henry Johnson Boulevard in a C-M Light Industrial zoning district. The 88'x 112' lot at 222 Spruce Street, subject of the appeal, is improved with a single-story, 11,268 square foot commercial / warehouse structure. The greater site area of the projected complex consists of six tax parcels are 107,000 square feet of interior building space.

Relevant Considerations

The applicant seeks to utilize the subject property for the purposes of dismantling vehicles and selling the salvaged parts. The auto parts will be sold both wholesale and retail from the location. The wholesale and retail sale of automobile parts is a permitted use in the applicable C-M Light Industrial zoning district. The vehicle dismantling operation at the premises is, however, only permitted as a special permit use in the M-1 zoning district, and is not a permitted use in the applicable district. The use is defined in the City Zoning Ordinance as follows and is further classified as a "junkyard," per the district classifications:

AUTOMOBILE WRECKING -- The dismantling or disassembly of used motor vehicles or trailers, or the storage, sales or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

JUNKYARD -- A premises or lot used for the storage or handling of scrap or recyclable materials.

The proposed use is also subject to the following specific use regulations:

§ 375-107 Outdoor storage areas, including junkyards and automobile wrecking.

Such uses shall not be located within 200 feet of the nearest R district, and the operation thereof shall be governed by the following provisions and any other conditions as may be required by the Board of Zoning Appeals to protect the public health, safety, comfort, convenience and general welfare with

special regard to abutting properties and the occupants thereof:

- A. *Fencing and setbacks.*
 - (1) *All outdoor trash storage shall be in accordance with Chapter 313 of the City Code. In addition, all trash storage accessory to buildings with more than four dwelling units or having a commercial or industrial use shall:*
 - (a) *Be enclosed by a solid fence, six feet in height.*
 - (b) *Be located no less than 10 feet from the property line.*
 - (2) *All outdoor storage facilities shall be enclosed by a solid fence or wall six feet in height adequate to conceal such facilities and the contents thereof from adjacent property. Such walls and fences shall be distant not less than 10 feet from any property line.*
- B. *Deposit of wastes. No materials or wastes shall be deposited on any premises in such form or manner that they may be transferred off such premises by natural causes or forces.*
- C. *Other hazardous materials. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.*
- D. *Inflammable, explosive liquids and gases: see the New York State Uniform Fire Prevention and Building Code.*

The applicant indicates that the proposed facility will be a significantly refined adaptation of the applicable zoning classification. Firstly, all dismantling activity will be conducted indoors and confined to the single-story, 11,268 square foot structure located at 222 Spruce Street. Subsequent to the removal of salvageable parts from the vehicles, the remaining frames of the vehicles and all unsalvageable debris will be promptly removed from the site and discarded elsewhere. The applicant owns and operates a vehicle junkyard facility d/b/a A-1 Auto Crushers at 8 Anderson Drive, which will be available to process the discarded vehicles. The applicant intends to limit dismantling activity to roughly three vehicles per day at the proposed location. The vehicles will be transported to and from the facility, one at a time, via flatbed truck.

The applicant sees the proposal as a beneficial and benign activity that will bring as many as twenty jobs to the immediate neighborhood. The applicant also intends to significantly invest in the rehabilitation of the 107,000 square foot industrial building complex, which formerly housed a production facility for the Charles Freihofer Baking Company. That facility was closed more than two decades ago and sold to the current owner, Topos Mondial Corporation, on August 10, 1988. Shortly thereafter, the baking equipment was removed from the site, refurbished, and sent elsewhere. The building complex – consisting of 222, 234, 236, 240 & 242 Spruce Street and 207 Elk Street - has continued to sit vacant, leading to substantive deterioration, including a partially collapsed roof. The applicant indicates a purchase price of \$414,000, with subsequent investment likely to be in excess of the purchase cost.

The applicant argues that reuse of the structure is extremely complex and unlikely for another use. The owner of the property indicates that it has been marketed for upwards of ten years without success. Damian Morabito, the President of Topos Mondial Corp., states that, “because of the age, size, layout and condition of the property, we found that the market for such a property is extremely small, even considering the location in the City of Albany and the historic significance of the turn of the century bakery.”

The applicant describes the subject 11,268 square foot building and greater complex at the property as being uniquely suited to the proposed use. Despite its 200-foot proximity to numerous residential buildings

located in the adjacent R-2B district, the applicant does not feel that the use will substantially impact the character of the area. The applicant makes note of the C-M zoning classification and the numerous uses permitted within that zoning district, to which he feels the proposed business is comparable despite its classification as a “junkyard.” He notes that the prior occupant of the property utilized it as a baking and distribution facility, which was a permitted use in the district. At its peak, the baking facility employed upwards of 100 employees at this location. The applicant underscores that all potentially adverse activity will be conducted indoors and thus will not impact adjacent properties. The applicant agrees to limit the daily number of vehicles dismantled at the site so as to decrease the amount of traffic, specifically trucks and heavy vehicles that may frequent the site.

The applicant indicates that he intends to provide off-street parking for his employees, though plans and delineations for the lot are not submitted with this application. The applicant will need to proceed with this proposal at a later date, if desired. Nonetheless, the buildings maintain approximately 450 feet of street frontage along Spruce Street and 320 feet along Elk Street, which should be more than sufficient to accommodate the projected twenty employees as well as serve the retail operation.

Findings

When considering a request for a use variance, the Board shall require a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

[1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

The applicant, along with supplemental documentation supplied by the property owner, has sufficiently proven the instance of a financial hardship pertaining to this property. As noted, the properties in question have been marketed for a substantial time period with relatively no success. This is despite the C-M, Light Industrial, zoning classification that is characteristic of the structure. The financial hardship is ongoing and is exacerbated by an inability to provide necessary maintenance for the associated structures, thereby furthering their rapid deterioration. The applicant intends to not only occupy, but to rehabilitate the associated structures at a substantial cost investment.

[2] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or the neighborhood.

The hardship relating to the property is unique only to this property. The property and structures thereon are significantly larger than others within the applicable zoning district, thus making their reuse uniquely complex and their vacancy substantially blighting upon the neighborhood. While the occupancy and vacancy status of other industrial buildings in this district is mixed, there is no truly comparable building within the district.

[3] The requested use variance, if granted, will not alter the essential character of the neighborhood.

The applicant proposes a reuse that will occupy roughly ninety percent of the building complex with a permitted wholesale and retail distribution facility. A single, 11,268 square foot building will accommodate the proposed vehicle dismantling operation, the sole non-permitted activity at the site, which is arguably misclassified and misconstrued by the zoning ordinance classification. All such activity will be conducted indoors and should have no notable impact upon adjacent properties, residential or otherwise. The applicant has committed to limiting or mitigating any adverse or unique impacts of the use. However, due to the unique nature of this use, it shall also be subject to periodic review by the Board of Zoning

Appeals so as to continually monitor any potentially adverse impacts there from.

[4] The alleged hardship has not been self-created.

The hardship is not self-created. The hardship is derived from the unique size and characteristics of the structure, as well as its uniquely urban location. While the extent of the deterioration may be partially self-created by the owner, this is reflected in the sale price of the 1.60-acre property.

The Board, when granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and that also will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

As indicated above, a permitted use will occupy roughly ninety percent of the property in question. The applicant has further agreed to mitigate any adverse impacts of the use, with the continued oversight of the Board of Zoning Appeals and the appropriate code enforcement entities. It is further anticipated that the reuse of the property in question will preserve and protect the character of the neighborhood by enhancing the health, safety and welfare of the community as a result of its rehabilitation and occupation.

The Board finds that, in accordance with §375-26(B)(2)(a), the variance granted is the minimum necessary, and that:

- a. The applicant has demonstrated an unnecessary hardship, in that they cannot realize a reasonable return with a permitted use of the building.
- b. This hardship is unique to this property.
- c. Granting the variance will not alter the essential character of the neighborhood.
- d. The hardship was not self-created.

CONDITIONS

- **The applicant shall consolidate all tax parcels associated with the project (65.72-4-23; 65.72-4-24; 65.72-4-25; 65.72-4-26; 65.72-4-27; 65.72-4-28) into a single tax lot.**
- **The Board shall maintain the right to conduct periodic inspections and review, to ensure that the proposed use and its operation is conducted in a manner compatible with the surrounding neighborhood and will not constitute a threat to the public health, safety, welfare or convenience, and to prevent or minimize adverse effects therefrom. The immediate approval shall be in place for a period of six (6) months, at which time the applicant shall return to the Board for a review and evaluation of the use.**
- **All vehicle dismantling activity shall be confined to the interior of the structure currently known as 222 Spruce Street, as depicted within the application documents, and shall not occur within any other structure or location upon the site.**
- **The applicant shall, where required, obtain a Parking Lot Permit for any newly proposed parking area.**
- **The applicant shall identify and strictly adhere to traffic patterns for trucks accessing and leaving the facility, to be agreed upon by the Board of Zoning Appeals.**
- **The applicant shall obtain all necessary permits and fulfill any additional obligations specified by the New York State Department of Environmental Conservation, New York State Department of Motor Vehicles and any other Federal, State and Local entities to which the proposed use is the subject of required regulation and review.**

The Board hereby issues a negative declaration under SEQR for this unlisted action, as the proposed construction will not result in any significant adverse environmental impacts.

I, G. Michael Apostol, representing the Board of Zoning Appeals of the City of Albany, hereby certify that the foregoing is a true copy of a decision of the Board made at a meeting thereof duly called and held on **September 21, 2010**.

Signed: G. Michael Apostol Date: 9/21/10

► Important Note: Unless otherwise specified by the Board, this decision shall expire and become null and void if the applicant fails to obtain any necessary zoning, building, or other permits or comply with the conditions of such decision within six (6) months of the date of signature.

**NOTIFICATION OF LOCAL ACTION
DECISION OF THE CITY OF ALBANY BOARD OF ZONING APPEALS**

ADDRESS OF SUBJECT PROPERTY: 222 Spruce St.

IN THE MATTER OF: Request to rescind a 6/22/11 Interpretation of the Board that the Use Variance issued in Case #6-10, 1868 was null and void due to the applicant's failure to meet the conditions of approval within six (6) months of the date of approval.

APPLICANT: Ronald E. Thompson, Jr. d/b/a Albany Auto Parts, LLC c/o Lynch & Hetman, PLLC

ADDRESS: 111 State St., Albany, NY 12207

CASE NUMBER: 6-10, 1868

DATE APPLICATION RECEIVED: 7/21/11

DATE OF HEARING: 9/14/11

DATE OF ORIGINAL DECISION: 6/22/11

WARD: 3

DATE OF INTERPRETATION: 10/12/11

N.A.: Sheridan Hollow; Arbor Hill

HISTORIC/ SPECIAL DISTRICT(S): N/A

The Interpretation is authorized by the following vote:

For: 6	Apostol: Y	Ray: Y
Against: 0	Cronin: Y	Tucker-Ross: Y
Abstain: 0	Moran: Y	Viele: Y

Site Description

The property in question is located on the south side of Spruce Street between Lark Street and Henry Johnson Boulevard in a C-M Light Industrial zoning district. The subject parcel is approximately 0.23, but the proposal encompasses a larger site comprised of six tax parcels and totaling 1.6 acres in size. A complex of commercial / warehouse buildings totaling 95,046 square feet in size occupy the site.

Relevant Considerations

The application is requesting reconsideration of an Interpretation issued on 6/22/11. The Board's determination of that date stated as follows:

"The Board finds that the applicant has failed to fulfill the conditions of approval, as specified in the determination for Case #6-10, 1868, as determined by a conditional review specified in said conditions. As such, the determination for Case #6-10, 1868 and corresponding Use Variance approval are null and void, as is expressly stated on the Notification of Local Action, otherwise known as the official decision document for the appeal:

"Unless otherwise specified by the Board, this decision shall expire and become null and void if the applicant fails to obtain any necessary zoning, building, or other permits or comply with the conditions of such decision within six (6) months of the date of signature."

The applicant alleges that he has been preparing the premise for use as a vehicle dismantler. However, he expressed no concern or requested any extension of the Board decision so as to give him additional time to adhere to the conditions of approval. To the contrary, it would appear that the applicant had no intention of adhering to the stated conditions, as for example, he states that he cannot consolidate the tax parcels are required due to his lack of ownership of the premises in question. Applicant alluded to his pending purchase of the properties in the initial appeal and had ample time to clarify with the lessee whether or not this was feasible.

Further, periodic observation has indicated that the applicant had already begun utilizing the premise for the purposes of vehicle dismantling, notably, without a valid Certificate of Occupancy and without the required approvals from other applicable agencies, such as New York State Department of Motor Vehicles. Moreover, the applicants own photos show partially dismantled vehicles inside the premise."

The Board concluded its determination with the following interpretation:

"The Use Variance granted in Case #6-10, 1868 is hereby voided and a new application will be required for any future use of the premise for the purposes of vehicle dismantling or any other non-permitted use."

The public hearing that prompted the Board's determination was held in response to a conditional approved of a Use Variance granted on 9/21/10 that specified that the use approved be subject to a review six month from the date of that approval. The Use Variance allowed for the establishment of a retail and wholesale vehicle dismantling operation at the subject premise, which is not a permitted use in the applicable C-M zoning district or within 100 feet of any residential property.

The applicant contests that he has spent hundreds of thousands of dollars to stabilize the premise and prepare it for a Certificate of Occupancy since the date of issuance of the original variance. The applicant also contests that the Board "misinterpreted the generic 6 month expiration language of the initial grant," in the sense that the "provision speaks to the failure to do anything on the project within 6 months of approval." The applicant requests that the Board rescind its prior determination to revoke the Use Variance and give the applicant additional time to comply with the requisite conditions of approval.

Findings

The Board hereby rescinds the 6/22/11 determination to allow in good faith the applicant additional time to comply with the conditions of approval. In doing so, the Board adds additional conditions based upon a review of the operation of the use to date and matters pertaining to the original appeal:

- **The applicant shall be limited to the dismantling of three (3) vehicles at the site per business day.**
- **Vehicles shall be fully dismantled or removed from the site within seven (7) days of arrival.**
- **There shall be no outdoor storage of parts, materials or vehicles at the site.**
- **Vehicles shall at no times impede the City right-of-way without express written permission from the City of Albany.**
- **The applicant shall establish an off-street parking area adjacent to the building in consistency with Sections 375-174 & 375-180 of the City Zoning Ordinance.**
- **The applicant shall appear before the Board in six (6) months time for a review and evaluation of the proposed use and its operations as well as compliance with the conditions of approval.**

Should the applicant be unable to comply with any of the specified conditions within the six-month time frame established, the Board of Zoning Appeals shall be notified in writing within sixty (60) days of the receipt of this document. The applicant shall also set forth a reasonable time frame within which these conditions can be accomplished, if such period is longer than six months. Upon receipt of the aforementioned notification, the Board will evaluate the necessity of administering a new review upon receipt of the documentation or will take up such matters at the time of the six-month conditional review.

I, G. Michael Apostol, representing the Board of Zoning Appeals of the City of Albany, hereby certify that the foregoing is a true copy of a decision of the Board made at a meeting thereof duly called and held on **October 12, 2011.**

Signed:  Date: **10/12/11**