

CHILI ZONING BOARD OF APPEALS

January 23, 2007

A meeting of the Chili Zoning Board of Appeals was held on January 23, 2007 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Temporary Chairperson Michael Martin.

PRESENT: Paul Bloser, David Cross, Richard Perry and Temporary Chairperson Michael Martin. (Beverly Griebel, Peter Widener and Dan Melville were excused.)

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town.

Michael Martin declared this to be a legally constituted meeting of the Chili Zoning Board of Appeals. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits. The Pledge of Allegiance was cited.

MICHAEL MARTIN: Beverly Griebel, Pete Widener and Dan Melville are excused this evening.

Before we begin with the first item, we go over the signs to make sure that they were all posted properly.

So Number 1, anybody have a problem with Number 1?

The Board indicated they would hear the application.

MICHAEL MARTIN: Number 2? Any problems with the sign?

The Board indicated they would hear the application.

MICHAEL MARTIN: Number 3?

The Board indicated they would hear the application.

MICHAEL MARTIN: Number 4? I know several of us did not see the sign.

PAUL BLOSER: I did not see it.

DAVID CROSS: I did not.

MICHAEL MARTIN: In the event that we did not see the sign posted properly for the ten-day period, I would ask for a motion to table that item until the next meeting, which is February 27th.

RICHARD PERRY: So moved.

MICHAEL MARTIN: Second, please?

PAUL BLOSER: Second.

The Board voted unanimously in favor of the motion to table.

MICHAEL MARTIN: We will not be hearing that public hearing or any comments about that application this evening. If anyone is here for that application, it will not be heard until next month.

Number 5, any problems?

The Board indicated they would hear the application.

MICHAEL MARTIN: Number 6?

The Board indicated they would hear the application.

MICHAEL MARTIN: Number 7?

The Board indicated they would hear the application.

MICHAEL MARTIN: And Number 8?

The Board indicated they would hear the application.

MICHAEL MARTIN: Okay. We'll go right to the top of the agenda then.

1. Application of Michael Renna, owner; 117 Stover Road, Rochester, New York 14624 for variance to allow existing utility shed to be 4.59' from side lot line (8' req.) at property located at 117 Stover Road in R-1-15 zone.

Michael Renna was present to represent the application.

MR. RENNA: Hello. I'm not sure what the protocol is.

MICHAEL MARTIN: Basically just tell us what you want to do.

MR. RENNA: Okay. The shed in question, when we did a survey of the property, we found that it was 4.9 feet from the side line and it was required to be 8 feet. Spoke to Mary Lander. She basically said we needed to file a variance for that. The shed itself was built in 1985, and she said the Town was aware of that. When I purchased the property in 1996, it never came up during the closing of the property and it wasn't until I was selling the property to a new homeowner that it actually came up during -- during the investigation, I guess.

MICHAEL MARTIN: Is this holding up a sale at this point?

MR. RENNA: No. Actually we have completed the sale. The new home owner is Mr. Heitsman (phonetic) behind me. We just put it as a -- as a side item on the transaction.

MICHAEL MARTIN: Actually this happens quite a lot.

MR. RENNA: So I have been told.

MICHAEL MARTIN: An older shed gets found when you're doing the sale of the property and it needs to be taken care of.

MR. RENNA: That's why I'm here.

RICHARD PERRY: It is something he got saddled with. I -- I have no questions. I understand.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing for this application was closed at this time.

Michael Martin made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and David Cross seconded the motion. The Board all voted yes on the motion.

Richard Perry made a motion to approve the application with no conditions, and Paul Bloser seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with no conditions, and the following findings of fact were cited:

1. Cleaning up a procedural requirement to complete the sale of property.
 2. Minimum variance.
2. Application of Robert Fallone, Jr., owner; 18 West Forest Drive, Rochester, New York 14624 for variance to allow two driveway cuts on a residential lot at property located at 15 Bellaqua Estates Court in R-1-20 & FPO zone.

Robert Fallone was present to represent the application.

MR. FALLONE: Hello.

MICHAEL MARTIN: Good evening.

MR. FALLONE: Do you all have a copy of the map?

RICHARD PERRY: Yes.

MICHAEL MARTIN: Yes, we do.

If anybody wishes to take a look at this map, it is up there for you to take a look at.

MR. FALLONE: I'm Bob Fallone. I actually live at 15 Bellaqua Court Estates now. The double driveway is in, and I -- I mean, I didn't know we needed a variance to do the double cut. The highway was under construction for over a year, and no one from the Town ever mentioned that we need the variance until it was time to get the C of O.

MICHAEL MARTIN: Okay. What is the purpose of the -- the two cuts?

MR. FALLONE: It was more for convenience, because they didn't want to back up into the -- you know, into the cul-de-sac.

MICHAEL MARTIN: You're at the very end of the cul-de-sac here?

MR. FALLONE: Yeah.

DAVID CROSS: Has not finished the C of O yet?

MR. FALLONE: Yes. We did get a C of O.

RICHARD PERRY: Are there any other houses to be built on the actual circle?

MR. FALLONE: No.

RICHARD PERRY: So yours is the only one then?

MR. FALLONE: Right.

RICHARD PERRY: I have no other questions.

PAUL BLOSER: I will make a comment. A couple years ago I saw the drawings, the layouts of this entire development, and this road was originally designed with those two in for that cut. The Highway Department made a decision, it is my understanding, to make this cul-de-sac that we could take care of, for the Highway Department, for plowing, for access, for fire, for everything else. The -- those were originally in some of the layouts. The Highway Department said -- it is kind of -- there is a little history behind it from that side. I don't know 100 percent all of the details, but that is my understanding of it.

MICHAEL MARTIN: It was a dedicated Town road also?

PAUL BLOSER: That is now, yes, for their maintenance.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I just want to be clear on this. They were on the drawings?

PAUL BLOSER: The original drawings that I was aware of when I saw this road coming down, it was going to be a private road access. There is a couple of those in the Town right now, and -- there has always been, I guess, a standing issue when plowing whether the trucks can go on them or not because they're labeled as private. Then the Highway Department, it is my understanding, stood up and said, "We are making this a public road so we can get in with the plows and turn it around."

These cuts are on the original drawings. From my understanding on the original proposals, they were shown with the driveway in there.

MS. BORGUS: Two cuts?

PAUL BLOSER: That was my understanding, yes.

MS. BORGUS: The Building Inspector is not here tonight, I guess.

PAUL BLOSER: I questioned him on that. That was -- that is what my understanding was with him. But I was working with the builder a couple years ago on another lot in there, and I remember seeing drawings of the entire -- and I remember something about that at that point, with the issue with -- with that becoming a Town road and that cut there. And there was questions on doing two cuts and setting a precedent. But because it was on a cul-de-sac, they decided to let it go at that point. So there was nothing formal done on it, which is why now we are going for a variance.

MS. BORGUS: The other question I have, again, this is probably not an item that the Board can answer, but how could you get a C of O when you need a variance and you don't have it? How does

that happen? Maybe Mr. O'Toole can fill us in on the law.

KEITH O'TOOLE: The -- I didn't see the C of O, so we are just speculating, which is always dangerous, but oftentimes the C of O is issued on a conditional basis. In fact, most of them are. For example, grading is often a seasonal thing that can't be done in the middle of winter because everything has to settle near the house. So a C of O can be issued for final grading to be done at a later date or for landscaping to be completed on a later date, and it may well be that the Building Department issued the C of O based on this permit coming at some future point.

And, in fact, it really doesn't go to the issue of the occupancy of the house. Certainly one can legally safely inhabit a house while having two or one driveway curb cuts. In the event that this Board were to deny the second curb cut, um, Mr. Fallone could cut out a chunk of the driveway, where it meets the public highway. It really is not a big issue. In fact, the Town has done this before.

MICHAEL MARTIN: Thank you.

MS. BORGUS: I can understand seasonal work, like plants, grass, trees and so forth, but this does seem -- although it is not the Board's concern, it seems like a dangerous practice because some things might never get ironed out after the fact, when the deed is done. But it will be an item I will take up with the Building Department. Thank you.

The Public Hearing for this application was closed at this time.

Michael Martin made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Richard Perry seconded the motion. The Board all voted yes on the motion.

David Cross made a motion to approve the application with no conditions, and Paul Bloser seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with no conditions, and the following finding of fact was cited:

1. Will not harm character of the neighborhood.
3. Application of Michael Murphy, owner; 100 Chestnut Ridge Road, Rochester, New York 14624 for variance to erect a two-story utility shed to be a total of 558 sq. ft. (180 sq. ft. allowed), variance for shed to be 18' high (12' allowed) at property located at 100 Chestnut Ridge Road in R-1-12 zone.

Michael Murphy was present to represent the application.

MR. MURPHY: Um, basically just putting up a -- a bigger shed to house anything like snowmobiles and four wheelers so they're not sitting out in the yard.

It's the -- the second story is actually going to be a loft for storage. It's not anything liveable or anything like that. It does sit in the back of the yard, so -- as far as at grade levels and that, I think it is about an 8 or 10 foot -- whoops, excuse me -- between where the house or the road frontage is, so it is -- so it sits well below the house.

MICHAEL MARTIN: It slopes down.

PAUL BLOSER: You have a real dip down there. Must have.

MR. MURPHY: Yes.

PAUL BLOSER: So you're down back in there.

MR. MURPHY: Yep. It is a lot smaller than the barn is that is like out the back of my window, that is twice the size of the house.

MICHAEL MARTIN: You're going to have a concrete slab base in?

MR. MURPHY: Yes.

MICHAEL MARTIN: Are you going to run electric out there or anything?

MR. MURPHY: Maybe in the future. Um, if I do anything -- I haven't figured if it is going to be overhead or trenched or anything. I will probably address that down -- I will probably have it wired for

electric, so however I end up having to get it out there, I guess will be my problem.

MICHAEL MARTIN: Yes. And also make sure everything -- you have it inspected and permitted properly.

MR. MURPHY: Yeah, no problem.

MICHAEL MARTIN: I'm looking at the drawing you provided. It shows like a normal door. Is that an overhead --

MR. MURPHY: Yes.

MICHAEL MARTIN: -- going-up door?

You're not going to store a car or any vehicles of that nature in there?

MR. MURPHY: No. I have a present garage to do that. That is it, just basically motorcycles, the stuff I can get out of the other garage, so I can get my cars in.

MICHAEL MARTIN: Snowmobiler, four-wheeler, motorcycle?

MR. MURPHY: Yes.

MICHAEL MARTIN: Lot of toys.

You also are indicating that you will have it sided the same to match the house?

MR. MURPHY: Yes.

MICHAEL MARTIN: The slope of the roof for the shed is also similar to --

MR. MURPHY: Yes. It's -- it's very, very close. Um, my house is a cape, so the front -- the front slope is, you know, fairly steep and the back doesn't have much, of course. It's raised up.

PAUL BLOSER: It says you're doing vinyl siding --

MR. MURPHY: Yes.

PAUL BLOSER: -- on it. The overhead door is just the standard overhead door. What size is that going to be?

MR. MURPHY: Um, I haven't made 100 percent decision, but it's going to be an 8 foot wide. It may be 8 foot high instead of 7.

PAUL BLOSER: Is there driveway access back to that?

MR. MURPHY: No.

PAUL BLOSER: Will you be cutting in?

MR. MURPHY: No.

PAUL BLOSER: Bringing any dirt or fill to get back there for a driveway?

MR. MURPHY: No. I will bring in dirt -- because I put stone up pretty high for the pad because it gets wet there, and I will just grade it away from it, that's all.

PAUL BLOSER: Before any dirt is brought in, that has to be identified for drainage purposes for your lot and for neighbors.

MR. MURPHY: Okay.

PAUL BLOSER: What you're bringing in and how much you're bringing in.

MR. MURPHY: Oh, okay.

PAUL BLOSER: You can't just bring it in. That needs to be identified when you go for your permit on this.

MR. MURPHY: Okay.

DAVID CROSS: Is there a second floor to this? Just for storage?

MR. MURPHY: Yes. In the beginning -- basically told me to apply as a second -- basically all we are going to do is have half of it. It will actually be open all of the way to the top, and the other half will be like a loft to store stuff up there. But they said to apply for a second floor in case I ever finished it across. That is why the total square footage is of the two sections combined. Or two floors combined.

MICHAEL MARTIN: So the front will be just open?

MR. MURPHY: Right.

MICHAEL MARTIN: And then like halfway in or so, it is just going to be -- have an additional loft for storage?

MR. MURPHY: Yes.

MICHAEL MARTIN: I understand now.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: It's hard to tell without a drawing.

MICHAEL MARTIN: Sorry.

MS. BORGUS: I guess my first question was, does this shed in height exceed the height of the house?

MR. MURPHY: No. Not at all.

MS. BORGUS: Okay. And normally when these come in, you know, this size, there is some kind of a drawing that shows the Board what it is going to look like. I assume there is one there.

MR. MURPHY: Uh-huh.

MS. BORGUS: How much land is there on this lot?

MR. MURPHY: About -- I think it is two-thirds of an acre.

MS. BORGUS: Okay. No questions. Thank you.

GARY GASKIN, 98 Chestnut Ridge

MR. GASKIN: I'm supportive. I'm a neighbor of Mike (Murphy)'s. Everything he has said is on target as far as size and drop. I heard he will not put in a driveway. That would be my only concern. Very flat area in the back. It is a Town drainage swale, ditch easement on my property. Doesn't look like it will affect anything there. So...

MICHAEL MARTIN: Thank you very much.

MR. MURPHY: Thank you.

MS. BORGUS: One more question. Thank you.

This is going -- this isn't going to be built in the easement or a swale?

MR. GASKIN: It's all on my property. Through the Chair.

MS. BORGUS: This gentleman doesn't -- because I know some of these get put on Town easements and what have you and it leads to a lot of the problem. This is not the case here, I take it?

MICHAEL MARTIN: The easement does not run through your property?

MR. MURPHY: No.

MR. GASKIN: It's all on mine.

MS. BORGUS: Thank you.

MICHAEL MARTIN: Thank you.

The Public Hearing for this application was closed at this time.

Michael Martin made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Richard Perry seconded the motion. The Board all voted yes on the motion.

Richard Perry made a motion to approve the application with no conditions, and David Cross seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with no conditions, and the following findings of fact were cited:

1. Applicant showed need for additional storage.
2. No harm to character of the neighborhood.

Note: A building permit is required before the shed is erected.

4. Application of Buckingham Properties, owner; 1 S. Washington Street, Rochester, New York 14614 for variance to erect a second freestanding sign to be 8' x 4 ½' single-faced at property located at 465 Paul Road in L.I. with ADATOD and FPO zone.

MICHAEL MARTIN: Item 4 we tabled because their sign was not posted properly, so we won't be hearing anything on that item, that application this evening.

DECISION: Unanimously tabled by a vote of 4 yes for the following reason/finding of fact having been cited:

1. Applicant failed to post the required public hearing notice sign.

Note: Applicant to obtain new sign(s) at the Building Department to post and maintain as per Town regulations.

Applicant must be present for the Public Hearing.

5. Application of Heather D'Ambra, owner; c/o Mike Fedele, 17 Camberley Place, Penfield, New York 14526 for variance to erect a deck to be 71.5' from rear lot line (75' req. abutting a major road) at property located at 41 Bellaqua Estates Drive in R-1-20 zone.

Mike Fedele was present to represent the application.

MR. FEDELE: Basically I have an existing retaining wall and want to build a deck on top of that. It is 3 ½ foot off the variance for the setback from what I understand.

MICHAEL MARTIN: Because you want to use the existing retaining wall as a support?

MR. FEDELE: As a footer, correct. And that was decided at the time of construction, that we could use that retaining wall.

MICHAEL MARTIN: If anyone wishes to look at his drawing for his property, it is on the bulletin board there.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing for this application was closed at this time.

Michael Martin made a motion to declare the Board lead agency for SEQ, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and David Cross seconded the motion. The Board all voted yes on the motion.

Richard Perry made a motion to approve the application with no conditions, and Paul Bloser seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with no conditions, and the following finding of fact was cited:

1. Minimal variance in unusual lot configuration.

Note: A building permit is required before the deck is erected.

6. Application of William Beck, owner; 4 DaVinci Drive, Rochester, New York 14624 for variance to erect a 10' x 14' utility shed to be 46' from side lot line (55' req. abutting a street) at property located at 4 DaVinci Drive in R-1-20 zone.

William Beck was present to represent the application.

MR. BECK: Good evening. I take it, you all saw my posted sign, so you can see that -- when they built the house, they put it all of the way farthest away from Chestnut Ridge and as far back from DaVinci Road as to the corner lot so I have no option where to go. I would like to hide it. As you can see, I tried to identify -- I think I even put it -- color coded the trees and all of that. I'm trying to hide the shed in amongst the trees. I have a lot of trees there. So I'm -- I'm asking for 9 feet, but I'm not sure of the size yet. I put 10 by 14 because that is the maximum. I think I may go 10 by 12, so that would be a 7 foot or 6 foot then variance, so that is the maximum.

MICHAEL MARTIN: Okay.

MR. BECK: I talked to my neighbor Harold Ford. I had the Building Inspector out there to talk to him about it and all that and told him what I have to do. He said you would only have one neighbor that would have concern and that is on Chestnut Ridge. I went and talked to him. He said I don't -- he said it's fine with him. "Doesn't block my view. That side of the house is my bedrooms," so he said it's fine with him.

I guess that's it. That's -- well, I can't go in the back, you see, I only have 29 feet.

MICHAEL MARTIN: Right.

MR. BECK: For my property line. I have a 15 foot right-of-way there, the drainage. I can't go behind the house because I'm closer than 8 feet. I can't go the other side of the deck, and it drops off about 4 feet or so. There is a slope there. I can't go that way. So I don't have any options where to go. And I'm -- like I said, I'm trying to hide it, conceal it somewhat with all of the trees.

MICHAEL MARTIN: Your map shows it very close to the drainage easement. It's --

MR. BECK: I'm like about a foot or two -- that says 15 foot. So I'm like about 17 foot or so from the lot line.

MICHAEL MARTIN: The lot line. But not in the drainage easement.

MR. BECK: Not in the drainage easement.

RICHARD PERRY: Are you going to build it yourself?

MR. BECK: No.

RICHARD PERRY: Prebuilt?

MR. BECK: It is going to look nice when it is done. That is what I am hoping (indicating).

Mr. Beck showed the Board a photograph.

PAUL BLOSER: Are you using the natural siding like that?

MR. BECK: Yes. It's going to, I think, blend in real nice with the surrounding area.

RICHARD PERRY: Okay.

MR. BECK: And landscaping. I do a lot of landscaping, so it is all going to be --

RICHARD PERRY: All right.

MR. BECK: Hopefully not too noticeable at all.

PAUL BLOSER: My biggest concern is you're on a -- on a busy road, but scenic road. He is on a corner. I understand your -- what you're claiming as a hardship here. I guess I am concerned from -- from my point of view, from the Town, having the shed on the street as opposed to the house. Um, the natural siding, yes, it blends in. You do have existing shrubbery around it. Um, I --

MR. BECK: I would like to make my garage bigger, but I have a brick house. It's extensive to -- that -- that would be my ideal way that I would like to go out, but I don't want to knock a brick wall down.

PAUL BLOSER: I would almost like something -- I don't know if we can put a stipulation on it, something on the DaVinci side in shrubbery or trees to blend that in a little bit more. Um, it's -- I guess I have a problem with -- from -- from a street side.

MR. BECK: He does have -- on the DaVinci side, if you're on DaVinci looking at the house and you're looking in a straight line where the shed is going to be, I have an island there already of landscaping with a crab apple probably 15 foot tall, so that will obscure. Now, there is probably 30 or 40 feet in front of the shed, but it's going to be in your line of vision. And there's another half -- landscaped islands besides that tree. But I do plan to landscape around the whole shed any ways.

MICHAEL MARTIN: Okay. How tall is the vegetation around the site currently?

MR. BECK: The trees? 50 feet. 70 feet.

PAUL BLOSER: They're great size.

MR. BECK: My --

MICHAEL MARTIN: You won't see over the tree and see the shed, is what my question -- I mean.

MR. BECK: Say that again.

MICHAEL MARTIN: It's not like you're going to see over the top of the tree and see the shed, because the trees are mature enough.

RICHARD PERRY: You would have to be up pretty high.

MICHAEL MARTIN: The trees are mature enough to be a suitable screen.

MR. BECK: These trees, probably the smallest one is 12 inches in diameter. They're like 18 inches or somewhere in that area. I have so many trees right there -- well, if you count them -- I tried to number how many there were. One, two, three four --

MICHAEL MARTIN: About 11.

MR. BECK: 11 trees, and they're all min -- minimum is 12 inches, so you have a lot of lumber just in trees, which is going to block the view of it.

MICHAEL MARTIN: You really can't do too much in the front because you don't have the access to the shed --

MR. BECK: If I do the front -- I was trying to stay away from DaVinci.

MICHAEL MARTIN: Absolutely. Corner lots are difficult. I live in a corner lot.

MR. BECK: When they built the house, they pushed it all of the way back, both corners.

MICHAEL MARTIN: You have almost like no backyard whatsoever.

MR. BECK: Well, useful, if you take the easement out, 14 feet. So...

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing for this application was closed at this time.

Michael Martin made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and David Cross seconded the motion. The Board all voted yes on the motion.

Richard Perry made a motion to approve the application with no conditions, and Paul Bloser seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with no conditions, and the following finding of fact was cited:

1. Landscaped buffer will protect character of adjoining properties.

Note: A building permit is required before the shed is erected.

7. Application of Hess Corp., 1 Hess Plaza, Woodbridge, NJ 07095, property owner: North Chili Enterprises; for variance to erect a car wash to be 21.4' from side lot line (40' req. abutting a residential zone) at property located at 4371 & 4375 Buffalo Road in G.B. zone.

Dennis Kennelly was present to represent the application.

MR. KENNELLY: Thank you. My name is Dennis Kennelly. I'm with FRA Engineering in Rochester, Henrietta, actually. We are the site engineers working with Hess to get their -- the new facility approved at Union and Buffalo Road. Excuse me. We are here tonight, um, to ask for relief of a side setback variance for just a carwash piece, which is the reason for -- for the request for the variance is because the -- the northern side or the southernmost portion of the property abuts the Residential District. The rest of the side is surrounded by General Business District, and if such, wouldn't require a variance at all. It is just that one southern piece in the corner.

We have been to the Planning Board and to the Conservation Board. We have received preliminary approval from the Planning Board, and approval from the Conservation Board already. So what the Planning Board asked us to do is to provide a bypass lane around the gas -- or the carwash, excuse me, in case somebody was queued up and decided they didn't want to wait so they would have a way to escape. So we made those changes and it didn't affect the carwash location or the -- or this request for the variance. That portion of the site didn't change.

The Conservation Board asked for some more shrubs in front next to the parking. We made those changes, and were approved by -- by that Board, as well.

Regarding the character of the neighborhood, it's all commercial. The next door neighbor is commercial. We have spoken to the neighbor to the south, the contiguous neighbor, Mr. Nagel who owns both of the lands immediately to the south of us and to the southwest a little bit, which is where the variance request would actually be from -- from that line. He -- he is supportive of the project. He asked us to make sure we don't affect any drainage or give him any water, and, of course, we can't do that and we don't propose to do that.

All of the -- all of the asphalt pavement areas are curbed and we have a comprehensive drainage plan that we prepared and submitted to the Town Engineer. They reviewed it, and we addressed any comments they had, so they're supportive, as well. So basically we had support from our immediate neighbor to the -- to the south.

So it does fit in with the neighborhood. We will be razing all of the buildings that are on the site, the old IGA building and the existing house facility to make way for the new building and the new canopy and the dispenser islands so it will be just the one -- the one operation on the site.

We believe there is quite a bit of improvement, in the way of a lot of grass and landscaping to the pleasure of the Planning Board and the Conservation Board.

MICHAEL MARTIN: So which buildings to the west -- has -- has Hess purchased?

MR. KENNELLY: So the south would be the old IGA building where the shops -- the pizza shops and other shops --

MICHAEL MARTIN: That little --

MR. KENNELLY: Yes. So the whole corner. It's a combination of two lots into one. The whole -- the whole site will be about 1.2 acres.

MICHAEL MARTIN: Those buildings are going to be razed.

MR. KENNELLY: Everything will be razed and everything here will be brand new.

MICHAEL MARTIN: So from the corner with the current gas station and then the IGA and the pizza shop and all of that?

MR. KENNELLY: Yes.

MICHAEL MARTIN: All to just one?

MR. KENNELLY: Right.

RICHARD PERRY: Will that then make you next-door neighbor to the existing gas station?

MR. KENNELLY: Yes, it will. It will be contiguous. Nothing in between us. And then -- and all of the -- all of the vacant land around us to the south owned by Mr. Nagel.

DAVID CROSS: Which direction do the cars go through the carwash?

MR. KENNELLY: They would be parallel to Union Street. They would enter closest to Union Street, go around the back and then enter from the back of the building. It's a single bay laser carwash. You know, it takes a few minutes per cycle. Typically you only get a couple three cars queuing up. Otherwise people don't want to wait that long.

DAVID CROSS: So they travel from south to north.

MR. KENNELLY: South to north.

PAUL BLOSER: You have a stockade fence listed on the south side there.

MR. KENNELLY: That's actually existing. It's off the property. That just shows some of the existing features from the survey, which we also submitted as part of this, part of this application. So that would stay put. As well as those trees along the lot line where we may need to have to trim a couple branches that hang over, but those existing trees can stay and then the darker color trees that we show on here are proposed.

PAUL BLOSER: Who owns the fence at this point?

MR. KENNELLY: Mr. Nagel, the neighbor to the south.

DAVID CROSS: You're not proposing any fence with this project?

MR. KENNELLY: No, we are not.

MICHAEL MARTIN: For the carwash, is there any proposed lighting or signage or anything for the exterior?

MR. KENNELLY: Just a small sign that says carwash on it. We have not submitted a sign package -- a day -- a generic sign package we did as part of the Planning Board application, but if -- once Hess finishes their sign package, if we need a variance or would ask for a variance, we would then come -- come back to you for that.

MICHAEL MARTIN: But you're not planning on any like neon or strobes --

MR. KENNELLY: No.

MICHAEL MARTIN: -- or flashing?

MR. KENNELLY: No, no, no. Nothing like that. Very simple design with architecture to match the building. One of the comments from the Planning Board was, you know, we would rather see something other than your -- your prototype building, so Hess has offered to submit architecture that would be a brick siding of -- he offered red brick at the meeting, but other colors would be entertained by the Planning Board, so we'll present those next month.

MICHAEL MARTIN: Okay. And you have already received preliminary approval for Planning?

MR. KENNELLY: Yes.

MICHAEL MARTIN: Pending variance approvals and Conservation, I believe.

MR. KENNELLY: Yes. And we have Conservation, and we received a special permit and the subdivision applications final -- but we need final site plan and we have the Conservation Board endorsement.

RICHARD PERRY: What are the hours of operation going to be for both the service station -- I assume that is a convenience store?

MR. KENNELLY: Yes, it is. It is planned to be 24, if that is allowed by the Town.

RICHARD PERRY: What about the carwash?

MR. KENNELLY: Same. It is also market driven. If there is no market for 24 hours, they wouldn't stay open. It's purely, um, what the market will support.

PAUL BLOSER: Do you have vacuums?

MR. KENNELLY: No vacuums.

MICHAEL MARTIN: Any other questions from the Board at this point?

RICHARD PERRY: I have none.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just a -- one question. Doesn't the dumpster enclosure and the driveway to the carwash overlap?

MR. KENNELLY: Mr. Chair, should I?

MICHAEL MARTIN: Um, do --

MR. KENNELLY: Should I answer?

MICHAEL MARTIN: Yes, please.

MR. KENNELLY: They're a shared driveway. When the dumpster needs to be emptied, the truck would come and, you know, it only happens once or twice a week, as needed, and then they would have to swing around just like a car going in the carwash. It's a shared piece of driveway.

MS. BORGUS: And the dotted line indicates what around the dumpster enclosure?

MR. KENNELLY: The dotted line just shows the -- what it is is a masonry structure, so that it is made out of split-face block, similar to the building, and it just shows basically the width of the wall. It's -- it's more of an engineering dotted line than anything else.

MS. BORGUS: Is the dotted line -- does not indicate a wall? With the -- with the --

MR. KENNELLY: Oh, this one (indicating)?

MS. BORGUS: I'm confused here.

MR. KENNELLY: This is the old dumpster enclosure that is coming down (indicating).

MS. BORGUS: Oh, I see.

MR. KENNELLY: This is the new one over here (indicating).

MS. BORGUS: Thank you.

MR. KENNELLY: Sorry.

MS. BORGUS: No problem. Thank you.

MR. KENNELLY: One thing I could add, if I could, the existing building is currently the same setback. The old IGA building is at the same setback as what we are asking for, just for reference, if you -- if you were out there.

MICHAEL MARTIN: Okay.

PAUL BLOSER: Just a question of clarification. You said the refuse vehicle would be driving in

-- get it and then follow around the back of the building?

MR. KENNELLY: It could do that, yes. So it didn't have to back up all of the way.

PAUL BLOSER: What about your height bar?

MR. KENNELLY: That's a good question. I will check that, that height to make sure it can get around there.

PAUL BLOSER: The dumpster or refuse truck will never clear it.

MR. KENNELLY: You're right. You're right. I forgot about that. So he would have to back up. But there is always more than one employee in the Hess. It's never just one. It's a minimum of two. So if needed, they could have somebody come out and help him back up.

PAUL BLOSER: That would be my only question from a traffic pattern. With that --

MICHAEL MARTIN: Okay. Doesn't really affect the setback, though.

PAUL BLOSER: It doesn't.

MICHAEL MARTIN: Could be more of a planning -- for site plan.

The Public Hearing for this application was closed at this time.

Michael Martin made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and David Cross seconded the motion. The Board all voted yes on the motion.

Richard Perry made a motion to approve the application with no conditions, and Paul Bloser seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with no conditions, and the following finding of fact was cited:

1. Variance is in keeping with commercial character of North Chili Business District.

8. Application of Graeme Britton, owner; 29 Bolton Trail, North Chili, New York 14514 for conditional use permit to allow an office in home for a vending machine business at property located at 29 Bolton Trail in PRD zone.

Graeme Britton was present to represent the application.

MR. BRITTON: Again, that's basically it. I have a small vending service, um, I just bought off a guy -- or mid last year, and it is just -- I got out and about. I use one of our spare bedrooms as an office. Filing cabinets, computer set-up, desk and garage space, I have a couple machines sitting in there waiting to be fixed or located someplace.

MICHAEL MARTIN: Okay. So you're indicating the bedroom here, and it is basically just an office where you do bookkeeping and -- if you have to do ordering for -- what kind of vending machines are they?

MR. BRITTON: Like a Pepsi machine or snack.

MICHAEL MARTIN: So snacks.

MR. BRITTON: Yeah. I buy a lot of stuff off ebay, too, so I sit at the computer bidding and selling parts.

RICHARD PERRY: I notice on the front, Number 5, with the application, it says home office from business. Garage used to store supplies and machines for vending business, but on the second page, it -- what effect will the proposed use have on the neighboring properties? You state, "None. Vending machines are located in other facilities."

It seems to be a little conflicting.

MR. BRITTON: My wife filled that out.

RICHARD PERRY: Well, does it mean you would be storing actual machines in your garage?

MR. BRITTON: Yes. I do have three machines in there right now. In my garage.

RICHARD PERRY: Is that the most it would be, or --

MR. BRITTON: Well, there's lots of room in there for more machines, but I -- I try not to keep them in the garage, because they are not generating profit if they're sitting in the garage. So if they're in there, they're usually in there for a month or two, or until I get them fixed and --

RICHARD PERRY: Now, that is not something that you throw in the back of a pickup. I would assume you would have to have a truck --

MR. BRITTON: No. I transport them in a pickup, or I have a buddy with a trailer that we just strap it on and take it that way.

RICHARD PERRY: Okay. How often would this be going on?

MR. BRITTON: Like once a month.

RICHARD PERRY: Okay. What kind of supplies?

MR. BRITTON: Um, usually mostly snacks and sodas. You know, cases of sodas and, you know, never more than probably three cases at a time. I just take it out from my car and put it in the garage and --

PAUL BLOSER: How are they being delivered to you, the supplies?

MR. BRITTON: In my car.

DAVID CROSS: You pick them up?

MR. BRITTON: Yes. I go to BJ's and buy them. Snacks, you know, candy bars by the brick load, and -- you know, fill up a cooler with all of that, and then I take the cases of sodas and go to the location and fill it up.

RICHARD PERRY: At any given time, what kind of volume of snacks would you have there? You know, food stuffs.

MR. BRITTON: I don't know. Usually like right now I have got -- I don't know, probably a supply about that wide and a stack about that high (indicating), a couple of boxes of chips, you know, snack size chips in a box that high (indicating).

RICHARD PERRY: My concern would be if it's there for any length of time, there is always something there; whether it is rotated or not, it is an invitation to rodents.

MR. BRITTON: Right.

RICHARD PERRY: It doesn't help you and it certainly wouldn't help the neighborhood.

MR. BRITTON: Usually the sodas are kept downstairs, and I keep the snacks in the garage -- or in the basement, sometimes.

MICHAEL MARTIN: So you keep the food items in the house, in -- like the soda you keep in the garage, or something like that?

MR. BRITTON: Well, it has kind of moved in the basement now since it got cold, but --

MICHAEL MARTIN: Right. There is definitely a freshness factor where you can't carry too much inventory because it would spoil.

MR. BRITTON: I'm not that big either. I mean, I only buy enough that -- product that will go in a month.

MICHAEL MARTIN: How many machines do you currently have?

MR. BRITTON: Three.

MICHAEL MARTIN: They're all placed currently?

MR. BRITTON: Yes. Well -- well, I have three placed. I have three or two soda machines and one snack machine in my garage.

MICHAEL MARTIN: Okay. That you're waiting to -- to get a contract basically with --

MR. BRITTON: Yeah.

MICHAEL MARTIN: Okay.

PAUL BLOSER: I have one. Keith (O'Toole), I don't know if I should ask you. How do we classify a customary home occupation?

KEITH O'TOOLE: It is defined in the zoning code. It is primarily a business that occurs within the dwelling. You can have one outside employee, but that's it. Um, that's pretty much it.

PAUL BLOSER: Is there any designation on the amount of square footage, percentage-wise used for it?

KEITH O'TOOLE: I believe there is. In fact, our code cites an old State Building Code standard, which actually no longer applies, because the State Code has changed. Bear with me a minute.

RICHARD PERRY: It is 25 percent and a certain square footage.

KEITH O'TOOLE: 25 percent to a maximum of 500 square feet. Which is actually a fairly good chunk of space for a home business.

PAUL BLOSER: We are over the 500, and we are about 25 percent. I mean if you're counting the garage. The house square footage is 1487. You add the garage to that, because that is not considered living space, nor is the basement. But if we are using those for storage, or for part of the business, does it become office space and you add it to the square footage of the house, as usable space?

KEITH O'TOOLE: We look at the dwelling.

PAUL BLOSER: So we would be over the 25 percent.

MICHAEL MARTIN: Just the one room, which is the 10 x 10.

KEITH O'TOOLE: I'm not sure we are over the threshold, because the fact -- I mean if you look at the reading of the statute, it looks at the space. It doesn't look at numbers of rooms and add up the space within those rooms. If he is only using a corner of the garage, it is whatever square footage within the garage he is using.

PAUL BLOSER: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I had a couple of questions for the Board's consideration.

I'm sure this gentleman hopes this business grows. Then what? Think of that.

Secondly, he's obviously in this business now, and I'm wondering why he's appeared at this point to get the conditional use permit. That is my second question. If he is already

doing it, why is he in here now?

And normally I -- I go right along with businesses in the home. They're -- they don't bother anybody. Nobody knows they're there. I don't have a problem with them. But I kind of -- but I kind of have a few problems with this one because I don't know what we could get into down the line. Do the neighbors know about this?

He had a sign up, but maybe they don't think of it in terms of all of the -- this space being used for the business. They think of it like I normally think of a home occupation. So, you know, maybe they're not really aware of the details here that could get the neighborhood into problems.

I personally -- of all of the years I have been at the Zoning Board, I don't think I have ever heard of anybody wanting to use their basement, a garage and a room for an in-home business. And especially since it is food products, I would have some real reservations on this one. Thank you.

MICHAEL MARTIN: How long have you been doing this? You said very recently you started?

MR. BRITTON: Like in November I bought it off -- actually, um, a relative of one of my bosses who is getting out of the business, I picked it up.

MICHAEL MARTIN: So you took over basically like an existing route, we'll call it?

MR. BRITTON: Yeah. It is only three machines. It was what was left of everything he chopped up, and then through that process in December I filed for a d/b/a and then came over -- came over here and filed this for this. So...

Um, as far as, you know, the neighbors are concerned, I'm pretty good friends with all my neighbors. Nobody is really -- I mean, they're all pretty supportive. The only time they notice anything is when I have my garage open and they see a couple Pepsi machines sitting there.

MICHAEL MARTIN: And they think oh, it is a great summer, just go over and hit the button.

MR. BRITTON: I -- I have pockets full of change. As far as food storage, everything is in packages. Nothing is sitting on the floor. It's not a whole lot of food. And as far as business growing, um, basically, it's a second income. It's not a primary job. I -- you know, I just had a son last February, and my wife is reduced from work. We don't have anybody -- you know, day care or anything. She works in the morning, I work at night and in the spare time, I -- I service machines. A couple machines. I want to get it a little bit bigger, but nothing to -- that would take over the neighborhood.

MICHAEL MARTIN: You still want to park your car in the garage, too, I'm assuming.

MR. BRITTON: Yes. We only have one vehicle right now, but eventually there will be a second vehicle. It won't be a utility van with something plastered on the side. I have no intention of getting that big.

MICHAEL MARTIN: There are conditions for --

RICHARD PERRY: If it should start to grow, you're -- you will have to obviously think about finding some other place for storage.

MR. BRITTON: Yes.

RICHARD PERRY: As far as having the office in the home, that is still not a problem.

MICHAEL MARTIN: I don't have the -- that condition she reads.

RICHARD PERRY: Oh, boy.

MICHAEL MARTIN: I know there are conditions that it be granted for a period of one year initially, to give you a chance to see how it goes, and then after -- if there are any complaints from the neighbors, it can be taken away.

There is no on-street parking pertaining to the business. There is no signs or advertising allowed at the home.

MR. BRITTON: This is basically an office with some storage for food. And the machines.

MICHAEL MARTIN: Okay. I think all State and local licenses must be maintained -- any required State and local licenses must be maintained. Um, I think that is about it.

RICHARD PERRY: I think that's it.

MICHAEL MARTIN: It will be on the letter, all of the conditions.

MR. BRITTON: I have a neighbor across the street, too, who went through the same thing with her office.

The Public Hearing for this application was closed at this time.

Michael Martin made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and David Cross seconded the motion. The Board all voted yes on the motion.

Richard Perry made a motion to approve the application with the following conditions, and Paul Bloser seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 4 yes with the following conditions:

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to obtain and maintain any required State and local licenses.

The following finding of fact was cited:

1. Customary home occupation.

The 12/19/06 Zoning Board meeting minutes were approved as submitted.

The meeting ended at 8:05 p.m.