

CHILI ZONING BOARD OF APPEALS
January 25, 2011

A meeting of the Chili Zoning Board was held on January 25, 2011 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Paul Bloser.

PRESENT: Adam Cummings, Robert Mulcahy, Michael Nyhan, Robert Springer, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Ed Shero, Building & Plumbing Inspector; Keith O'Toole, Assistant Town Counsel.

Chairperson Paul Bloser declared this to be a legally constituted meeting of the Chili Zoning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

PAUL BLOSER: I will ask the Board members and side table as we're talking tonight, if you will please speak microphones. The podium, if you're addressing the Board. I ask that people from the audience speak into the microphone.

These applications are all recorded, and we would like to make sure that everything is very audible for interpretation after the fact.

Signs?

The Board indicated they had no problem with the application notification signs.

1. Application of Frank Martin, Junior, owner; 840 Chili Avenue Extension, Churchville, New York 14428 for variance to allow the total square footage of garage area, including a new 24' x 24' addition to garage to be a total of 1820 square feet (1200 square feet allowed) at property located at 840 Chili Avenue Extension in R-1-20 zone.

PAUL BLOSER: Just for the record, would you state your name and address, please?

MR. MARTIN: Yes. My name is Frank T. Martin, Jr., 840 Chili Avenue Extension, Churchville, New York 14428.

PAUL BLOSER: Since our last meeting, Mr. Martin, I understand you have worked with the Town to take care of everything that is outstanding, and I guess we're in good shape other than -- I think it is just the permit. Just one last thing with the Town you're working on.

MR. MARTIN: Yes. Just one compliance on the deck railing.

PAUL BLOSER: I appreciate your cooperation with that.

MR. MARTIN: Sure.

PAUL BLOSER: That helps a lot.

To the garage. This is extending your existing one?

MR. MARTIN: That's correct.

PAUL BLOSER: Tell us a little bit about what you're doing.

MR. MARTIN: Pretty much just extending the existing building as you see it on the screen there, an additional 24 feet. The building is 24 wide, so it would be a 24 by 24 extension. 8 foot ceiling. It is a pole barn structure.

PAUL BLOSER: Concrete floor?

MR. MARTIN: Concrete floor, yeah.

PAUL BLOSER: Is the rest of the barn the existing, is that concrete floor, I'm assuming?

MR. MARTIN: Yes, the same -- all of the same criteria.

PAUL BLOSER: Will they be open to each other?

MR. MARTIN: Not at this point -- I'm not sure yet exactly. There is -- obviously there will be a wall between there. I was just going to put a doorway between there for now.

PAUL BLOSER: Are you heating this?

MR. MARTIN: Um, just with external heat, electric heat type.

PAUL BLOSER: External heat?

MR. MARTIN: Portable heat, that type of thing. Gas, propane, you know, portable type heaters.

FRED TROTT: What do you need all of the space for?

MR. MARTIN: Basically, just I have a small utility tractor I use for my property. Just things -- um, wood. Storage of some wood. I do some craft type stuff, things like that. Just never have enough space, you know. I have snow blowers. My existing garage at the house, we like to park in there in the winter and we have all of our stuff in there -- between the kids' sports equipment and things like that, there is not enough space. I can put it out back, but even that is kind of small.

FRED TROTT: Says on the bottom of your plans there "Martin Construction."

MR. MARTIN: Right. That is my business.

FRED TROTT: That's your business.

MR. MARTIN: That is just -- the plans -- that is what I use for my customers. I draw plans for my customers. That is the layout sheet that I use. So that is why that is on there.

FRED TROTT: Will you be storing construction equipment in there also?

MR. MARTIN: No. All my stuff is in the trailer. Very little in the shop. Maybe some leftover wood pieces, but like I said, I do a lot of crafts and things like that in that shop area, so --

FRED TROTT: So for construction, you just mean mainly -- you're not excavating construction?

MR. MARTIN: No. No heavy equipment or anything of that nature in there at all, no.

PAUL BLOSER: What kind of construction do you do?

MR. MARTIN: Just remodeling. General contractor remodeling.

PAUL BLOSER: Do you build cabinetry for customers?

MR. MARTIN: No. That's a hard process because it is very expensive to build custom cabinets, and most of the time, I'm buying or purchasing cabinets. So no.

PAUL BLOSER: So you're running a business out of here also?

MR. MARTIN: No. No.

PAUL BLOSER: You have the address for your business is the same?

MR. MARTIN: Oh, my residence, yes. That is my home business residence, right. But I'm not -- it's not like it is a fabrication shop or it's not -- I'm not producing work out of that actual building, no, if that is what you were asking. Everything is out of the job site. I have a job site trailer that is -- everything -- all my tools are in that trailer. It's in and out of the driveway with the vehicle, so.

ROBERT MULCAHY: Is there electricity in there?

MR. MARTIN: Yes.

MICHAEL NYHAN: The garage attached to your house, that is where you park your cars?

MR. MARTIN: Yes.

MICHAEL NYHAN: This garage will be used for just the storage of lawn equipment?

MR. MARTIN: Lawn equipment. We have four acres, five acres to cut, so I have a big machine for that, for cutting that, zero turn, 7 foot cut on that, so it is just different pieces of equipment like that. Snow blowers, things...

MICHAEL NYHAN: I noticed one or maybe two trailers in the front of the house.

MR. MARTIN: Yes.

MICHAEL NYHAN: Is that what you use for your construction business?

MR. MARTIN: I have the one trailer you probably have seen in the driveway. The other one is for ATVs for recreation.

MICHAEL NYHAN: The one trailer is the trailer you use to store your business tools and equipment that you bring from job site to job site?

MR. MARTIN: Correct.

FRED TROTT: Would you be putting your construction trailer in the shed?

MR. MARTIN: No. That won't fit in there. The -- the barn is 8 foot -- 7 foot door on the trailer. It is about 8 foot, so...

FRED TROTT: Just wondering. At least get rid of some of the -- what you have on the outside.

MICHAEL NYHAN: Another question. Is there going to be 8 foot ceilings in this building structure?

MR. MARTIN: Yes.

MICHAEL NYHAN: Is there storage above those ceilings?

MR. MARTIN: No. Just trussed, 4/12 pitch, so it is very low. Very minimal attic area there. There is hardly anything -- nothing.

FRED TROTT: Will it match the other part of the old -- the old part, right, the paint, or the siding?

MR. MARTIN: Yes. Everything -- yeah. You are talking about the exterior?

FRED TROTT: Yes.

MR. MARTIN: Everything will be the same criteria.

PAUL BLOSER: Will you be doing a whole new roof on it or adding on the roof?

MR. MARTIN: Probably tearing off the old roof to make all that, because there is two layers on the other one, so I want to take all that off and put one fresh one across the whole complete.

MICHAEL NYHAN: What is the -- I just don't notice it on the plan. What is the side setback from your neighbor's lot, from the edge of that, which I guess, would be the back of that garage?

MR. MARTIN: I have it on the plans there.

PAUL BLOSER: 80 foot. That is what is written on mine.

MICHAEL NYHAN: That is the front setback, isn't it?

MR. MARTIN: Front is to your west there.

MICHAEL NYHAN: Okay. I'm sorry. I got it.

PAUL BLOSER: The road is up a (indicating).

MR. MARTIN: Yes, to the west there.

MICHAEL NYHAN: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I believe that would not face west. It would face south. The front of the building that we're discussing?

There is another shed on the property, and is it shown on that map?

PAUL BLOSER: It's not shown on mine.

MR. MARTIN: There is no other shed.

MS. BORGUS: Well, there was a shed approved --

MR. MARTIN: That was clarified with the Town that that never -- I got the permit for that. It was never built. I cleared that up with the Town and that never happened and that was taken off the --

PAUL BLOSER: So there is -- you only have two structures right now, the house and --

MR. MARTIN: Correct.

PAUL BLOSER: -- the barn. Okay.

Thank you.

MS. BORGUS: In the first instance, I would like to say that the siding will be, I guess, Texture 1-11, I'm assuming? Is that what is on the plan?

PAUL BLOSER: From the road, I could not tell myself. It's a natural wood, it appears, of some type. I don't know if it is cedar.

MR. MARTIN: 10-inch cedar channel rustic with a stain on it. Both the shop and the house have the same siding.

MS. BORGUS: Well, it's true the Martins do have a four-acre lot, but all of the lots on Chili Avenue Extension are big. Many of them, several of them much bigger than theirs. This shed will -- from my look at the drawings, it looks like we're going have three garage doors across the front, just door, door, door. Am I right?

PAUL BLOSER: That is what it appears by the drawing proposed, yes.

MS. BORGUS: As has been pointed out, Mr. Martin is in the construction business, and he has been in that construction business since he moved there, I believe, in 1988. So for 22 years, he has been out of zoning actually, with his occupation and his residence, because I don't think a construction business with all that goes along with -- it doesn't belong in a residential area. It's not -- it's not general -- it's not a customary home occupation, not like he runs it.

He has numerous trailers. I don't know how many. He has a tractor that I believe also has a trailer with it. There are dumpsters there. In the past we have been bothered, to say the least, by construction trash that he puts out for his trash collector and before it gets picked up, it ends up blowing over onto our property which is immediately across Chili Avenue Extension. That hasn't been a problem lately since we discussed it with him, but it is obvious there is a construction business going on at this residence. I believe it's his only business address, so obviously the business is being run out of his home.

MR. MARTIN: May I speak?

DOROTHY BORGUS: On his drawing, if you notice, it is clearly identified -- this addition is clearly identified as a shop. It seems obvious to even the most obtuse person that he is again expanding business activities there or plans on it. I don't believe anybody puts in heat and electricity to store tractors.

We are his immediate neighbor. My husband and I do not want any more business on that property, and we don't want to look at any more construction debris, construction equipment, dumpsters, any of it. This is -- this is why we have zoning. Obviously it is why he is here. We have been very, very tolerant for 22 years with his business over there. We would like to be good neighbors, but enough is enough. We feel that we have reached the tipping point here as far as space goes. We wish him all kinds of success in his business. We wish the best for him, but he has outgrown the residential spot he is trying to do business in. It is a construction business with everything that goes with it. We don't want to see any more additions.

He will have 1800 square feet, approximately, or -- or he -- he will have that much storage. That's bigger than my house. It's bigger than one of my farm barns. It's too much. And that ought to be obvious to this Board.

Thank you.

PAUL BLOSER: Is there any other public comment at this time?

CHARLES RETTIG, Coldwater Road

MR. RETTIG: I wasn't here for the hearing, but I do have some questions maybe for clarification, if you will. I appreciate it.

The Town Code allows 1200 square feet; is that correct?

PAUL BLOSER: That's correct.

MR. RETTIG: Okay. And this application lists 1820. Is that correct, or is there a correction on that?

PAUL BLOSER: That is what the application --

MR. RETTIG: Pardon?

PAUL BLOSER: That is what the application is.

MR. RETTIG: Okay. And a 24 by 24 addition to the garage is 576 square feet, so this -- does he presently have an existing 1244 square feet?

PAUL BLOSER: Yes.

MR. RETTIG: Okay. Then he is already 44 square feet over the allowable without a

special zoning permit; is that correct?

PAUL BLOSER: That's why he is here, for a variance.

MR. RETTIG: Okay. But he is here for a variance on the 44 square feet plus any additional, or --

PAUL BLOSER: He is here for a variance for the 1820.

MR. RETTIG: Which includes some existing and additional; is that correct?

PAUL BLOSER: For the total square footage.

MR. RETTIG: Correct. Okay. Just clarification. Thank you.

Being in an R-1 zone, um, first off, my understanding is that the zoning, code which as Ms. Borgus mentioned, is for a specific reason, but in an R-1 zone, my understanding is one trailer is allowed, period; is that correct?

PAUL BLOSER: I would have to go to the book to get the answer to that myself.

MR. RETTIG: Okay. I appreciate that. But my understanding is, that it is stated one trailer, if that is the case, and you set it as a conditional, I think -- if that is the case, and you set it as a possible conditional based upon what the code says. I think that would be reasonable for you to do tonight, to clarify that if the code says one trailer, that he is only allowed one trailer, as a condition, so that we set the -- we don't set any precedents for others beyond the R-1 zone for what should be allowed. That is my comment.

PAUL BLOSER: Good. Thank you.

MR. RETTIG: Okay. Does this present address presently have a permit for business authorization on this property?

PAUL BLOSER: There is not one in place at this time.

MR. RETTIG: Okay. And again, conditional, if there is business on this property, that it should be either registered or not allowed as a condition? I mean, if he is registered and gets the variance, that is fine.

But he didn't ask for that in this specific application; is that correct?

PAUL BLOSER: It's not requested in this application.

MR. RETTIG: Okay. My comment is, that it should be a condition that if that is the case, if he needs it, he should come back and that should be a condition of this application, because otherwise we're jeopardizing Chili's R-1 zone.

That's all I have.

PAUL BLOSER: Any other public comment?

AMANDA DEDIE

MS. DEDIE: I'm Amanda Dedie. I'm 17, and I'm here for a government project.

May I ask a few questions just for some clarification?

PAUL BLOSER: What you do is you put the questions to -- you address them to the Board, and then he will respond to the Board. We don't talk to each other, okay?

MS. DEDIE: That's fine.

PAUL BLOSER: You're new to this and it will be a great experience.

MS. DEDIE: I've never done this before.

PAUL BLOSER: You're very welcome here. Thanks for coming.

MS. DEDIE: The -- the business that -- that it says he runs, is it an actual business? Like is it his source of income sort of business? Or is it just a sort of thing that he does for -- like a kind of -- constructively, but also for --

PAUL BLOSER: Like a hobby?

MS. DEDIE: Yeah. Like that.

PAUL BLOSER: Mr. Martin, I will let you answer that for her.

MR. MARTIN: Yes. This is my livelihood. I'm a general contractor, remodeler. That is what I do. So yes.

MS. DEDIE: So like, it is just a hobby sort of thing?

PAUL BLOSER: No. That is his business. That is what he does for a living.

MS. DEDIE: Okay. I'm sorry, I lost my train of thought. Yeah, I -- that's all. I needed that clarified. Thank you.

PAUL BLOSER: Okay. Thank you.

Robert Mulcahy made a motion to close the Public Hearing portion of this application and Michael Nyhan seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

The Public Hearing portion of this application was closed at this time.

PAUL BLOSER: Mr. Martin, you asked to speak and I --

MR. MARTIN: I would just like to address Mrs. Borgus here. That the dumpsters -- first of all, the dumpsters were there because I'm cleaning out my basement, because I do have a permit in for a basement remodel. We're cleaning out our basement. There are not dumpsters there ever permanently on site. I did have a dumpster out back by the barn because I was cleaning that out.

Anybody that knows me or knows of me, I'm very fussy. In fact, all of the men that I work with say, "I can't believe how clean your trailer is."

I'm very fussy about everything I have. Everything is tucked away nice and neat back there.

I'm not running a business out of that shop. I call it a shop, because if you're -- do any woodworking, you call it your shop. You have a table saw, a few items in there, you call it your shop or you call it your barn or you call it whatever. I'm not running a business out of there. I'm running a small remodeling company. All my tools are specifically in my trailer that is in and out of the driveway, locked up, it's tight, neatly put away.

There is no unsightly thing. I don't know what she is talking about. Trash blowing across is absurd. I have actually picked up the trash every time I see it blowing out in the road.

Her husband actually puts garbage alongside Stuart Road. We have seen TVs, everything from bookcases to whatever out there. We don't say a word about. That I don't say a word about. Mrs. Borgus' two red barns that she has that are bright red. That doesn't bother me. I get along with my neighbors. I don't know what the problem is here. We have done nothing outside of what you have before you.

I'm just asking to extend that, to help me out with a little bit of storage. That's all I'm asking. So...

PAUL BLOSER: Okay. Thank you.

MR. RETTIG: Can I address his question specifically?

PAUL BLOSER: Public comment is now closed.

MR. RETTIG: I understand, but he made a comment after the Public Hearing was closed, and this is an addition which addresses his specific --

KEITH O'TOOLE: Mr. Chairman --

PAUL BLOSER: I closed the public comment at this point.

Counsel, did you have something you wanted to add?

KEITH O'TOOLE: Just building on your comment, Mr. Chairman.

PAUL BLOSER: Thank you.

Paul Bloser reviewed proposed conditions with the Board.

PAUL BLOSER: That's anything on the property. You already had an inspection by them. You're bringing everything up to code at this point. So I expect that those will all be complete. A C of O on this will not be issued on this new structure until all of the other projects and permits are complete that you have open.

MR. MARTIN: Right. That was just the one outstanding on the deck railing.

PAUL BLOSER: On the deck. Yes. I understand that. But that won't be issued -- the building permit will not be issued -- or the C of O for the new structure will not be issued until the deck is completed.

MR. MARTIN: I understand.

PAUL BLOSER: What is your time frame for getting this started?

MR. MARTIN: Right now, all depends on the weather. I was hoping to get it started earlier and we had some issues, so we were probably, you know -- when the weather breaks -- I don't want to deal with the ground right now. It is frozen. It is not a good idea to be putting posts in the ground and doing the structure right now. That could cause problems.

PAUL BLOSER: If I put a July 1st date for completion, would that work for you?

MR. MARTIN: Um, well --

PAUL BLOSER: July 30th?

MR. MARTIN: Yeah. That would probably be all right.

PAUL BLOSER: Because I would like to get the loose ends tied up with the deck. That should be --

MR. MARTIN: Yeah. The -- in fact, the deck, I can get that -- I think he gave me until July 31st on the deck, I think, if I remember correctly. But I will get that as soon as I can, as soon as I get the snow off there. I can't even see the --

PAUL BLOSER: Ed (Shero), off the top of your head, do you know what the date was?

ED SHERO: I thought it was June 1st for the deck.

PAUL BLOSER: I will write that into this also. I will duplicate that, that the deck portion, project must be completed by June 1st, okay? And this permit when it's done, it's done, but you need to get the C of O when the barn is done.

MR. MARTIN: Right. So the barn won't be limited to --

PAUL BLOSER: No. Standard permit, standard everything. It is just the deck I want closed out --

MR. MARTIN: Got you.

PAUL BLOSER: -- per Town.

MR. MARTIN: Right.

PAUL BLOSER: The new addition to the existing barn must match in all existing materials, make and colors, including windows, siding, doors, trim, et cetera.

Paul Bloser reviewed proposed conditions with the Board.

PAUL BLOSER: When we do something of this size, we ask that the shingles on both structures match. Just a visibility point from the road so you have a nice look.

MR. MARTIN: I wouldn't have it any other way, so.

PAUL BLOSER: That is a condition.

MR. MARTIN: Yes.

Paul Bloser reviewed the fourth condition with the Board.

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Fred Trott seconded the motion. The Board all voted yes on the motion.

PAUL BLOSER: I will add one more condition on here. The fifth condition I will put on here, um, is there is no be no manufacturing of customer product as related to the applicant's business, just so that we don't have manufacturing going on in there.

MR. MARTIN: Never was, never will be.

James Wiesner made a motion to approve the application with the following conditions, and Robert Mulcahy seconded the motion. The vote on the motion was 5 yes to 1 no (Michael Nyhan, Adam Cummings).

DECISION: Approved by a vote of 5 yes to 2 no (Michael Nyhan, Adam Cummings) with the following conditions:

1. Applicant must be code compliant with all aspects of the Town code.
2. New addition to existing barn must match the main house in all construction materials, make and color. Including siding, windows, doors, trim, etc.
3. New roof to extend length of complete structure – old and new, and match primary dwelling.
4. June 1, 2011 deadline must be met for the existing open deck permit.
5. There is to be no manufacturing of customer product as related to the applicant's business.

The following finding of fact was cited:

1. The proposed variance will not create an undesirable change in the character of the neighborhood or to nearby properties.
2. Application of SunCap Property Group, 3419 Seward Place, Charlotte, NC 28211; property owner: Jarvee Associates; for variance to allow front parking per plan submitted, variance to allow a total of 134 spaces (280 required), variance to erect a 7' high fence including barbed wire (4' allowed in front setback, 6' allowed in rear setback) at property located at 3516 Union Street in GI zone.

Glen Thornton and Michael Gleason were present to represent the application.

MR. THORNTON: Good evening. I'm Glenn Thornton, Thornton Engineering. We're the civil site engineers for the FedEx freight project on Union Street.

With me is Michael Gleason from SunCap Property Group.

Michael (Gleason), do you want to say anything to get started? Otherwise I will jump right into the application.

MR. GLEASON: Thank you for having us. I will let Glenn (Thornton) take it over.

MR. THORNTON: Off the record.

There was a discussion off the record.

MR. THORNTON: Yes. We have submitted an application for several variances for this property. We also provided with the application a variance justification statement to explain why we need each of these variances for this parcel. And just very briefly, let me explain the project a bit for you. This is a 65.7 acre parcel. It's a flag lot on -- on Union Street. It's -- it has a history. It -- part of it is being farmed in the northeast corner of the parcel. It had been used as a borrow pit for construction of the expressway years back.

The site, as you can see on the -- on the plan view, in the orange, it's -- it's encumbered with several wetland areas, some of which are very large. The parcel itself slopes from west to east, and as you can see on there, we have got a -- hopefully everybody can hear me. The -- the -- the proposed loading dock area situated in the north/south direction with a portion of it towards the east with some additional dock bays, we have a significant amount of asphalt and concrete pavement surrounding the loading docks for truck maneuvering, for parking on interior and perimeter areas for trailers.

This facility is a FedEx freight facility. All materials coming in and leaving are -- predominantly will be on tractor trailers. Either the -- the tandem tractor-trailers or the 48 foot long trailers. Um, there -- there is no local deliveries other than localized FedEx freight

deliveries on a tractor-trailer.

Um, so we have -- we do have significant parking. The way the building is positioned, we tried to place the parking in the -- in the rear and side yards away from Union Street. Now, Union Street is about 1400 feet back from where we plan to develop the -- the facility.

To gain access into the facility, we have been working with the Town and with the adjacent property owners to secure enough right-of-way to construct a street back to the facility. The street will be dedicated to the Town upon its completion.

The reason we had to work with the -- with everybody on this is because as you can see on the drawing, the amount of wetlands we have in this area on the flag lot, it just gave us very little room to get back to utilize the remainder of the land back here (indicating).

Um, I mentioned before, the slope is from -- from -- from east to west. I'm sorry. Downward, towards the west, towards the wetland areas requires us to have a significant cut slope on the -- on the east side, and a fill slope on the west side. That is because of the width of the development, and the need to have a -- a constant elevation around the dock has just created basically a big flat area we're trying to fit on a parcel with some topography to it.

We have accomplished all of this, fitting it on the parcel, but what we're left with is a configuration that required front yard parking in this area up here (indicating), near the entrance.

There will be a guard house here (indicating). This is a visitor parking area (indicating). This is the employee parking area (indicating). And tractor parking area (indicating). All of the trailers are far removed from the front entrance to try to keep them out of view in those areas.

But the way the -- the building is configured with the main entrance on the west side, it dictated that the parking be placed in this area, which is considered the front yard to the facility. Even though it's approximately 1400 feet back from the frontage on Union Street.

Um, we have also requested a -- a variance for the amount of parking. Based upon a 400 square foot per parking space requirement in the Town Code, um, I think that requires about 280 spaces or something like that. Um, our variance request is to construct only 134 spaces. 122 of which would be for employees. 12 for visitors. The actual employee count at this facility will be 70 employees, so we far exceed our parking needs for employees, and there will be very few visitors to the -- to the facility. It's not -- it's not a facility where a customer will come in to ship anything. It's -- it's basically employees will be frequenting the facility and deliveries, and that's about it.

Um, the -- the fence variance that we have requested, um, is for a 6 foot high fence in the front yard and the side yards and -- and the rear yard with an additional 1 foot to accommodate three barbed wire strands at the top.

This is a FedEx standard for their facilities across the country, to provide this sort of security fencing on their facilities, primarily to -- to protect the freight they're shipping from theft, and also to protect their equipment that is stored on site, as well.

Um, the -- we have over a mile of fence on this project. It's -- it's an enormous project, a lot of security fence. There are security cameras at selected locations, but not enough to actually view the whole fence area. There will be a guard at the guard house monitoring entrances through the -- through the gates at the guard shack. But to protect the facility, the goods being shipped, materials in the dock area, FedEx strongly, strongly feels that they -- that they need the -- the 7 foot high fence with the three barbed wire strands.

Now, I think -- I hope everybody received a copy of a January 17th, 2011 letter from Floyd Dixon. He is the Managing Director of Corporate Security for FedEx. If you didn't get one, I have additional copies here. But I -- but I think in that letter he -- he explains their need for this sort of fencing, and we realize it exceeds the -- the Town standards, but it is -- but it is very important for FedEx to -- to secure their facilities. This is the type of fencing that is used across the country for them.

PAUL BLOSER: I did receive a copy of that letter. I forwarded it onto the Town office for file, the Town Supervisor, the Town Attorney and also all of the Board members got a copy of that. So we did receive that. It is a matter of record. It has been submitted.

MR. THORNTON: Okay. I really don't believe it is necessary to -- for me to go through my complete justification statement unless the Board feels it would be worthwhile. It is three pages long. I think -- I think I have touched upon everything in my -- my brief discussion here, but it -- but if there is any additional information that -- that you would like presented --

PAUL BLOSER: I think that will come out in questions from the Board members.

MR. THORNTON: Fine. Okay.

PAUL BLOSER: I have been following the project for quite a while now.

One of the questions I have regarding parking, for the reduction in space, the parking spots that you show allocated in the yard, um, scale wise, they're larger than the car spots, so I'm assuming those are to put trailers, empty trailers into.

MR. THORNTON: The perimeter parking and interior parking, Paul (Bloser)?

PAUL BLOSER: The two islands I see to the east side of the property.

MR. THORNTON: That's for the -- they call them the pup. That's the tandem trailers, 28 foot long trailers that would be parked there.

PAUL BLOSER: These are flat. You're not building islands or curbing up anywhere in the parking lot; is that correct?

MR. THORNTON: No. The only features that will be placed within the parking spaces will be light poles.

PAUL BLOSER: I guess what I am driving at is down the line, if we did have a change of use on this property, um, lines could be repainted to accommodate normal sized cars, therefore,

increasing our parking spots?

MR. THORNTON: Absolutely.

PAUL BLOSER: And without major expense, having to remove curbs and islands, I guess, is what I am getting at.

MR. THORNTON: Yes.

PAUL BLOSER: So structurally, it wouldn't be a major -- it would just be a matter of painting lines in the future. Okay.

I will -- I will, I guess, open it to -- to questions. Jim (Wiesner)?

JAMES WIESNER: I have written down some questions here, and I -- as you went along here.

Um, this -- as far as activities inside the building, I mean these trailers would actually -- they wouldn't be transferred on site? They would actually be backed up to the building and there would be some sort of activities, reloaded and go back out again?

MR. THORNTON: Yes. This is -- this is a cross-dock operation. It is less than truckload operation. FedEx truck -- trucks frequenting the facility, um, will actually back up to the docks, and they will be immediately off-lifted and a lot of times the -- most everything is on skids. It won't even touch the floor. The forklift pulls it off one trailer, across the dock, down the dock directly onto another trailer, and it would be -- departed very quickly from there.

JAMES WIESNER: You discussed the road going in, that will be a new road, and by the looks there will be some modifications in the highway also with the -- with the entrance lane coming in.

MR. THORNTON: Correct. We have a submittal into the DOT for construction of deceleration right-turn lane northbound into the facility. Predominantly -- most of the trucks will be entering from the south and departing from -- from the facility, again, in the south, to the expressway.

JAMES WIESNER: Okay. I mean as far as the parking goes, I mean is there any plans for expansion? I mean, if there was expansion, would this reduction in parking -- would there be enough in what you have proposed to -- to cover that, or would it be a whole other consideration later?

MR. THORNTON: We have that addressed that. On this plan you can see just north of the dock area, within the pavement area, there is a green space. That is an area that is reserved for, I think -- 40 additional dock bays could be built there. We have got 122 dock bays being constructed with -- with this construction. So if -- if business is good, they do have the ability to build another 40 bays. Employment levels would increase marginally for that, and we will have plenty of parking to accommodate any additional employees.

JAMES WIESNER: Okay. And one last question. I mean, there is a FedEx facility on Manitou Road over in Greece. Do they have this barbed wire along the top of the fence? Because I don't remember seeing it.

MR. THORNTON: I don't -- that is not a -- is that FedEx freight? I'm not sure.

JAMES WIESNER: That is a distribution center, I think, more than anything else. I mean, is it just the -- the standard is just for freight facilities or all facilities?

MR. THORNTON: I cannot answer on all facilities. I know it is the standard for the freight operation across the country.

MR. GLEASON: Each FedEx organization is -- runs completely. FedEx Express runs FedEx Express, Ground and Freight, each -- each individual organization operates completely separately on their real estate.

PAUL BLOSER: The one on Buffalo or Manitou Road, I did not see barbed wire around that one. The one in Henrietta does have some. It's not the same type of operation, but it's a similar -- it's freight, and it is not as much customer -- customers more go to the Manitou or street traffic coming in to ship.

JAMES WIESNER: Where is this facility in Henrietta that you saw?

PAUL BLOSER: It's off West Henrietta Road. Um, it runs parallel to the south side of the Thruway.

JAMES WIESNER: Okay. Okay. That's all I have.

MICHAEL NYHAN: The -- you mentioned there are not many visitors to this facility. What would be visitor traffic if they don't take normal shipments and -- Manitou Road, I would assume, handles that, so what type of visitor traffic would you have?

MR. GLEASON: It would be the freight terminal operator bringing in customers to show them the operation. That is the only real customers that come into the terminal.

MICHAEL NYHAN: Okay. And your normal hours of operation, I think, are 24 hours a day with the exception of Saturday to Sunday night; is that correct?

MR. GLEASON: Correct.

MICHAEL NYHAN: Are there people on premise during that closed hours working, or is it completely a vacant building at that point?

MR. GLEASON: I -- I'm not 100 percent certain on that. I believe it's vacant.

MICHAEL NYHAN: Okay. And the barbed wire you mentioned, that would be three strands. Is that one side of three-stranded barbed wire or a double side, one on each side of the fence, front and back?

MR. THORNTON: I don't know. I didn't know there was such a thing. You mean -- you mean just -- just one side, you know, like with an arm.

MICHAEL NYHAN: Angle of the pole from the front to back and three strands.

MR. THORNTON: Three strands total it will be.

MICHAEL NYHAN: All right. Is there any other security on the premise other than the guard house, or is that just checking trucks that come in and out? Is there a single guard in that one house?

MR. THORNTON: As far as we know, that is the only security. You know, the one guard.

MICHAEL NYHAN: Just so I'm clear, the letter we received from Mr. Dixon, you know, alluded to you have to have certain security regulations for U.S. Customs. Barbed wire, is that a requirement from Customs, or are they just -- this is the security plan you have created as a result of they want security for your facility?

MR. THORNTON: I wish I could answer that. I -- do you know, Michael (Gleason)? It's the last paragraph here.

MR. GLEASON: Well, I'm not sure if it is a requirement for Customs, but I believe it's the FedEx policy -- it's their security policy nationally, and they enforce it with Customs around all their facilities.

MICHAEL NYHAN: I know it's their standard. Is there any other plans that they have, if barbed wire is not permitted, that they use to secure their facilities?

MR. THORNTON: Our consultant, we met with them, and they didn't have any other plans. They said this is what -- this is what they have used at all their facilities, and it's a deterrent, is what it is. And they say it's -- it's worked. You know, it's the one deterrent that they have that does work.

MICHAEL NYHAN: Your vehicles, are they parked right up along the fence? It looks like parking all along the perimeter fencing; is that right?

MR. THORNTON: Um, there's -- on the -- on the west side of the facility, there -- there is a tractor parking lot, employee parking lot and visitor parking lot. Um, the fence should be at least 6 -- I'm sorry, 15 feet from any parking position, though, just because of the -- because of the trailer overhang.

MICHAEL NYHAN: All right.

PAUL BLOSER: The last paragraph on the letter, I don't know if you saw that?

MICHAEL NYHAN: I did. That is why I raised the question.

ROBERT SPRINGER: Just a couple of questions here. The guard house or shed, whatever, is that the -- the days that you are open, which is 5 1/2 days roughly, that -- that guard house is attended 24/7?

MR. THORNTON: We have been told it will be 24/7 attended, yes.

ROBERT SPRINGER: And closing nights of Saturday night going through Sunday, there will be no one there.

MR. THORNTON: We're not sure of that. Um, I -- I never heard -- I mean, they will cease operations, but I'm not sure if there would be anybody left at the facility during those hours. It's -- it's late Saturday to -- to, I guess, through Sunday, early Sunday -- or early Monday morning they would reopen.

ROBERT SPRINGER: The only reason I ask, if it is so important to have a barbed wire fence -- the last time I saw barbed wire fence was Vietnam. But if it is so important to have that fence and the camera, security cameras, but there is no one there to attend the security cameras -- it's not relevant to the conversation whether the variance is given or not. That is not my point. So I will drop that question. I just -- I just can't figure why would somebody -- security wise not be on the premise 24/7.

The second -- the second question, are there any one -- is there any other FedEx site that is going to be affected by this new site closing, expanding, et cetera?

MR. THORNTON: Do you know the answer to that?

MR. GLEASON: I believe the one -- I'm not 100 percent certain of the address. The local operation will be closed and they will incorporate into this location.

ROBERT SPRINGER: That's in Gates.

MR. THORNTON: I believe so.

MR. GLEASON: I believe so.

ROBERT SPRINGER: A cross-dock operation facility?

MR. THORNTON: Right.

ROBERT SPRINGER: Do you have any idea from history with an operation like this how many trucks are going to go in and out of this place in a given day?

MR. THORNTON: Yes. Actually FedEx was able to provide us with very detailed traffic projections for the facility, both on the employee arrival and departures and on the truck arrivals and departure. I believe we'll have -- I think it is 140 truck arrivals per day and 140 truck departures a day.

ROBERT SPRINGER: 280 vehicles moving in a given day?

MR. THORNTON: Correct. Spread over a 24-hour period.

ROBERT SPRINGER: Roughly 1500 vehicles moving over a week or a five-day span of being open, right? Roughly?

MR. THORNTON: Yep.

ROBERT SPRINGER: And most of these vehicles are going to come down Route 90 and Route 490, which is the --

MR. THORNTON: Correct.

ROBERT SPRINGER: Across State Route and local. Okay. That's all I have right now.

ADAM CUMMINGS: Your parking spaces. The variance you're asking for here is, is there any chance the storm water facilities -- it looks like they're a little small for the size of

impermeable surface area you will have there.

Is there any chance they can change and change the parking footprint and the number of parking spaces you would be asking for a variance for?

MR. THORNTON: We have sized the three storm water management areas to accommodate future development for the additional dock areas. The reason the ponds look a little small is the -- the site is predominantly hydrological Group D soils, so I mean the existing conditions, there is not -- there is not a lot of permeability on the soil, so the future conditions with so much pavement obviously has increased the peak runoff, but surprisingly, the Group D soils don't allow much to infiltrate the ground either.

ADAM CUMMINGS: I was just going off the notes from the Planning Board back in December where they were inadequately sized, so that was taken care of?

MR. THORNTON: I don't know. In December. December 14th meeting, I think -- I'm not sure. I can't really answer if we had them sized properly at that time or not.

ADAM CUMMINGS: Okay. Just pretty much says there is -- deficiencies in your storm water management plan and a couple other plan sheets.

MR. THORNTON: Yes. You're right. Now that I recall -- we didn't have a lot of detail on the storm water management at that time. We have since submitted it, though, to be on the agenda for February 8th and that submittal included all of the --

ADAM CUMMINGS: I know it is 63 acres. It looks like there is plenty of space if they needed to be enlarged, but I wanted to make sure there is adequate space if you need to move. There is 63 --

MR. THORNTON: Yes. There are. As a matter of fact, the one on the north -- the north pond is actually a little bit larger than necessary at this point in time.

ADAM CUMMINGS: Okay. That's all I have.

ROBERT MULCAHY: I understand that the trucks come and go out. It's a transfer station?

MR. THORNTON: Yes. Yes. They operate under a hub and spoke arrangement, so they know exactly when a truck is leaving this hub and will arrive at the next hub.

ROBERT MULCAHY: So on weekends there should be no trucks in there?

MR. THORNTON: They operate up until about I think it's early afternoon on -- on Saturday.

ROBERT MULCAHY: The buildings would be empty at that point?

MR. THORNTON: After that, yes, until early Monday morning, very late Sunday night, yes, it would probably be empty. Again, I don't know if they -- they plan to have a guard at the guard house. I will just point out the -- the security fencing is only in selected areas. At the -- at the pedestrian turnstiles, at the yard access gate and the employee lot, the yard access, primary gate they will have security cameras, and I believe there is some on the buildings.

But they don't have security cameras on the 5,400 linear feet of fencing around the perimeter.

ROBERT MULCAHY: So security on the weekends is not as important as it is on -- during the week?

MR. THORNTON: I think it is just as important. The -- the guard, his function is to monitor trucks in and out, access into the yard. There will be fencing at the security gates, as well, if they're closed. I think -- I think they feel that the -- the security fence with the three strands of wire is a -- is -- is a satisfactory deterrent, though, for preventing yard entry.

ROBERT MULCAHY: So there really is nothing stored there?

MR. THORNTON: There is nothing stored in the building. But there would be -- there would be trailers at the docks that have been loaded or partially loaded that they need to -- they need to protect. Plus all their equipment in the yard, as well.

ROBERT MULCAHY: On the weekends those trucks will be gone?

PAUL BLOSER: But not the trailers.

ROBERT MULCAHY: But not the trailers.

MR. THORNTON: I can't even say -- the truck -- I believe the -- the tractors will be there, as well. Because I mean the employees will be gone. The only ones to -- to remove the tractors would be the employees.

ROBERT MULCAHY: So there would be trucks left there on the weekends with materials in them?

MR. THORNTON: Definitely. Definitely.

ROBERT MULCAHY: That is what I wanted to know.

MR. GLEASON: I'm not 100 percent certain that -- that the materials and freight will be left in them. Equipment and supplies and things of FedEx will be on site. I believe, and I can't speak to 100 percent certainty, that the freight will not -- there will not -- the intent is not to store freight at this facility. It is 100 percent a transferring station.

MR. THORNTON: I'm fairly confident there will be, and it is because of the operation, the hub and spoke operation, the drivers frequenting this facility, FedEx freight, the way they operate, is their drivers are in their own bed at night. So they have a set route from -- from this hub to another hub, and back to -- to this hub, if they live in the area. So I think the goal is always to have them hauling goods. So I think it is -- at some point in time, they will have to return to this facility, with a loaded, partially loaded trailer.

Now, if things worked out well, I suppose that somebody from another hub could be here to take those goods onward, but I -- but I got to believe at some point in time, in the trailers, there would be goods left on site.

FRED TROTT: The tractor parking -- I'm sorry, the trailer -- no. The tractor parking, in the front, that's -- that's -- that would be on the --

MR. THORNTON: South.

FRED TROTT: -- southwest.

ROBERT MULCAHY: This is south (indicating).

FRED TROTT: Yes. The south.

How -- is that seen by any neighbors or anything like that? How is that going to be shielded?

MR. THORNTON: It shouldn't be seen from Union Street, since we're so far back. Um, we do have, um -- I think on this plan you can see some of the landscaping that we have proposed. A number of trees along the main entry drive, and since this plan was developed, we have added additional landscaping in these areas, as well (indicating). We had to be careful, though, with the guard shack right here (indicating), we didn't want to restrict his sight lines into the facility.

But we do have a number of trees along the entry drives here to help screen it. I would say the only neighbor that might see the tractor parking might be Mr. Boon at his facility, but again, he's -- he's 4 -- 4 or 500 feet away from it, as is.

FRED TROTT: I have nothing further.

KEITH O'TOOLE: Just a clarification. Is the monument sign on for this evening?

PAUL BLOSER: That is the next -- the next --

KEITH O'TOOLE: You're discussing it separately?

PAUL BLOSER: Yes.

KEITH O'TOOLE: Okay. Nothing at this time.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTING, Coldwater Road

MR. RETTIG: Comment made requesting front parking in a GI zone, Industrial. No problem. It's an area where it's appropriate.

Parking space numbers for -- as explained by the applicant, for their business, being under the general requirement based upon building size, Town Code, in a GI zone, whereby normally in the Town of Chili, we don't allow front parking, or we specifically work against that. In this particular instance, GI zone, I have no problem.

Specifically addressing the issue of barbed wire, the Town Code is such that it does not allow barbed wire, and of course, that is one of the exceptions being requested here at this specific hearing.

Mr. Nyhan's comment or question on the three-strand barbed wire, I think, is appropriate. Because maybe others are not aware that there are what is called a Y barbed wire, which would be -- lean inside and outside the fence, which would thereby require six wires, so that was clarified. Appreciate that. For what was requested.

However, it was mentioned that the guard house, gate house, was 24/7. The details to provide answers or proof as to whether the facility, all FedEx facilities have barbed wire was another question, because there are inconsistencies in the questions and answers provided by the applicant.

Number one. The Gates facility has expensive requirements. No guard, no barbed wire on that specific facility, even though that is Gates. But just to note it.

Henrietta is different. Different Town. Different operation. We're talking about Chili.

The point that -- that there is a 24/7 guard house and that they would have cameras, um, would be appropriate, but the answers as to whether or not it was truly 24/7 and the guard house was not answered.

There will be -- I assume there will be some pedestal lighting in the parking lot that will have the lot lit 24/7, which I would guess they would have. Is that the case?

PAUL BLOSER: Yes.

MR. RETTIG: Okay. I would seem -- I would think that that is appropriate for security. Number one.

Number two, cameras are appropriate. Um, if they don't have complete camera security, um, maybe they should put more cameras in. But there are other security aspects of this that can be and should be included in lieu of going against the Town of Chili Code.

Number 1, they indicated they're -- each facility is independent, so therefore, they don't know if it's a requirement they would like to have barbed wire fencing, but it may not be necessarily required.

Other -- other measures that can be applied would be motion detectors, ground vibrations sensors, depending upon their security requirements.

Um, they had no proof and no answer as to whether or not Customs or any other federal agency required security, such as barbed wire, would not let them operate without barbed wire. So they weren't able to answer a number of questions there in regard to security.

And they were vague in that matter.

Building, you got locks. Building will be locked. So that is a point of security.

Full cameras and others are -- are other means of -- of full security, as was mentioned by one of the Board members, ability to respond to intrusions with cameras. Someone has to be around to respond, if they want full security. If they don't, cameras are no better help in response than any other means. But my comment is that the barbed wire should not be allowed because it

sets a precedent, number one.

Number two, if you look at Metalico, precious metals, they have on site. They have a locked building. No barbed wire. Why should FedEx have anything different in the Town of Chili where we set a precedent? And I don't mean to just hash on FedEx. They have got other methods of security. Whether or not they truly need barbed wire is a question that they haven't justified at this time.

And if -- I have no problem if they come back for review for a permit for barbed wire, if they can justify requirement, notwithstanding the details of their letter which they summarized, but I have not been able to read, but they did not justify anything further in their summary that requires barbed wire.

So if they have to by federal requirement and proof that a federal agency or Customs requires barbed wire, understandable. At this hearing they have not supplied that to this Board, and this Board should not allow barbed wire based upon the Town of Chili Code.

Thank you.

PAUL BLOSER: Thank you.

AMANDA DEDIE

MS. DEDIE: Amanda Dedie, Westside Drive.

I have a question about the security. I think I have this. He said that there would be security cameras along the fence, but not enough security cameras to cover every aspect of the fence. Um, so whoever is in the security house will only be able to see whatever the security cameras can see; is that right?

PAUL BLOSER: Correct.

MS. DEDIE: So what -- like even if they do have a security guard house, there will still be areas of the fence left unattended, so that if barbed wire wasn't approved or some idiot decided to brave it, could get in and there wouldn't be any, um, visual of it?

PAUL BLOSER: That's correct. By camera.

MS. DEDIE: And I'm -- I'm also kind of wondering why -- if someone were to break in or something like that, why the guard house is sort of far away from the entrance of the place? It's like the entrance is over here (indicating) and the guard house is like way over there (indicating), with all these fences in the way. I'm sort of wondering if that is, um, not actual -- actually safe at all.

PAUL BLOSER: Okay.

MS. DEDIE: That's all.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: My only comment would be that if you were to allow this barbed wire, be prepared for many more businesses to ask for it. It's something that we haven't allowed in Chili. I don't know. Maybe the Building Department could verify this, but is there anybody else in Chili that currently has barbed wire? Yes? Who?

PAUL BLOSER: RG&E on Scottsville Road. Their lot where they store their transformers and spools of wire.

FRED TROTT: The cell tower -- the County tower has barbed wire.

MS. BORGUS: If you okay this, just be prepared for a lot more. Because there are a lot of businesses that could claim the same reasons that -- in my mind here that are not overpowering to have -- to have barbed wire. These excuses are not too strong. They're pretty limp -- lame. So just be prepared. You open Pandora's box, you will see a lot more and you will have a hard time defending why you don't let all of them have it.

Thank you.

MR. RETTIG: Just a clarification comment.

Can I ask what your comment was, additional barbed wire? I didn't hear you.

FRED TROTT: At the Union Street cell tower, it's barbed wire. It's not a cell tower, but a public safety communications tower.

MR. RETTIG: Okay. Thank you.

My -- my comment in regard to RG&E, utility and towers, um, I believe they're exempt. They have specific requirements for barbed wire, towers operated, controlled by the FCC. Utilities, other controls. So they may be, in fact, exceptions that you should -- this Board should find out, so I have no problem with that.

In clarification to what this young lady just asked in regard to no full cameras around the facility, that comes back to if you have a 24/7 or if you have some type of security looking in on this facility, however you do it, for response, um, any place you have no barbed wire, assuming you have some with barbed wire and some without, or you have cameras that don't cover the entire linear area of the fence, um, there are other methods of doing it. Vibrations sensors, motion sensors that could cover the entire fence parameter -- perimeter, excuse me.

And therefore, again, it comes down to the fact that barbed wire for this facility or any other facility within Chili without proper reasonable justification, which it has not, in my opinion, been shown this evening, should not be allowed.

DAN BOON

MR. DANIEL BOON: I guess I just got to put it on the record now. Right next door is barbed wire. Suburban Propane has barbed wire all of the way around their facility, right next to the Town Hall. There are more places in Chili that have it. So it is not true that we don't have it

in Chili. So there is -- there is quite a few facilities around Town that do have barbed wire. One being right next door. That's all I need to say. I just -- just so we have both sides of it here. There is barbed wire around Town that's three-strand.

MR. RETTIG: I appreciate Mr. Boon's comment. And, in fact, barbed wire may be justified for such a facility with flammable -- flammables based upon other regulations and requirements.

But this particular applicant has not shown or not justified, shown a specific justification in this specific site. I'm not saying they couldn't or shouldn't, but they -- they haven't at this evening's facility -- this evening's hearing shown that it's a requirement by any other federal agency or facilities; whereby as I mentioned Metalico, expensive precious metals, does not have barbed wire. They have a building with locked -- locked buildings. They, of course, have other security, but they do not use and apparently do not need barbed wire.

MS. DEDIE: I would just like to say in their defense, I think they sort of did give justification as to the barbed wire. People pay for FedEx services, for them to transport their goods or whatever, and, um, I would be pretty ticked off if my thing got left in their truck overnight and someone was able to take it, and I paid for it to get shipped to the person and they never got it. So I think, um, the barbed wire does -- or I think it is justified for security purposes and that their valuable, pricey things that could be kept there overnight that -- need protection that the video cameras and security people may not provide.

PAUL BLOSER: Thank you.

Fred Trott made a motion to close the Public Hearing portion of this application and Michael Nyhan seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

The Public Hearing portion of this application was closed at this time.

PAUL BLOSER: Any response you want to make to answer any of the questions posed?

MR. THORNTON: There were a number of issues brought up. I think the prior one is the -- the reasons for having the -- the three barbed strands on it -- I mean, it is not going to stop theft. It's a deterrent. This is a very large facility. It takes up a lot of ground area. It's got an enormous amount of fencing, perimeter fencing around it, and I don't think there is anyway to stop entry. If somebody wants to get in, they will probably find a way, but they are trying to deter theft to protect the goods that they're shipping. Um, I -- I don't have the answers to what all of the goods are being shipped and are on the facility at any one point in time, but I'm sure there is some very valuable cargo that needs to be protected. And FedEx, I'm -- I'm taking them based upon their experience. This -- this is their standard security fence, theft deterrent method. They do have security cameras at key locations, at -- where vehicles and pedestrians can enter the facility through the security fence.

Um, they -- I'm sorry that we don't have the answer as to a 24/7 guard throughout the week. I can honestly say, I don't believe at all their locations they do have a guard on site 24/7 every day of the year.

I'm not sure of it, though, but I think the fencing is -- is -- is only meant to make it difficult. Make it difficult to get in, protect the -- the goods being shipped as best as possible. And I -- I'm sure there is many other ways to do it. I -- I believe it's up to FedEx. This is their business. I think they're known as being one of the best, if not the best, in the business at -- at what they do, and this is the method that they have employed.

There is an enormous expense in over a mile of 7 foot high security fence. I mean if they felt that it -- it wasn't worthwhile, wasn't a good way to protect their goods, I'm sure they wouldn't even put up security fence. They would put up a 4 foot high chain link fence. But it has proven effective at other facilities.

And this, according to the letter we received from Floyd Dixon, this is their standard that they use at all FedEx freight facilities, which are different than other facilities in the area.

This is -- this is a very large facility. When we met with FedEx, we asked for locations of similar facilities. There is none in this area. They were sending us down to -- there is one in North Carolina, and I think --

MR. GLEASON: Charlotte and Maryland.

MR. THORNTON: They're an up-and-coming company, and they like to do things right, and they're building a number of these new hub terminals across the country. This one is cutting edge. This is a state-of-the-art facility for them. They're very particular about how the facilities are built.

As a civil engineer, I did not have much discretion to modify their yard layout much. I mean the changes that we needed to implement on this site to make it fit the site to avoid wetlands was a struggle with FedEx because they know exactly how they operate, most efficiently. Because their job is to get the freight in, get it on another trailer and get it out. They're serving their customers.

So that's all I can say about the fence. It's what -- what they -- what has proven to be very effective for them, and is something that they -- they truly desire on all their facilities.

PAUL BLOSER: Thank you. I guess to start out with, I'm breaking this application in two, into two parts. First part being parking request.

The second part being the fence. I think they're distinctly different enough that it would warrant two separate votes.

On the parking, I'm looking at that as myself, my personal opinion, in the future, there is room to blacktop coat this and repaint lines to expand parking for other means necessary. In fact, there is no curbing being built. It wouldn't be done at much of an expense at all, could easily be -- be reconfigured to a parking standard.

Any other comments on the parking? No? The only condition of approval I would put on that would be on both applications, um, condition of approval, one, that it be subject to final site plan approvals. I do -- do not have final approval on site plan yet. This would all be contingent upon site plan approval.

MICHAEL NYHAN: Is the front of this building that faces Union Street, do they own the property all of the way to the back line of the -- the separate parcels, residential parcels along Union Street there?

PAUL BLOSER: They don't have any frontage on Union Street.

MICHAEL NYHAN: I know. In the front of the FedEx building to the backyards of that -- of the houses that do have frontage on Union Street, do you -- each of the parcels is equally divided before you get to the access road. There is a wetlands in between.

PAUL BLOSER: Right.

MICHAEL NYHAN: So that space, where the rear lot line of those parcels are, to the front of the FedEx building, is that owned by FedEx? Or could anything ever be developed in that area?

MR. GLEASON: Just -- just to be clear, are we talking about this area right here (indicating)?

MICHAEL NYHAN: Correct.

MR. GLEASON: That is currently owned by Jarvee & Associates and will be owned by SunCap for exclusive use of FedEx.

MICHAEL NYHAN: No other structures can go in that area.

MR. GLEASON: No. It is all wetland in that area. So as of now, it stands unbuildable.

MICHAEL NYHAN: Do we know what the line of sight is from the backyards of those homes to the FedEx building? Is there any barrier to prevent people from seeing the front of the FedEx building, the barbed wire fence and the parked car there?

MR. THORNTON: There is a lot of growth there through that wetland area. The whole area is mapped. There is a lot of trees in that area that we can't touch, so it is going to remain forever wild through that area. Um, I have never been able to see the -- the site from -- from -- in that area. It's pretty -- pretty well blocked.

MICHAEL NYHAN: Okay. How about the southeast corner along Paul Road, where it terminates at the railroad tracks? In -- the property owner directly to the east of the FedEx property.

MR. THORNTON: That -- it will be viewable there. FedEx has requested that the fence be placed 5 feet from the property line. We proposed a number of plantings. You can see some of the plantings that we have proposed in that area, in the dark green. Since that plan was developed, what we just submitted to the Conservation Board, we have added -- we have 200 and some plantings around the south side, and up the east side of the property, to -- to help -- to help obscure the view of the property owner to the east.

MICHAEL NYHAN: Okay. Thank you.

PAUL BLOSER: Board discussion?

ROBERT SPRINGER: Did you say there would be or would not be any drivers, FedEx drivers laying over inside the compound in their vehicles?

MR. THORNTON: None.

PAUL BLOSER: They're all day cabs.

MR. THORNTON: Right. Correct.

ROBERT SPRINGER: Thank you.

PAUL BLOSER: I just lost my train of thought. Is there any other conditions of approval any of the Board members would like to see on either portion of this?

MICHAEL NYHAN: You did say there is a final coming up at Conservation Board -- not Conservation Board.

PAUL BLOSER: Planning Board. It is subject to approvals on all those -- I know they have -- they have resubmitted to Conservation for quite extensive plantings on that east, southeast corner. I guess to add to that, you will blind that out, with that buffer -- that is more of an area for potential vandalism. This is a secluded area. In listening to the meetings at the Planning Board, um, type of freight going through the buildings, um, potential for theft, may be of very high value could be whacked under a fence.

It is a concern I would have. I wouldn't want to invite or encourage that type of traffic coming in. Or have it be known in the theft community it is an easy -- an easy target to say this is a deterrent. There is a large expanse there. In general, I'm not -- not for barbed wire. In this type of application, where it is located, I -- my personal opinion is -- is it is conducive. You know, I look at RG&E. We have it around there.

To roll a spool out and take it in for scrap, it's easy money. But it's -- but it's been a great deterrent. And it's exactly what this is, it is a deterrent. If they want to get in, they can get in.

But it's -- the nature of the business, I think it is conducive. That's my personal -- you each have to look at it in your own way. It has been used in the Town. As far as the comment made, opening the box to other things in the Town, we still look at each application individually. They stand alone.

And I think that is what we're charged with, is looking at it -- is it a fit for where it is at,

and the neighboring properties, how they're affected? So with that, I'm going to move forward on the parking portion of this.

On the parking portion of the application, Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

On the parking portion of the application, Robert Mulcahy made a motion to approve the application with the following conditions, and Michael Nyhan seconded the motion. All Board members were in favor of the motion.

DECISION ON THE PARKING PORTION OF APPLICATION #2: Unanimously approved by a vote of 7 yes with the following condition:

1. Subject to final site plan approval by the Planning Board.

The following finding of fact was cited:

1. The proposed variance will not have adverse or physical environmental effects.

PAUL BLOSER: Parking request is approved. Unanimously.

On the barbed wire fence. Again, the condition of approval on this is, it is subject to the site plan approvals.

I have not had any word passed down to me yet by the Planning Board on any feelings on it. What they're looking at is ways to better shelter it from neighboring properties.

MICHAEL NYHAN: You mean shelter the view?

PAUL BLOSER: Shelter the view. That is what the Conservation Committee is working on, to approve that plan. They said they submitted a plan with several hundred more plantings with Evergreen type so it would be more year-round coverage.

MICHAEL NYHAN: Is Mr. Boon the only other property owner that would be in this area at present? Do we know? I mean we have several property owners. Nobody else has said anything relative to this application.

PAUL BLOSER: There has been -- no, nothing.

JAMES WIESNER: People on Paul Road, they would have been notified by mail, even, I think, correct?

PAUL BLOSER: Based on the footage from the property, yes, they would.

JAMES WIESNER: So if they had concerns, they should have been duly notified to come in and seek out.

PAUL BLOSER: There were citizens, neighbors at the meetings, and there were questions about what it was going to look like. And with the input from Conservation, what they were looking to do, um, I -- I'm going to take it as a sign they're not here that they were satisfied with what was proposed. This is their venue to express that opinion. The only neighbor really that is here tonight is Mr. Boon.

JAMES WIESNER: Was -- the barbed wire was brought up at the Planning Board meeting?

PAUL BLOSER: It was part of the plan. Yes. It was presented.

On the barbed wire portion of the application, Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

On the barbed wire portion of the application, Fred Trott made a motion to approve the application with the following conditions, and Robert Mulcahy seconded the motion. All Board members were in favor of the motion.

PAUL BLOSER: The fencing is approved as proposed. You do understand it is subject to approval of -- site plan approval?

MR. GLEASON: Yes.

DECISION ON THE BARBED WIRE PORTION OF APPLICATION #2: Unanimously approved by a vote of 7 yes with the following condition:

1. Subject to final site plan approval by the Planning Board.

The following finding of fact was cited:

1. The proposed variance will not create an undesirable change in the character of the neighborhood or to nearby by properties since the surrounding areas are Industrial zoned.
3. Application of SunCap Property Group, 3419 Seward Place, Charlotte, NC28211; property owner: Jarvee Associates; for variance to erect a 5' x 11'8" double-faced freestanding monument sign to be 107 square feet (32 square feet allowed), variance for sign to be internally illuminated (externally lit required), variance for sign to be 6' high (5' allowed) at property located at 3516 Union Street in G.I. zone.

KEITH O'TOOLE: Mr. Chairman, before we get into this application, I have consulted with Code Enforcement. Under the code, a monument sign requires a report from the Architectural Advisory Committee before they can proceed, and as far as I'm aware, they have not appeared in front of that Committee, nor has a report been filed. So in effect, their application is incomplete.

The other thing I note is that their application form is actually obsolete. We shifted to a new form. In fact, they have seemed to use it for their other area variances, but just not in use of the sign. I would suggest that we table this so they can make application to the Architectural Advisory Committee and resubmit their application forms on the current forms used by the Town.

Thank you.

PAUL BLOSER: Okay. With that information, I'm going to make the recommendation that we do table this portion of the application to get input from Architectural on design.

JAMES WIESNER: What is it -- what is the -- the code says a monument sign has to go before the Architectural.

PAUL BLOSER: Architectural.

It's part of their package.

ADAM CUMMINGS: It would be a good idea to use the same form.

PAUL BLOSER: Yes.

With that, all in favor of tabling this?

The Board was unanimously in favor of tabling this application.

PAUL BLOSER: We will be tabling this until that information is complete. The Applicant and Chairman discussed the forms they used for the application.

I will make a comment on this, too, so it is a matter of record, looking at the print, where the location of that sign is, you know, Mr. Boon has a sign right by that, and my -- again, this is my thought process on this. I -- we don't like signs, number one.

And two, to have two of them right there, I would like even less. I would like your group to work with Mr. Boon to see about possibly incorporating two signs into one as a directory sign so it falls within the Town -- what we look for, a neater package. Both parties would win at that point. So one is not blocking the other from different directions. I don't want to see a lot of signs. I think this would be a great opportunity to put something together that is both kind of in harmony.

MICHAEL NYHAN: An example of that is on Chili Avenue, with the Wegmans store.

ADAM CUMMINGS: And Target.

MR. GLEASON: We talked with FedEx and they're okay with that.

PAUL BLOSER: Very good.

MR. GLEASON: We anticipated that issue, so we have drawings --

PAUL BLOSER: So I guess that is what I would submit to the Architectural. If they -- for their thoughts on that. Move forward.

MR. THORNTON: The Town doesn't have any specific codes for directory sign. Just falls in the sign code.

PAUL BLOSER: Falls in the sign code, but what I would do is make a proposal to them, talk to like Ed (Shero), and maybe they can start with -- with the code, what you're looking for, what the code allows. Anything outside of that, you would be in violation.

MR. THORNTON: Okay. Sounds good. Okay. Thank you.

DECISION: Unanimously tabled by a vote of 7 yes to table until the applicant resubmits for the following reason/finding of fact having been cited:

1. Tabled until applicant obtains the correct application form from the Building Department and has had a review and recommendation from the Architectural Advisory Committee.

The 12/21/10 minutes from December were approved as modified.

The meeting ended at 8:40 p.m.