

CHILI PLANNING BOARD
October 11, 2011

A meeting of the Chili Planning Board was held on October 11, 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 James Martin.

PRESENT: Karen Cox, David Cross, John Hellaby, John Nowicki, Theresa Reilly, Paul Wanzenried and Chairperson James Martin.

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; David Lindsay, Commissioner of Public Works/Superintendent of Highways and Building Department Representative; Keith O'Toole, Assistant Counsel for the Town; James Ignatowski, Architectural Advisory Committee Representative.

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

JAMES MARTIN: I also recognize Paul Bloser, Chairman for the Zoning Board of Appeals.

I'm going to move around a little bit here.

PUBLIC HEARINGS:

1. Application of Rikesh Kotak, 7 Colonial Parkway, Apt. 4, Pittsford, New York 14534, property owner: M/M Robert Crawford; for special use permit to convert existing single-family dwelling to a two-family dwelling at property located at 78 Names Road in RAO-20 & FPO zone.

JAMES MARTIN: I do not see Mr. Kotak in the audience. Is anybody here representing him?

Um, basically, he appeared before this Board last month. The Board essentially told him that he needed a variance from the Zoning Board of Appeals. His plan did not conform to the Town Code. That variance was unanimously denied by the Zoning Board of Appeals, which essentially nullified his application to this Board to convert that single-family dwelling to go from a two-family dwelling. So at this point in time until Mr. Kotak decides what he wants to do, this issue is no longer part of our agenda.

DECISION: At their September, 2011 meeting of the Chili Planning Board, this application was tabled pending a hearing by the Zoning Board of Appeals for a required variance for the three-bedroom level of the proposed two-family dwelling to be undersized by 150 square feet. The Zoning Board of Appeals denied the variance which effectively denied approval of this application. The application was denied without prejudice at the Planning Board's October 10, 2011 meeting.

JAMES MARTIN: At this point in time, um, we just received comments from the County regarding this particular application. It was the application of DPB Holdings LLC, owner.

3. Application of DPB Holdings LLC, owner; 1 Boon Drive, North Chili, New York 14514 for preliminary site plan approval to erect a 55' x 60' building to allow a recyclable recovery center at property located at 1 Boon Drive in G.I. zone.

JAMES MARTIN: County Comments that just came in today leads us to a point where I believe this particular application is going to have to have a more thorough review by the County of Monroe before we could move ahead with this.

Therefore, at this point in time, I would make a motion that we table this application pending review by the County and their comments back to this Board.

Do I have a second?

JOHN HELLABY: Second.

JAMES MARTIN: Motion has been made and seconded.

DECISION: Unanimously tabled by a vote of 7 yes to table. (See below for further action.)

2. Application of Tome Stojanov, 98 Mercury Drive, Rochester, New York 14624, property owner: Getty NY Leasing; for preliminary site plan approval for a change of use in portion of building to allow a dine-in/take-out restaurant (formerly liquor store) at

property located at 3774 Chili Avenue in G.B. zone.

Tome Stojanov, Peter Stojanov and Dimitri Stojanov and Richard Coia were present to represent the application.

MR. COIA: Good evening, ladies and gentlemen. My name is Richard Coia. I'm an attorney at 1411 Chili Avenue Rochester, New York 14624. I'm representing the applicant, Mr. Tome, who is to my left; son, Peter; and son, Dimitri. It will be a family type operation. Would you like to hear a little bit from me, or ask questions?

JOHN HELLABY: Did you get a copy you could put on there, a floor plan?

JAMES MARTIN: I ascertained from the letter of intent that essentially it's a small restaurant operation, sandwiches, fast food, that type of operation. You do plan to have -- I believe it is down -- your scaled drawing, you're down to six tables interior.

MR. COIA: 6 tables with 24 seats.

JAMES MARTIN: 6 tables with 24 seats.

What do you plan your hours of operation to be?

Please name, and we'll go from there.

MR. DIMITRI STOJANOV: The -- the hours of operation will be the same, like it says in the letter of intent from I think -- during the week we have.

MR. COIA: For the record, this is Dimitri.

JAMES MARTIN: I want it on the record. That is why I am asking the question.

MR. DIMITRI STOJANOV: Monday to Thursday, 11 a.m. to 12 a.m.; Friday, 11:00 a.m. to 3 a.m.; and Sunday, 11 a.m. to 11 p.m.

JAMES MARTIN: Thank you.

What type of food are you planning to serve in the restaurant?

MR. DIMITRI STOJANOV: It's going to be fast food, burger plates, popular garbage plate, French Fries, wraps, clubs, salads.

JAMES MARTIN: Okay. Are you currently in the restaurant business? Do you own other operations around, or is this your first attempt?

MR. DIMITRI STOJANOV: This is our first attempt, yes.

RICHARD COIA: I understand we have an experienced cook in the family, right?

MR. PETER STOJANOV: For the record, I'm Peter, son of my dad, Tome. I have been in the restaurant business for 12 years cooking, doing all of the paperwork and ordering for other restaurants. Just wanted to take the chance to do something of our own.

MR. COIA: So they have not formerly operated their own restaurant, but have experience in the business.

JAMES MARTIN: Okay. Thank you.

I know there was a letter from you, Mr. Coia, regarding the parking situation on the property. Um, and based on my familiarity with the operation over there, I would essentially agree that, you know, the Arrow Mart is probably not a grocery store, more like a retail store. It has just more merchandise in it than just groceries, so I would say that the code application of -- for the Arrow Mart is in line with retail store as opposed to grocery store from calculation of the parking requirement.

Given that, I would think that, um, the parking spaces on the property are -- are adequate to handle the Arrow Mart business, the pizzeria business and your proposed business. It is never more than three or four, five cars at the Arrow Mart at any given time I have gone by there, and that's multiple times, so I feel comfortable about the parking situation. I will let the other members of the Board chime in.

One thing that -- I was looking in your application since we have to do a SEQR determination on this, I don't have a Short Form Environmental Assessment.

MR. COIA: I was not aware of that. I did not put in the application myself.

JAMES MARTIN: Well, for site plan we have to have SEQR approval on this.

MR. COIA: We can certainly submit that.

JAMES MARTIN: I would appreciate it so I can go through it and put it into the record.

MR. COIA: And are -- I would assume that would go to your next meeting then.

Would that go to your next meeting then, or is it something we can complete this evening?

JAMES MARTIN: Based on the fact that the building is in existence, um, I don't think there is a parking issue. It is essentially interior changes to the structure, so for the building itself, um -- I don't know of anything right now that would forego going ahead with the SEQR -- where is our attorney?

JOHN HELLABY: Still out in the hall.

JAMES MARTIN: Um, at this point in time, I would not be adverse to going ahead and giving the SEQR determination tonight so we can vote on this, but I do need that form formally filled out.

MR. COIA: If we could have a short break, after the questioning is complete, we could certainly do that.

JAMES MARTIN: Can you get a form and do it?

MR. COIA: Um -- I don't have one with me. I don't know -- does the Chair have one?

JAMES MARTIN: No, not a blank one, I'm sorry.

MR. COIA: Okay.

JAMES MARTIN: I don't really have any problem going ahead and making the SEQR determination based on what we know about the project at this point in time, so. Okay. I'm

done.

PAUL WANZENRIED: Have you -- you haven't submitted any plans to the building officials yet, correct?

MR. COIA: No. We need the Planning Board approval, and actually what is going to happen is the space will probably be totally renovated, gutted and renovated, and, of course, they will have to be in compliance with all of the building codes. You would have a hood in there, ANSUL system and so on. It has to comply with the fire codes, the Fire Marshal and the Building Department. We can't really go forward with that process, so we would have to spend a lot of money on that process until it meets Planning Board approval.

PAUL WANZENRIED: You're showing me a counter on this floor plan and then there is -- it looks to be like a 6 foot, 2 foot and then a refrigerator that runs north and south here. What is that counter and that refrigerator? Is that a vending machine? Is it self-serve?

MR. COIA: The 8 foot counter you're referring to?

PAUL WANZENRIED: Correct. The 8 foot counter. It looks like a refrigerator on the end of it.

MR. COIA: If you look at the next page, which is sort of a cutaway view, that is a -- it's a self-serve soda cooler where you have your bottles.

PAUL WANZENRIED: Okay. The working table, is that -- will there be a window, visibility through that?

MR. DIMITRI STOJANOV: No. It will be a solid wall.

PAUL WANZENRIED: Solid wall?

MR. DIMITRI STOJANOV: Yes.

PAUL WANZENRIED: Somebody will always be manning that counter then?

MR. PETER STOJANOV: Yes. We always be working in the front.

PAUL WANZENRIED: Always somebody there?

MR. PETER STOJANOV: Yes.

PAUL WANZENRIED: From a security standpoint, if you're all in the back --

MR. PETER STOJANOV: That -- there is an opening so that is why we can see, while we're cooking.

PAUL WANZENRIED: That's all of the questions I have right now.

KAREN COX: How much -- I don't know if you can answer this or not. About what percentage would be -- would we figure business will be take-out versus sit-down?

MR. DIMITRI STOJANOV: Well, if we try to compete with other businesses who have -- other restaurants who have the same type of businesses, I got to say probably 80 percent would be take-out, 20 percent sit-down.

You know, this is -- this is typical fast food restaurant when you just come, order, pick up and go. Similar to down the road like Wimpy's or maybe Nick Tahou's. It's this type of business, where you come in and leave, you know.

KAREN COX: And do -- does -- I'm not as familiar with how late Wimpy's is open.

Do they have similar hours?

MR. PETER STOJANOV: Yes. The weekends they're open until 4:00, and then during the week until 1:00.

KAREN COX: Okay. They get a lot of business that time of night on weekends.

MR. DIMITRI STOJANOV: To be honest with you, most of the business they get at that time, because when -- usually when the bars close, people want to eat, and it's full, always packed. Around 1:30 'til 3:00, you know, it's packed.

KAREN COX: That's kind of what I figured. I guess, I mean Arrow Mart is open 24 hours. I know Byrne Dairy is open 24 hours, same thing. The only -- I guess, the concern I would have is what you do for security at that time of night. You know, because if the bar is closed, there are going to be people there who may have had a few too many. I don't know what kind of record a place like Wimpy's has as far as police calls that time of night, but what would you -- what would be your -- I guess your security measures on weekends to avoid problems?

MR. DIMITRI STOJANOV: Well, if it comes to that, we really haven't thought of any security, hiring any security. It's same like everywhere else. We're the only security, pretty much for the restaurant. And hopefully -- I mean, we haven't had a problem. If we have a problem, it is the police pretty much. We would count on it, you know.

But to hire somebody, we haven't really planned anything to hire. I haven't heard. Wimpy's is a personal friend, a guy who owned it, he never really have any reason to hire anybody just to sit there. It is not that kind of area, especially North Chili. Maybe if we opened something in the downtown, I would consider having, you know, personal security, but we -- we haven't thought of that. We think it is not necessary at this point.

KAREN COX: Okay. That was all I had, Jim (Martin).

JOHN HELLABY: Additional lighting outside?

MR. COIA: There -- the parking -- I viewed it myself today, and Dimitri (Stojanov) viewed it, as well. The lighting out front is pretty good with that Arrow Mart there. There is some side building lighting, so, you know, I think it's adequate. I'm -- I'm not sure what the Building Department would think. I'm certainly not a lighting expert.

JOHN HELLABY: Physical changes to the building are the addition of your sign?

MR. COIA: Just the sign being replaced.

JOHN HELLABY: And already there for the liquor store.

MR. COIA: Basically the same footprint.

JOHN HELLABY: Who is doing renovation work inside? Is that something you have to

contract out?

MR. DIMITRI STOJANOV: We have that in the lease, he does part of it, we do the rest of it, you know. We kind of get to agreement what he needs to do and what we are going to do.

JOHN HELLABY: You still have to work those details out?

MR. DIMITRI STOJANOV: What was it?

MR. PETER STOJANOV: No. We're all set with those details.

MR. COIA: Landlord is not renovating.

MR. DIMITRI STOJANOV: Some of it.

MR. COIA: He gives a box and then you put the equipment?

MR. DIMITRI STOJANOV: Well, it is like replacing the ceiling, cleaning it right now because whatever is left over from the liquor store. But when it comes to walls, counters, if that is what you mean, that is all going to be by us. Like the hood and everything will be -- our expenses.

MR. COIA: We generally refer to like a vanilla box. They give you the ceiling and walls and you put your equipment and fixtures in.

JAMES MARTIN: I know you're not the leasing agent, but we have had I don't know how many changes of uses in that cluster of buildings over there. This issue comes up every time. There is an in and out, all right, to that parking lot, all right? And the most western entrance, the road cut, closest to Union Street has been designated exit only enumerable times and it is a safety issue.

People coming down around the corner from Union Street, all of a sudden, you run into a traffic jam there, people trying to make that quick turn, all right, into that entrance.

And they have put signs up. Signs get knocked down. People don't pay any attention to them. We keep trying. What I would like you to do is have a conversation with a leasing agent and see if there isn't some way that that could be reinforced, that that road cut is exit only from that parking lot. We have been very fortunate, there has only been a few accidents there over the last many years, but it is always a potential. And so I would like to see something along the lines of better signage, something, arrows pointing one way coming out of there, whatever, that hopefully would at least alert people that they're doing something stupid if they do try to go in there.

MR. COIA: I would be happy to write that responsibility and write a letter to the landlord indicating the Board's request and copy the Chairman in.

JAMES MARTIN: I would appreciate that.

JOHN NOWICKI: Deliveries, front, back?

MR. PETER STOJANOV: Back.

JOHN NOWICKI: Back?

MR. PETER STOJANOV: Yes. There is an actual alley that goes --

JOHN NOWICKI: In the back. I'm all set.

JAMES MARTIN: You do have a grill inside, right? I believe it shows on the plan.

MR. PETER STOJANOV: Yes.

JAMES MARTIN: Where is that going to be vented?

MR. DIMITRI STOJANOV: Well, we talked to the Monroe Extinguisher, the big agency who installs the exhaust. Everything has to be -- the grill, the fryers have to be under the hood. So the exhaust would be ventilation for the grill, you know.

MR. COIA: Up or out the side wall?

MR. DIMITRI STOJANOV: Up. On the roof.

JAMES MARTIN: Do we have any rooftop equipment associated with this operation, or will it all be internal to the building?

MR. COIA: As far as I can tell, it is all internal except for the air-conditioning units.

JAMES MARTIN: So you're not installing any rooftop equipment per se?

MR. PETER STOJANOV: No.

DAVID CROSS: Just a comment. The -- the Friday and Saturday night hours of operation, 3 o'clock in the morning is -- it seems pretty late to me. You have got a lot -- granted you're in a General Business zone, but you have Neighborhood Business across the street and primarily residential surrounding the area. So I guess, again, my -- that is probably my biggest concern.

MR. COIA: Well, Mr. Cross, you know, as the Chairman indicated, a lot of businesses come and go out of that plaza. Um, we certainly want to try to make a business viable especially when you put a lot of money into it.

And all I could say is that you -- as we have talked about, you have a new Byrne Dairy that is open 24 hours. You have the Arrow Mart. I think there is a lot more activity. I don't -- I don't think you're going to see that type of problem. I know at Nick Tahou's on Lyell Avenue, you don't hear of any violence or arrests. It is a small operation. 24 seats. And how often do you get four people at a table? So you might have two people at a table. So I don't think it is the kind of place where there is going to be loitering, so to speak. I don't know if that helps for you, or not, but -- and certainly, they don't want any problems.

DAVID CROSS: Yeah. You take care of the problem before it becomes a problem.

MR. PETER STOJANOV: Yes.

MR. COIA: We just give you our assurances, but you have to try to make it viable at least.

DAVID CROSS: Understood.

THERESA REILLY: Didn't see a dumpster indicated here. Will there be an additional dumpster necessary?

MR. COIA: No. The owner has a dumpster, I believe, the west end of the property in the rear that is all fenced in already. He has given permission to share that dumpster.

THERESA REILLY: My other concern is I am pretty familiar with that property. That side parking lot where you're going to have some additional spillover, how is that -- while it appears to be lit and you're walking through, how is that for safety and security sake at 2 or 3 in the morning? I know there is a lot of trees there. I know that it is not easily visible from the street, so with that in mind, is there a potential for you to try to look at that and find a solution that doesn't shed a lot of light on the neighbors but still offers security for that slightly secluded area?

MR. COIA: I really don't know. I mean, I did see lighting there. Again, I don't --

THERESA REILLY: Around the building.

MR. COIA: To the east side of the building, there is a rather large exterior light.

THERESA REILLY: On the building?

MR. COIA: On the building.

THERESA REILLY: As you get out into the parking lot where the trees are not visible from the street, that would be my concern, is that with those hours of operation, making sure that that is very clearly lit.

MR. COIA: Um, probably the only thing you could do there is maybe another light at the other end.

THERESA REILLY: Probably a directional one or something. Again, in consideration of the neighbors right there on Creekview.

MR. COIA: Actually, that is a good idea. They have a -- rather large halogen lights that could be attached to the building. It is a round type of light and perhaps replace it with a halogen that shines out over the whole parking lot. I don't see that is a problem.

THERESA REILLY: With the consideration of the neighborhood that is right there.

MR. COIA: I think the lot next door is vacant. I don't think there is a house very close, but it would certainly be aimed not to go in anybody's house. If that was a condition, we could certainly meet that.

JAMES MARTIN: Well, certainly any lighting changes that -- again, the leasing agent would be responsible for, right, at this point needs to be dark sky compliant with our code. And I agree with Miss REILLY. I think that parking lot is kind of removed, all right, from the front of the building and the activity that goes in the front of the building. For security reasons, again, it might be in your letter suggesting to the leasing agent that they look into security lighting on the easternmost parking area of the property just to be sure that that is covered and that if they do decide to make some changes, that it be dark sky compliant.

RICHARD COIA: I will do that.

JAMES MARTIN: Thank you.

PAUL WANZENRIED: Did you look at any other sites in Chili, or was this your first choice?

MR. COIA: He did look at the new plaza across the street that I'm aware of, and it is just at this point prohibitive to try to start up a business and actually make a profit.

KAREN COX: In other words, they're asking more rent than the place you're looking at?

MR. COIA: Substantially. I mean ten years down the road, their rent would probably still be more than what he would -- today than what we would be paying then.

KAREN COX: That's kind of what I figured.

JAMES MARTIN: I will it make a condition of approval that signage on the building needs to be reviewed by the Architectural Advisory Committee in the Town just to get their stamp of approval on the proposed sign. So that is a requirement in our code that that be reviewed by them.

MR. COIA: Certainly.

JAMES MARTIN: When is your next potential meeting, Mr. Ignatowski?

JAMES IGNATOWSKI: Next potential meeting for us is November -- or October 19th, excuse me. Submission deadline. October 26 being is the meeting.

JAMES MARTIN: October 26th.

JAMES IGNATOWSKI: Yes.

MR. COIA: That is the actual meeting.

JAMES IGNATOWSKI: Actual meeting. Submission deadline is October 19th.

MR. COIA: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: My husband and I own considerable acreage close to this site, so we certainly have a vested interest in what happens in West Chili. We have a considerable amount of frontage as it is, and we clean up trash, unbelievable amounts of trash now from Wendy's, McDonald's. I think they buy their food, and by the time they get out past the last of the residential areas, they got to open the window and they toss. We're tired of it.

When I heard that 80 percent of this business from this restaurant was predicted to be take-out, I wonder who's going to clean our roads, who is going to clean our property? These people can't control what leaves their property. When they sell the food, that's all they care, it's gone. But it is a big problem for those of us who have to clean it up. I don't think the Town is going to come up and clean our road sides. I would like it if they would, but I'm not going to

hold my breath. They're not going to. We don't want more take-out trash.

Not only do they throw it out the windows, but many of them go up on Chili Avenue Extension, sit at the top of the hill, face east, enjoy the view, eat what they brought with them, open the -- open the door and drop everything. We clean the top of that hill at least monthly, sometimes weekly. And when I say "we clean," I mean we take trash barrels up there, big full-sized barrels and we can fill two at a time. This is no small problem. We don't want more trash.

I would like to see that store filled, that store front at West Chili. I don't like to see empty real estate. It doesn't do anything for the Town. But I'm not in favor of another take-out business.

I'm wondering if the dumpster that they mentioned is adequate. I doesn't look like it would be big enough for three businesses, especially two that cater to food interests.

Um, as far as security goes, Arrow Mart store has been robbed. It's been in the D & C. They have had armed robberies down there. So we're not talking, you know, some minor thing here. Especially when you're going to be open -- the -- until three in the morning. We have had armed robberies on that corner, at least one, maybe two.

Um, I think -- I'm not sure the applicant is familiar with Chili signs, the sign ordinance. We do not tolerate A frames, and they should know that. They will not be allowed signage other than the one on the top of the building. They have got to know that. No A frames. No sandwich boards, none of that stuff out front.

The whole plaza needs a clean-up, which I think this Board recognizes. The landscape is weedy. If it gets cleaned once a year, we're lucky. Right now, the shrubbery that was planted on the berm along the road, which is supposed to be low and to the ground, it reaches the utility lines. Has anybody seen that? It actually touches the wires. The overhead wires. It is supposed to be ground, low to the ground. Ground cover. Bushes. Nothing gets trimmed. Nothing gets taken care of there. It is a disaster as far as landscaping goes.

The signs that Mr. Martin mentioned are all broken off, run over. They're broken as fast as they're put up. The whole plaza needs a tune-up. It is run down. It's not a credit to West Chili. And I'm wondering if this application for a company that -- a business that I see is going to be called Chili Hots is something that this Board would want to see in Chili Center. If you don't want it in Chili Center, if it isn't good enough for there, if it isn't good enough for next to this Town Hall, it is not good enough for West Chili.

I would love to see a business in there, but I don't think this is the one. Not for the Town, no, not for its future and certainly not for the residents that live around it.

JAMES MARTIN: Thank you. Other comments?

James Martin made a motion to close the Public Hearing portion of this application, and John Hellaby seconded the motion. The Board unanimously approved the motion.

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

JAMES MARTIN: Good public service opportunity for you. Adopt the highway. Have you ever heard of that program?

MR. COIA: I have seen the signs.

JAMES MARTIN: Maybe you could do some civic work and police the road or something like that every few weeks, from Union Street to Chili Avenue Extension.

As far as the comments about the Mazda itself, I don't disagree with Miss Borgus. It's not in good shape, but you're not the leasing agent. You don't have very much control over the appearance of the plaza.

KAREN COX: How can we get that message back to the plaza owner?

PAUL WANZENRIED: Building Department.

JAMES MARTIN: Any suggestions, Mr. Lindsay, on how we can facilitate clean up and better operation, appearance of that plaza?

DAVID LINDSAY: The Building Department can draft a letter and address it to the plaza owner expressing the concerns of the Planning Board, as well as the Building Department, about the conditions of the plaza. Start there.

JAMES MARTIN: Okay. I think that would be appropriate. Thank you.

Anything else? I make a motion.

James Martin 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 an unlisted action with no significant environmental impact, and the Board all voted yes on the motion.

JAMES MARTIN: As far as the application itself, I have picked up some items here that I feel are conditions of approval if this were to go forward. Applicant to comply with all required approvals, permits and code requirements. The signage shall be reviewed by the Architectural Advisory Committee. And the Building Department is to verify the adequacy of the dumpster on site.

David (Lindsay), I want that reviewed.

DAVID LINDSAY: Okay.

JAMES MARTIN: Anything else?

JOHN NOWICKI: I have to agree with Dorothy (Borgus), because I have the same

situation on Chili Avenue with the Wendy's and McDonald's and all that stuff. But I don't know how you can get humans to grow up and act decently. I have no idea.

JAMES MARTIN: I have no idea.

THERESA REILLY: Actually -- are there even outside trash cans outside the building? I can't think of any.

MR. COIA: I don't believe so, but we can put some out there.

JAMES MARTIN: There used to be one by the Arrow Mart front entrance. I don't know if it is still there.

MR. COIA: I think for our operation, we would maintain a garbage bin, trash receptacle if you want to make it part of the approval.

KAREN COX: That would be appreciated. I don't know if it is --

JAMES MARTIN: You know --

KAREN COX: It won't alleviate the issue of people driving up and littering, but it -- you know.

JAMES MARTIN: It will help.

KAREN COX: Like we were saying, you can't make people grow up.

JAMES MARTIN: So those are three conditions.

DECISION: Unanimously approved, by a vote of 7 yes, the above described application with the following conditions:

1. Applicant to comply with all required approvals, permits, and code requirements.
2. Building Department shall verify the adequacy of the dumpster on site for the current and proposed businesses.
3. The applicant's attorney agreed to write a letter to the leasing agent requesting improved marking of the western most access point indicating that it is an exit-only driveway.

Note: Final site plan approval has been waived by the Planning Board.

MR. COIA: Thank you, ladies and gentlemen. Have a good evening.

JAMES MARTIN: Welcome to Chili. I hope your business is a booming success and consider this civic project of cleaning roads.

JOHN NOWICKI: Can I ask one more question? Do you have hot sauce?

MR. DIMITRI STOJANOV: Oh, yeah. (Laughter).

MR. COIA: Thank you. Good night.

JAMES MARTIN: We'll take a five minute recess here.

There was a recess in the meeting.

JAMES MARTIN: On the application for DPB Holdings, which we had already tabled, at this point in time, I am going to reopen this, all right, for additional input at this point from Mr. Thornton, I believe.

Application Number 3 was reopened.

Glen Thornton and Daniel Boon were present to represent the application.

MR. THORNTON: We appreciate you opening it up again for us. You have -- we have been very nervous tonight here, and there are some changes they're -- we're proposing in our application because of some comments from the County, which we have not yet seen. I guess you have just received them today, so we do need to address those comments. We feel that we can easily respond to the comments and we can address each one satisfactorily so that our proposed recycling recovery enclosure, usage of the temporary structure can move forward. We understand that probably that portion of it can't happen, though, until we respond to the -- to the County on their comments about the use of the facility.

So at this time, we're proposing to amend the application to just build the structure for storage of equipment and materials used in Mr. Boon's business. So we're -- so we're removing the proposed use of the building from the proposal, so now we are proposing to construct a -- or erect a temporary enclosure for storage of equipment and materials. We do propose in the future, we think we'll be back in front of the Board with an amended proposal for what you have in front of you, the recyclable recovery enclosure. But at this time, since there are some questions that have been raised, um, by the County and we're -- we haven't had time to respond to them, we -- we would like to move forward with the structure itself because winter is coming and we would like to get it erected during decent weather.

So at this point in time we're proposing to erect a fabric roof covered enclosure that would be -- the roof structure would be placed upon the 2 by 2 by 6 or 8 foot long precast concrete stackable block units. Very similar to a salt storage barn that many of the DPWs have in the area. Mr. Boon has two similar enclosures on the property up in this area (indicating), and he is using

those for salt storage for his -- his snowplowing and pavement maintenance program in the winter months.

Um, but the structure will be 55 feet by 60 feet long. It would meet the appropriate setbacks, as -- as we believe they would be. The building, the new rear setback to the property is from the new Boon Drive that is being constructed now, and the -- the back of the temporary enclosure would align with the existing metal building that is on the site currently. In fact, it would be in the same footprint where the -- there was -- there used to be an old metal building that Mr. Boon demolished a few years back at that same location. We need it placed in the rear because the rest of the operations at the facility, the doorways, into the -- the existing metal building are over on this side (indicating) of the building, so there is a lot of movement through this area (indicating).

Currently this area is being used for storage of equipment. That would move out of that area or into the building. I think it would probably improve aesthetics of the -- of the rear of the property. There currently is a landscaped tree-lined berm through that area for screening along that property line.

So again as I said, it would be no closer to the building than that property line. It would be situated on the footprint of the building that was there before Mr. Boon demolished it, and I think it will improve the appearance of the site quite a bit from -- if any, views from the south. Now you will see a structure instead of a lot of materials and equipment in a -- in a storage yard.

The lighting, it will be minimal. Just a few lights inside the building. It would be served by electric only, no water.

Again, it is temporary in nature. It can be taken down, moved to another site very easily. But the goal is to get it constructed as soon as possible before the -- before the bad weather sets in.

JAMES MARTIN: Okay. Anything else?

MR. THORNTON: I probably forgot a few things. I was all prepared for the other proposal. This one is too simple.

PAUL WANZENRIED: How big is the existing salt storage enclosure? You said it was similar to this one.

MR. DANIEL BOON: There is two of them, Paul (Wanzenried). We have two enclosures there now that are -- they're -- I believe they're 20 by 24. There are two of them.

PAUL WANZENRIED: You said this was fabric?

MR. DANIEL BOON: Same fabric. Same fabric as the other two. It's a earth-toned, um -- it's a cover you see on salt barns or whatever. That is what it is. A clear span. That is exactly what it is, a clear span building.

THERESA REILLY: I won't be looking at this gleaming white dome?

MR. DANIEL BOON: No. That is why I went with earth tone, to fit in with all of the rest of the buildings.

MR. THORNTON: More this color (indicating).

PAUL WANZENRIED: I believe you said the equipment, the existing equipment would be either moved into the building, this temporary structure, or moved somewhere else on the property.

MR. THORNTON: Correct?

PAUL WANZENRIED: Any idea where else it would go in?

MR. THORNTON: Well, we have to -- we have to keep this area here (indicating) clear for access into the building. I think most of the equipment right now, Dan (Boon), would probably end up inside the structure.

MR. DANIEL BOON: Inside the structure. There is 35 feet between the fence and the side of the structure. Mostly what is back there, Paul (Wanzenried), is loaders. They're all gone in the wintertime. You know. Summertime storage. The rest of that back there is our landscaping operation. Basically it's pickup trucks with trailers hooked to them. They come in at night, unload. That is why we need that access in and out of that center building we have.

PAUL WANZENRIED: And you said it will be interior lit?

MR. DANIEL BOON: Yes. Minimal. Just a couple lights in case we have to go in there at night. We don't work at night. And certainly not that we needed anything -- we have a light in each one of the salt barns now, same thing, so if we need to see at night in there for some reason, you don't get hurt.

KAREN COX: So the masonry storage building is not big enough for all of your equipment that you -- that you currently own?

MR. DANIEL BOON: The -- the -- the center building?

KAREN COX: Yes.

MR. DANIEL BOON: No. We can't get everything in. That building is stored with landscaping equipment and I can go -- toters that we use on the refuse end of the business, you know, things like that. We put a lot of our small tractors and stuff in there that we use, like at RIT in the wintertime, so we're always shuffling by the seasons of what we need to use. We move them in and move them out. But basically we're using the center building, both buildings.

KAREN COX: Right. That was all I had.

JOHN HELLABY: Um, I understand Mr. Boon's concern about getting this thing moved forward, but I also have another concern. This Board made a motion to table this application pending County's review and there were several people in the audience that I know for a fact were here to either hear the application and speak either in favor or against it. They're no longer here. I think we're going to have some repercussions because of this. That's all.

JAMES MARTIN: Yes. I think that the taking out the recyclable recovery part of this application, um, probably was one of the major reasons that these people were here. I don't disagree that -- that we are hearing something different than what we had original planned on hearing at this point.

Certainly you're going to have to come back, all right, for approval of the other particular part of this application at which time we'll have -- have another Public Hearing and they will have an opportunity to address that issue. I hope that is a satisfactory answer at this point.

THERESA REILLY: Just a quick question. Is there any reason that this is temporary other than from a cost standpoint?

MR. DANIEL BOON: It's -- well, they're just very -- no. It's a cost and very, you know, they're useful buildings if you don't need to heat or any other -- it's just a cover all, just exactly what it is. Just a clear span cover all to keep the weather off.

THERESA REILLY: Not meant to be temporary.

MR. DANIEL BOON: There's no footers or anything. That building can be taken down and moved anywhere and set back up. It is basically a pretty, you know -- there are no footers. There is no permanency to it.

THERESA REILLY: So your usage of it is not predicted to be temporary, just the construction?

MR. DANIEL BOON: No. We can move it. Yes. We're going to leave it there. It will -- the cover all fabric on that is a 15-, 20-year fabric, so that building can stand there for many years and be fine. It's warranted for 15 years, just the fabric on it alone.

PAUL WANZENRIED: How tall is this building?

MR. DANIEL BOON: Building will be -- what is it, about 28 feet high, Glen (Thornton)?

MR. THORNTON: Yes.

PAUL WANZENRIED: To the center.

MR. DANIEL BOON: To the center.

JAMES MARTIN: It's under our code.

PAUL WANZENRIED: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

NORM REYNOLDS, 1366 Paul Road

MR. REYNOLDS: Norm Reynolds, Paul Road, 1366.

I guess I walked in a touch late. One quick question. You want a temporary facility to store equipment and then later it will be replaced by a recyclable center; is that the point right now?

JAMES MARTIN: At this point, we're discussing allowing Mr. Boon to erect a temporary building. The other portion of the application is going to have to be reviewed by the County of Monroe with the applicant to determine whether or not that portion can actually go ahead. We don't have any control over that tonight.

All we're -- all we're looking at is his ability to erect a temporary structure for equipment storage on the facility.

MR. REYNOLDS: But that is going in place of the storage -- or the recyclable -- temporarily? What happens if you get approved for the recyclable? What are you going to do for storage of equipment? I mean --

MR. DANIEL BOON: It's outside now.

MR. REYNOLDS: I know. But now you want a temporary storage to cover it. So if you're going to want a recyclable center down the road, then you're going to want something to store your equipment in. Why make it one package or both?

I don't -- I think your comments about other people being here isn't fair for what you're talking about.

JAMES MARTIN: Thank you.

MR. DANIEL BOON: I will just speak. I mean, I guess I -- I have to put it out there just so it is -- it's -- there is no permit required to put this building up. You know. It's a -- by the Town or anybody, to my knowledge, anybody. I mean, I come in front of the Board to -- to even -- in courtesy to ask to put it up. My other buildings that are there now are not permitted buildings. They're temporary buildings.

MR. REYNOLDS: You're saying what you are asking for right now, you don't need permission?

MR. DANIEL BOON: I don't want to say it that way. I'm just saying that we're trying to, you know... thank you.

JOHN BURAKOWSKI, 1357 Paul Road

MR. BURAKOWSKI: John Burakowski, 1357 Paul Road.

So the application in front of the Board is for a recycling area and he does not need a permit to make this building that we're now talking about?

JAMES MARTIN: The application before the Board right now, basically they have withdrawn the recycling recovery portion of that application. That has been withdrawn. That is not on the issue, not on the table tonight in front of this Board. So just as --

MR. BURAKOWSKI: So just as a courtesy he is putting together a temporary structure and he is informing us of that?

JAMES MARTIN: Basically it is a site plan modification. Mr. Boon wants to put up a

temporary structure on his property and that is what we'll be dealing with tonight.

The other portion has been withdrawn and --

MR. BURAKOWSKI: So his comments that a permit is not required does not include the site plan review that still needs to be done?

JAMES MARTIN: When the application was originally submitted before the withdrawal of the recycling recovery portion, yes, it would have required this Board to take some action.

MR. BURAKOWSKI: Okay.

JAMES MARTIN: With the removal of that portion of the application, we're only dealing with a temporary structure on the property at this point in time. So I believe -- David (Lindsay), you can confirm that, temporary structure on the property would not require a building permit?

DAVID LINDSAY: That's correct. A temporary structure does not require the issuance of a building permit.

MR. BURAKOWSKI: Does the Town have a description what a temporary structure is? Is a 15- or 20-year building a temporary structure?

DAVID LINDSAY: I can't recite it for verbatim, but I think it is defined in New York State Building Code and we did look at that when we made this determination.

MR. BURAKOWSKI: And I agree that the rest of the people who were told by you this was not going to be heard tonight really need to be included in this discussion.

JAMES MARTIN: As I said earlier, um, were this to come back before the Board with the recycling recovery, it will be a Public Hearing, at which time we will hear, you know, anything that these people have to say. I do apologize for the fact that, you know, we had tabled it earlier. That was the original plan, but it was modified and we reopened it at least to address the structure itself.

MR. BURAKOWSKI: Thank you.

JAMES MARTIN: Thank you.

James Martin made a motion to close the Public Hearing portion of this application, and John Nowicki seconded the motion. The Board unanimously approved the motion.

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

JAMES MARTIN: At this point we're dealing with the amended application. The recycling recovery center has been removed from the application. We're only talking about a new temporary structure on the site itself.

And at this point in time, just for the record, I will do a SEQR review.

James Martin 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 an unlisted action with no significant environmental impact, and the Board all voted yes on the motion.

PAUL WANZENRIED: On the building.

KAREN COX: Why are we going through this if it is a temporary?

JAMES MARTIN: Because we have an amended application to erect the structure. I just assume for the record, go ahead and move forward with it.

THERESA REILLY: Does -- judged on the statements that have been made, does he need the approval?

PAUL WANZENRIED: No.

JAMES MARTIN: Doesn't need a building permit to put it up, but it is a --

DAVID LINDSAY: It requires site plan approval but not a building permit for the structure.

JAMES MARTIN: Right. It's a site plan approval.

KAREN COX: All right.

JAMES MARTIN: Modified site plan approval.

PAUL WANZENRIED: Thanks.

JAMES MARTIN: For the structure.

DECISION: Due to comments the Planning Board received from Monroe County Department of Planning and Development just prior to the October 10, 2011 public hearing, the above-described application was amended and the recyclable recovery center portion was withdrawn by the applicant. The Board approved, by a vote of 6 yes to 1 no (John Hellaby) the modified site plan showing the location of the proposed 55' x 60' structure.

Note: Final site plan approval on the modified application has been waived by the Planning Board.

JAMES MARTIN: Okay. Expect to be back when you resolve your issues with the County.

MR. DANIEL BOON: Thank you.

INFORMAL:

1. Midlakes Development, 758 South Avenue, Rochester, New York 14604 for revised

approval for setbacks on corner lots in the Greenwood Townhomes Subdivision at 741 Paul Road granted under Section 278 of Town Law.

Jess Sudol, Jack Howitt and Matt Sinacola were present to represent the application.

MR. SUDOL: Good evening. My name is Jess Sudol with Passero Associates at 100 Liberty Pole Way, Rochester, New York 14604. Also with me here this evening is Mr. Jack Howitt from Midlakes Development, the owner; and Matt Sinacola, who is also from our office.

I wanted to make a clarification. Not necessarily a clarification, but on the agenda it says, "for revised setback."

I feel as though it implies we changed something from our original approval. If you remember, we went through several months of approval and review for this project a little over a year ago and really got it shrunked down to the point where everyone was comfortable with it and it was ultimately approved.

Since that project was approved, we have undertaken a fill permit. We have begun construction. There is also foundation in the ground right now for the front portion of the development. And we have not revised the building locations whatsoever from when this Board last saw that plan and since it was last approved.

What we did find out as we were going through the building permit process, was a little, um -- I don't necessarily even know the best way to describe it other than I guess we can call it an error and we can take the blame for that or the credit for that, but basically the question is -- I don't know if everyone can see that plan, but the plans you have in front of you, we started these lots, although it looks like an apartment development.

They're actually on their own individual lot within a greater area that is owned by the Homeowners' Association. And these lots are just a little cookie cutter square that go around the unit so that they can -- they are fee simple and some day they could be put up for sale. Although, it is the intention of Midlakes to currently rent all of them for the foreseeable future.

When we put all these boxes on the units, there were some areas where the unit or the building actually has frontage on one of the roads, and then on one of the side roads, there is a second frontage. Well, when you do traditional single-family type development, the way the code is written, that could be considered two front setbacks and that is not something we considered when we were putting these little blocks over our units, so what we had was a situation where we were showing on our subdivision map a 10 foot setback to this property line, which is kind of out there floating because they're all just little blocks in this overall development area, which -- but they didn't have the 30 feet that was required by, um -- I say code, but actually the setbacks were established as part of the project because it's a cluster application or 278, Town Law 278 application which gave this Board the authority to modify those buildings setbacks and locations and things like that as they saw fit.

So what we're here tonight for is to kind of just show you what the situation is and just ask for basically the Board to agree that, you know, the plan still is as they approved it and they are, in fact, comfortable with it.

There are two buildings, when we started to get into this little issue, we took an even closer look at. What we found are Buildings 2 and 7, which are these two right here (indicating), (inaudible), they actually are 30 feet from the building closest to them and the required building separation or minimum allowable building separation is 25 feet.

So we actually have some room to move those buildings 5 feet to the north, which would create some more separation from the side of our units and the edge of the pavement and the sidewalk that runs through there. So we actually do intend on doing that. I wanted to let the Board know that this evening. We are going to move those two buildings further away from the road.

But when you look at the rest of the development area, we feel that we have maintained an adequate separation from the edge of pavement on our sides. We're simply asking the Board to, you know, authorize us under the 278 application to proceed, you know, with the plan as approved, aside from that minor alteration to Buildings 2 and 7 where we'll be moving them approximately 5 feet to the north.

JOHN NOWICKI: Everything all stays the same. Just those two buildings --

MR. SUDOL: Right.

JAMES MARTIN: So for clarification purposes, um, just for the record, I will go back. Under the 278 cluster application, um, the parcel boundary setbacks: Front, 25; rear, 25; side, 25. Individual lot setbacks: Front 25; side, 10; and then building separation was 25 for the minimum.

So essentially what we're ending up with on some of these lots is a setback or -- a rear -- I'm sorry, a front setback on a corner lot which would be less than the 25 feet that was specified under 278.

MR. SUDOL: More or less, yes.

JAMES MARTIN: I think you have provided diagrams for the buildings that were specifically in play in your letter -- on Buildings 2, 7, 8, 9, 14, 16, 17, 19, 34 and 36. Essentially, in your review of the entire site plan, are those the only buildings that this particular request applies to?

MR. SUDOL: Yes, it is. Only buildings which have that duel frontage situation.

JAMES MARTIN: Okay. So there aren't any others that have not been identified at this point?

MR. SUDOL: That's correct.

JAMES MARTIN: Um, the Community Center, is that --

MR. SUDOL: That's not on its own lot. It would hopefully be owned by the Homeowners' Association.

JAMES MARTIN: A couple of questions.

I think you're working on this, but we have some roads that do not have identification that I -- that eyebrow, private road. And a private drive off Mulcahy (phonetic) which goes to Buildings 17, 8 and 19. What is the status of getting those roads named at this point?

MR. SUDOL: We submitted a list of roads that would cover us for the whole project to 911, and they approved three of them but denied the other three because they were used somewhere else in the County. So we're resubmitting a new list of roads to try to get those next three approved. We did take the three that were approved and applied to them what we call Phase 1A, which are the lots being developed right now and the road developed now. So there is no issue with emergency response if it doesn't happen quickly, but we are pursuing that and hoping to wrap that up as soon as possible.

JAMES MARTIN: By moving Buildings 2 and 7, you know, 5 feet to the north, what -- what are you going to have in separation between the road and the side of the building? Did you measure that?

MR. SUDOL: We'll have about 20 feet. Right now there is around 15, from the back of the gutter to the actual foundation walls. That will be about 20.

JAMES MARTIN: Now, once again, I mean, you know, you have a lot of structures on the property over there.

When you get done, I don't want another Kings Crossing on our hands, okay, as a reference to the -- you know, the development in Town that I'm not particular happy with or proud of, I guess, from that standpoint.

PAUL WANZENRIED: I don't have any questions.

KAREN COX: If you move Buildings 2 and 7, 5 feet to the north, then what is the separation going to be between the corner of Buildings 6 and 7?

MR. SUDOL: About 25 feet, almost exactly.

KAREN COX: What is it now?

MR. SUDOL: 30.

KAREN COX: Okay.

JOHN NOWICKI: I'm just curious, the construction under way, advertisement out on this, inquiries from people?

MR. HOWARD: Lots.

JOHN NOWICKI: Figured it would be. Thank you.

DAVID CROSS: I like the idea of moving Buildings 2 and 7, 5 feet north. Right now they're, I don't know, 3, 4, maybe 5 feet off the side -- off the edge of the sidewalk.

MR. SUDOL: Tight.

DAVID CROSS: It's kind of tight. I think it does work moving it as far as north as possible. Then I would also ask -- like to ask the Town Engineer if -- if you have reviewed the sight distances, sight triangles, that sort of thing to make sure appropriate sight lines are there? Particularly for the -- for Lots 2 and 7. Or maybe a condition that at revised layout, we do that, that it is approved by Town Engineering.

MIKE HANSCOM: I haven't reviewed them.

JAMES MARTIN: You want this reviewed --

DAVID CROSS: The sight triangle.

MR. SUDOL: It has already been approved by the Town Engineer, the drawing.

DAVID CROSS: Sounds like.

MR. SUDOL: We're just improving the sight by moving it back.

JAMES MARTIN: I will just say the revised -- revised, you know --

DAVID CROSS: Revised layout reviewed by Town Engineer.

JAMES MARTIN: To be reviewed by the Town Engineer. Okay.

MR. SUDOL: Can I -- would it be okay if I brought up for discussion that comment and that condition? And the reason I say that is because we're looking to pull buildings permits on these buildings relatively quickly, and I'm not nervous, but when we have to go through another process of reviewing it with the Town Engineer, you know, that is going to impact our schedule and what we were -- in reality, we're making a situation better by moving it -- we have a plan that was already approved by the Town Engineer. We're making the actual sight lines better by moving those buildings to the north.

So I am not sure that I agree that we necessarily need to have a -- an additional Town Engineer review.

KEITH O'TOOLE: Mr. Chairman, this -- the Town never approved the size of the buildings on this project. We approved the lots. We approved the street layout. The reason they're having this problem is they're putting bigger buildings on smaller lots. If you put little buildings on little lots, you don't have these problems. So it is not inappropriate for the Town Engineer to have this review. We typically have the Town Engineer review plan after plan, month after month, year after year, so it is really not inconsistent.

MR. SUDOL: One point of clarification, the building sizes have not changed at all since the first day we were here.

KEITH O'TOOLE: You can say that all day long, but this Town did not approve any building sizes. All we saw were some elevations of pretty, you know, siding and that was about

it. I do not have a plan before us signed by any Town official that shows the size of buildings located on certain specific lots that show setbacks from front, side, rear, none of that. All we did were approve the lots. There was another plan that showed conceptual drawings of buildings, but they're not laid out on top of lots, so I don't see how we could possibly figure out looking at that what the setbacks would be.

Nothing further.

MR. SUDOL: I understand what Mr. O'Toole is saying, but we don't have a plan which shows the actual lots and the buildings, which is the issue here, but we have an approved subdivision plan that has the lots, and then you flip the page with approved site plan buildings. If you superimpose those two, they line up, and again, the lots and the buildings haven't changed.

JAMES MARTIN: I would think that Mr. Hanscom could review these revised layouts very quickly once he has it in his hands, right?

MIKE HANSCOM: Sure.

JAMES MARTIN: Shouldn't take more than a few days if you have the drawing.

MIKE HANSCOM: Yes. I should be able to review it within the next two days.

JAMES MARTIN: All right. It will happen very quickly. I'm going to keep this condition in. I agree with Mr. O'Toole.

MR. SUDOL: Okay.

JAMES MARTIN: Anything else? I jotted down a few things. Basically, per the application, the setback modifications apply only to those lots and buildings specified. Those are Buildings 2, 7, 8, 9, 14, 16, 17, 19, 34 and 36. And that should be all inclusive. Any additional setback modification as identified by the applicant or the Town are subject to approval by this Board. So hopefully there aren't any more. If there are, they're subject to approval.

MR. SUDOL: Okay. I do not believe there would be any more.

JAMES MARTIN: Okay. I want that understood. And revised layouts to be reviewed by the Town Engineer.

An approval of the modifications to the setback from the original approved under the 278 cluster? I believe that was back in April of 2010, if I remember.

MR. SUDOL: Sounds close.

JAMES MARTIN: I went back and looked at my applications. It was in April 2010.

On approving the modifications to the setback?

DECISION: Unanimously approved, by a vote of 7 yes, the above described application with the following conditions:

1. Per the application, these set back modifications apply to only those lots/buildings specified. Those are buildings #2, 7, 8, 9, 14, 16, 17, 19, 34, and 36.
2. Any additional setback modifications identified by the applicant or the Town are subject to approval by this Board.
3. The applicant shall supply a revised layout for all buildings identified in the letter from Passero Associates dated September 20, 2011. The revised layout shall be reviewed and approved by the Town Engineer.

The meeting ended at 8:16 p.m.