

CHILI ZONING BOARD OF APPEALS

November 28, 2006

A meeting of the Chili Zoning Board of Appeals was held on November 28, 2006 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 Beverly Griebel.

PRESENT: George Brinkwart, Michael Martin, Dan Melville, Jeffery Perkins, Richard Perry, Peter Widener and Chairperson Beverly Griebel.

ALSO PRESENT: Dennis Scibetta, Building & Code Compliance Inspector; Keith O'Toole, Assistant Counsel for the Town; Jeron Rogers, Director of Planning & Engineering.

Councilman Schulmerich, Zoning Board liaison, was also in attendance.

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

BEVERLY GRIEBEL: Before we begin, we'll discuss signs. Application 1 was held over because failure to post. The sign wasn't posted again. According to a letter received at the Building Department, apparently this applicant is not interested in this request any more. I think just to be on the safe side, we'll ask for a denial without prejudice on this.

MICHAEL MARTIN: I will move that.

PETER WIDENER: Second.

The Board was unanimously in favor of the motion to deny Application 1 without prejudice.

BEVERLY GRIEBEL: For the benefit of the office, when it is denial without prejudice, it would mean that the applicant can reapply again at any time. If it is denied with prejudice, they have to wait a year unless there is some substantial change in the application. So that one is denied.

Number 2, Five Star Equipment?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 3, David Baliva?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 4, David Loveridge?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 5, Michael Koban?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Six, Frank Pignatelli?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Seven, William Viviani?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Eight, James Sanagorski?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Nine, Joyce Burgess?

DAN MELVILLE: It was there.

MICHAEL MARTIN: Good.

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Ten, Kevin Klein?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: 11, Frank Lentine.

MICHAEL MARTIN: No problem.

The Board indicated they would hear the application.

BEVERLY GRIEBEL: That's a record, isn't it?

RICHARD PERRY: Almost.

BEVERLY GRIEBEL: Like I said, the first one was not interested any more, so that is pretty good. Applicants have done a good job tonight.

1. Application of Stacey Wawrzyniec, owner; 30 Bolton Trail, North Chili, New York 14514 for renewal of conditional use permit to allow an office in home for a consulting business at property located at 30 Bolton Trail in PRD zone.

DECISION: Unanimously denied by a vote of 7 yes to deny without prejudice for the following reasons/findings of fact having been cited:

1. Denied without prejudice.
 2. Applicant failed to post the required public hearing notice sign two times.
 3. Applicant also stated in a letter she was no longer interested in the home office.
2. Application of Five Star Equipment, 60 Paul Road, Rochester, New York 14624, property owner: GGBDS Realty; for variance to erect an 8'7" x 11'6 1/2" double-faced freestanding sign to be 29'10" high (20' allowed) at property located at 60 Paul Road in G.I. & FPO zone.

Norm Reynolds was present to represent the application.

MR. REYNOLDS: Norm Reynolds for Five Star.

BEVERLY GRIEBEL: Again.

MR. REYNOLDS: Yes. We were just in.

BEVERLY GRIEBEL: Apparently, according to your application, they sent you a different sign that --

MR. REYNOLDS: Right.

BEVERLY GRIEBEL: -- that you weren't aware of?

MR. REYNOLDS: Right. That was an interesting phone call, but someone made a decision that we needed a higher sign.

BEVERLY GRIEBEL: Now, this is larger than what we approved?

MR. REYNOLDS: It's higher. It is 10 feet higher.

BEVERLY GRIEBEL: 10 feet higher.

MR. REYNOLDS: Yep.

BEVERLY GRIEBEL: But the size is the same?

MR. REYNOLDS: No. The square footage has increased because of the height.

RICHARD PERRY: By how much?

MR. REYNOLDS: You know, I don't have that. I could figure --

RICHARD PERRY: That needs to be a part of the application.

BEVERLY GRIEBEL: Dennis (Scibetta), do you have that information what we approved just recently a month or two together?

MR. REYNOLDS: It was approved --

BEVERLY GRIEBEL: So what they ship you is the whole sign, the part with the lettering on it, and then the uprights?

MR. REYNOLDS: Right.

BEVERLY GRIEBEL: That is like a package that they send?

MR. REYNOLDS: Right.

BEVERLY GRIEBEL: So they sent you taller uprights?

MR. REYNOLDS: I'm assuming so. The footers are the same. It's just taller and thereby the square footage of the actual signage that you charged for us increased because it is higher in its perimeter.

RICHARD PERRY: Who installed the sign?

MR. REYNOLDS: Clinton Signs.

RICHARD PERRY: Now, it would seem to me that somebody should have recognized that that was a lot bigger and -- before putting it up.

MR. REYNOLDS: No, not really. Not really, because the unfortunate thing is Deere is changing their signs country wide, as a thing. As a dealer, we pay a portion of it. The same as On Trac. When they sent the sign in, it's not until the sign -- a couple weeks before the sign is shipped that they send the footer drawings to the installer. He doesn't know. He is just going by the footer drawings that it is going up.

RICHARD PERRY: It must have struck somebody that --

MR. REYNOLDS: It didn't strike us until it was going up. And then you're looking at it and saying something is not right here, and then it is up.

DAN MELVILLE: The installer would have no idea what you were approved for.

MR. REYNOLDS: No, no.

BEVERLY GRIEBEL: The installer is not part of your company?

MR. REYNOLDS: No. He is hired by the sign company that contracts with Deere. They sent the spec in that we presented to you. After it goes up, I called and say, "What is wrong here? We are 10 foot higher?" Then they said, "Well -- when did we send this to you?" I had to go back through my e-mails and said such-and-such a person at Deere said it was going to be a 30-foot sign. There are different choices.

RICHARD PERRY: But the sign company, it should be their responsibility --

MR. REYNOLDS: No. I -- I disagree with you. They're going by a drawing they get a week before the sign is coming in to put the footers in.

BEVERLY GRIEBEL: They don't know what was approved.

MR. REYNOLDS: They don't know what was approved.

DENNIS SCIBETTA: Approximately 23.8 feet larger from the last, to the new.

MR. REYNOLDS: On the surface?

DENNIS SCIBETTA: Yes.

RICHARD PERRY: That should be a part of the application.

GEORGE BRINKWART: Per side or total?

DENNIS SCIBETTA: Total.

BEVERLY GRIEBEL: Well, the application is just to amend the variance granted on 9/21.

RICHARD PERRY: For height. Not for size of the sign.

BEVERLY GRIEBEL: Well, to be 11 feet 6 and a ½ inches by --

MR. REYNOLDS: Yes. It gives --

RICHARD PERRY: But there is no reference to how much additional over what is allowed.

DAN MELVILLE: No, but he does have the size on there --

RICHARD PERRY: Still doesn't meet -- forget it.

BEVERLY GRIEBEL: What were the dimensions of the sign that we approved, Dennis (Scibetta)?

PETER WIDENER: 64 some -- total sign is on the first one, 64 square foot.

DENNIS SCIBETTA: 64.4 square feet.

PETER WIDENER: The new -- total signage, square footage from the ground up is 92.8.

BEVERLY GRIEBEL: So what you have is the large twin-pole pylon.

MR. REYNOLDS: Right.

BEVERLY GRIEBEL: What we approved was the medium one?

MR. REYNOLDS: Right.

BEVERLY GRIEBEL: By this time, the other sign was torn down and --

MR. REYNOLDS: Right. It had to be torn down to put the new one up.

BEVERLY GRIEBEL: And probably not of use to put back up.

MR. REYNOLDS: No. That's gone.

BEVERLY GRIEBEL: It's long gone.

MR. REYNOLDS: You know, the bottom line is, you tell us no, you want to go back to the medium. It's your choice. One way or another, Deere is paying for it. We aren't.

MICHAEL MARTIN: It may have been an honest mistake on our part, but it kind of smacks us in the face.

MR. REYNOLDS: I absolutely agree. It is ridiculous. I don't know if anyone has seen it since it has been up. It is a gorgeous sign.

BEVERLY GRIEBEL: I probably would not have noticed it going by that this is bigger than what we approved.

MR. REYNOLDS: I agree. Someone said don't even -- I said, "We can't do that." We have to send a picture in with it and --

BEVERLY GRIEBEL: About both of these, one thing that is good is that this was 20 feet off the ground, so it helps the line of sight. You don't have the big sign on the ground, with the writing on it. So you have just the two poles going up.

MR. REYNOLDS: My personal opinion is that if this was in -- in an area like On Trac was, with more housing and so forth, but being on the end of the airport, where we are, there is nothing there. There is nothing across the street. There is nothing there.

BEVERLY GRIEBEL: The overall that we approved -- okay, it was 20 feet. And the top sign portion was 9 feet, 4 inches, so you had about 10 feet of space. So that doesn't interfere with line of sight or traffic hitting it?

MR. REYNOLDS: No. Because the footer goes -- the footer closest to the road is where our original sign was and that goes back to the property.

BEVERLY GRIEBEL: And it is clear space between those two pylons?

MR. REYNOLDS: Yes.

BEVERLY GRIEBEL: So now it is --

MR. REYNOLDS: Which doesn't inhibit the traffic at all.

BEVERLY GRIEBEL: 29 overall. 7 feet, 10 inches of clear space between the pylons on the new sign. And it is a general industrial area.

Well, any other questions from the Board?

RICHARD PERRY: I guess all of the incoming and outgoing airplanes can see the sign.

MR. REYNOLDS: I don't know if you received it, but it was on my desk this morning, because I only work part-time. There was approval from the airport. That I -- this was addressed to you. They just sent me a copy of it.

BEVERLY GRIEBEL: I guess that is County Comments, Dennis (Scibetta)? I didn't get any County Comments?

DAN MELVILLE: Yes. I didn't get any either.

MICHAEL MARTIN: Just need a red light on top?
(Laughter.)

DENNIS SCIBETTA: Maybe it helps keep the birds away or something.

BEVERLY GRIEBEL: Did you get County Comments on it?

DENNIS SCIBETTA: No.

BEVERLY GRIEBEL: The applicant is the only one. That wouldn't have been sent into the County, would it? It is a State road, County road?

MR. REYNOLDS: This is from the Department of Planning and Development. Do you want to look at this?

DAN MELVILLE: He has one over there.

BEVERLY GRIEBEL: Did you get it?

DENNIS SCIBETTA: No, I did not receive it.

MR. REYNOLDS: This is dated November 20th.

BEVERLY GRIEBEL: Site is located within the Greater Rochester International Airport Review area. Application has been reviewed for airport considerations and has been granted airport approval. If you have questions, et cetera. So it's certainly not going to be in the way of any incoming or outgoing planes.

MR. REYNOLDS: The picture I took of it, it is underneath the wires.

BEVERLY GRIEBEL: The trees are taller probably.

GEORGE BRINKWART: Is that for the previous application?

MR. REYNOLDS: Assume because it was dated November 20th, it was for this one.

GEORGE BRINKWART: How would they have known that --

MICHAEL MARTIN: Because this was submitted to -- for the agenda --

BEVERLY GRIEBEL: The secretary sends -- that is why we have a month before the meeting, when applications are due, because it can take a while to turnaround at Monroe County Planning. I didn't get anything from Monroe County Planning on anything at this time.

DENNIS SCIBETTA: I didn't see any of them. They usually come in on Tuesday days, before the meeting, but I -- there is none with the package.

BEVERLY GRIEBEL: Sometimes they're in a week or two ahead. When we get these ten days before --

DENNIS SCIBETTA: They get put right with the stuff. There wasn't any in the packages.

RICHARD PERRY: My only question would be, what did Deere say when you said, "Hey, this is not what we got approval for"?

MR. REYNOLDS: The person had to call me back, because the person that makes these signs for Deere was unaware of it. He called me back and said that -- a week and a half after we submitted our application that a person at Deere made a decision that we needed a 30-foot sign for whatever reason. I don't know. I said, "That's fine. Well, then you tell them any repercussions that come from this, you are paying for it."

That is the bottom line. You tell us to replace the sign, they're paying for it.

RICHARD PERRY: All right. So Deere didn't seem to care what this Board said? They decided to do whatever they wanted to do?

MR. REYNOLDS: I don't like -- I'm not necessarily comfortable with the way you phrased that. I think -- I don't know why they made that decision. I don't -- I don't know what the --

RICHARD PERRY: Somewhere along the lines the communications broke down.

MR. REYNOLDS: Absolutely. Out there.

RICHARD PERRY: If it was approved at one size --

MR. REYNOLDS: I agree.

RICHARD PERRY: -- that had to have been transmitted to Deere at some point, did it not?

MR. REYNOLDS: Before it was approved, and it was ordered, Deere changed it. The sign -- the sign was --

RICHARD PERRY: With no thought of whether that would be in conflict with the Town's best interest? Okay.

BEVERLY GRIEBEL: This was approved by this Board, with -- when the sign was approved, it was at that point that you ordered it?

MR. REYNOLDS: No. It was ordered previous, because we had a schedule to meet for some visitors from Deere that were coming in, assuming we would be approved. Someone at Deere changed it in the interim.

MICHAEL MARTIN: So the medium size was ordered prior to the first meeting?

MR. REYNOLDS: Yes.

JEFFREY PERKINS: When the medium size was ordered, what was being put on the drawings?

MR. REYNOLDS: What was --

JEFFREY PERKINS: You mentioned drawings. Somebody got drawings. The installer got drawings.

MR. REYNOLDS: Prior to the sign actually coming in, then they send the installer the footer drawings so he can put the footers in.

JEFFREY PERKINS: So the footer drawings were based on what?

MR. REYNOLDS: I assume the medium sign.

JEFFREY PERKINS: So is there a chance that you have a larger sign, which is the equivalent of a square foot of a piece of plywood, larger on footers that were designed for the medium sign?

MR. REYNOLDS: Say that again.

JEFFREY PERKINS: Is there a chance now, you have this larger sign, which is almost the equivalent in additional square footage and area up on the sign as a sheet of plywood, okay, about the same size differential, is this thing standing on footers that were designed for the medium size --

MR. REYNOLDS: No.

JEFFREY PERKINS: Do you know that?

MR. REYNOLDS: Do I personally know that, no. I don't know that. But I know whatever footers were sent was for the sign that is up there. I don't know that the footers have to be -- if you tell us no, that they have to be all dug out and rechanged. I don't know.

BEVERLY GRIEBEL: They would be closer together for the smaller sign.

MR. REYNOLDS: I would assume that.

MICHAEL MARTIN: Based on the drawings, it is 5 foot 5 on the medium and 6 foot 9 on the large or something close to that. So there is definitely a different width between your footer base.

DENNIS SCIBETTA: The footer base is the same height, though, if you look at it.

BEVERLY GRIEBEL: But there is a part that goes in the ground, and that would be further apart on the larger sign.

MR. REYNOLDS: I would assume so.

JEFFREY PERKINS: Would it be larger in volume to anchor the sign, would be my point.

BEVERLY GRIEBEL: So somebody just decided to send up a different size, thinking, well, small is good, but we need it bigger, we need more advertising.

MICHAEL MARTIN: On Trac, we limited their size request.

BEVERLY GRIEBEL: But it wasn't due to this, a change in sign. They just wanted it bigger. They wanted it higher.

MICHAEL MARTIN: They got that one done.

BEVERLY GRIEBEL: That was a couple years back.

MICHAEL MARTIN: I just want to make sure that you won't be held responsible for replacing this sign if --

MR. REYNOLDS: No. I was not happy with it.

MICHAEL MARTIN: You have gone about everything the proper way, coming here and doing everything properly, and then this happens, and you're still the one that has to come back here and face us.

MR. REYNOLDS: Right.

BEVERLY GRIEBEL: This sign, a medium twin-pole pylon sign that you requested is bigger than the one that was up there before?

MR. REYNOLDS: It was a foot shorter, approximately a foot shorter, and the previous sign was a single pole sign with the expansion that went out towards the road. So it actually went out over the swale along the road. But again, the footer for that post is where the footer nearest to the road on the double post goes.

BEVERLY GRIEBEL: So the present sign is further back from the road?

MR. REYNOLDS: Yes.

BEVERLY GRIEBEL: But you had to get the new sign because the dealer was changing their logo –

MR. REYNOLDS: Deere & Company is changing their logo country wide, so all of the dealers are going through this.

BEVERLY GRIEBEL: So the overall size of your message on the sign, is that bigger now than it was before?

MR. REYNOLDS: Yes.

BEVERLY GRIEBEL: What you requested, is it bigger than your original one?

MR. REYNOLDS: Well, the original one was just a square John Deere sign that goes out. This one has their logo. It is just like On Trac's. So was there more square footage than the medium sign than the one that was up there? I don't know. Probably a little, but not much.

BEVERLY GRIEBEL: So it was fairly close in size?

MR. REYNOLDS: Whole different conception of a sign.

DENNIS SCIBETTA: Did the address get put on the sign?

MR. REYNOLDS: I did not put the address on the sign, because figuring you don't approve it, why put it on?

DENNIS SCIBETTA: Just checking.

MR. REYNOLDS: I will put it on if you approve it.

In fact, a question about that. On Trac's sign just has their street number on the sign. That is all you require?

BEVERLY GRIEBEL: Yes. So if people are looking for something else along the way --

MR. REYNOLDS: No, I totally agree with that. Ours would show up better than theirs, black on green, too.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I distinctly remember when On Trac was in, and they wanted a bigger, higher sign. It sounds to me like this is something John Deere is just going for. I have seen some John Deere signs around that are absolutely huge, tall, big. I guess their attitude is the bigger the better.

I agree with Mr. Perry. It sounds like they didn't give a hoot what this Board thought or you decided. If they had the nerve to go ahead and get a sign ordered and prepared before they ever got the first approval, it shows how much disdain they have for zoning boards. I can't help but wonder how many zoning boards around the country are getting the same treatment you're getting, which is utter disrespect. If this man doesn't have to pay for the sign, he has done everything right, I think it would be a wonderful case in point to have this sign taken down and the proper one put back. Enough is enough is enough. Where is this going to stop? This company thinks, especially small towns, and I am sure they think we are a small town, don't have any rights. That is why we have a zoning law. That is why you sit up there. And if I were you, I would make this one stick. Thank you.

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

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

Michael Martin made a motion to deny the application with the following findings of fact, and Jeffery Perkins seconded the motion. The Board voted 6 yes to 1 no (Dan Melville) in favor of the motion to deny.

DECISION: Denied by a vote of 6 yes to 1 no (Dan Melville) for the following reasons/findings of fact having been cited:

1. This application for larger size sign is denied. Applicant to remove present larger size sign and install size approved on 9/29/06.

2. Applicant to produce documentation to the Town Engineer to indicate that the present footers are adequate to the size of the present sign so as to alleviate any safety concerns during the waiting period for the replacement sign.
3. If the document is not produced within ten days (Dec. 8th) or if the footers are inadequate for the present load, the sign is to be removed immediately.
4. Deadline for the installation of the new sign: 2 months maximum (Jan. 28, 2007).

Note: Street number to be on final sign post. Sign permit is required before final sign is erected.

3. Application of David Baliva, owner; 520 Chestnut Ridge Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for catalog sales of firearms at property located at 520 Chestnut Ridge Road in R-1-20 zone.

David Baliva was present to represent the application.

MR. BALIVA: Just to let the Board know, I have no signs erected anywhere. (Laughter.)

BEVERLY GRIEBEL: Okay. And you do catalogue sale of firearms. Some of us were talking just before the meeting. This was, I guess, part of the Brady Bill that you had to get approval from the Towns to do this out of your home? Is that how --

MR. BALIVA: No. I was never part of the Brady Bill. When I moved to the city, because I was in the city -- I have been doing this -- this is my 25th year. I never had a problem in the city with selling out of the house, but when I moved to Chili, someone notified me that I had to go before the Board and get approval from the Board, and this was back in 1995, and that was before the Brady Bill. I was also told you would entertain a longer period of time.

BEVERLY GRIEBEL: Well, sometimes we do. This was last approved November of '01, and I guess before that it was five years.

MR. BALIVA: No. This was five years. Before that it was one year.

BEVERLY GRIEBEL: This was approved in '01. It was granted for a period of five years. These were the conditions: No on-premises advertising; no on-street parking pertaining to the business; the hours of operation as per the application; no outside employees; applicant to maintain required federal, State and local licenses; security system to be centrally monitored and maintained; and gun safe to be maintained.

Still have the security system?

MR. BALIVA: Yes. ADT.

BEVERLY GRIEBEL: And the gun safe?

MR. BALIVA: Two. Well, three.

BEVERLY GRIEBEL: This is for catalogue sales. These sales are made to friends and family and --

MR. BALIVA: Friends and family. Basically now. With all of the Brady Bills and all of the high impact, Gander Mountain, Dick's, they have a sale, I can't -- I can't even buy the gun for what Dick's is selling it for, so I'm more of a custom person, do a lot of long range, pistol shooting, and that is basically the custom equipment that I am working with right now.

BEVERLY GRIEBEL: I know in the past people have said that they also sell -- they're usually a member of a gun club, a shooting club --

MR. BALIVA: Four Points, Rochester Brooks, yes.

BEVERLY GRIEBEL: You just don't have people ring your doorbell and --

MR. BALIVA: No. Everything is by appointment. My wife --

BEVERLY GRIEBEL: That is kind of for the benefit of the audience, because sometimes people

wonder what is going on and they get a little nervous.

MR. BALIVA: I don't blame them.

BEVERLY GRIEBEL: And also the inspectors can come by at any time?

MR. BALIVA: The inspectors do. I get inspected by the ATF. They send the State Police down and the ATF inspector. They inspect all my books. They make sure the alarm is in place, and they make sure all my records are kept, you know.

BEVERLY GRIEBEL: So they just drop in?

MR. BALIVA: Oh, yes.

BEVERLY GRIEBEL: Once a year?

MR. BALIVA: Once -- well, it depends on the renewal dates. Once every five years, once every three years, depending how often they do it.

BEVERLY GRIEBEL: They can come any time?

MR. BALIVA: Yes. They make an appointment. We have to appear with them and lay out all of the books and records. It is very difficult now, being the Easy Check and E-Checks. It used to be a little easier before. I used to be able to sell to people with a New York State pistol permit any kind of a gun. And now you have to go through Easy Check with any person selling any gun. So it is a lot more difficult now, and sales are a lot lower, because I just don't -- I don't advertise. I don't get into that too much.

PETER WIDENER: I had a question about outside employees. There are still no outside employees? Just you?

MR. BALIVA: No. Just me.

PETER WIDENER: Thank you.

RICHARD PERRY: To ask Dennis (Scibetta), any complaints?

DENNIS SCIBETTA: Never a peep.

RICHARD PERRY: All of the other conditions that were stated before are the same --

MR. BALIVA: All in place. One thing I would like to check, though, the other people said that there was gun smithing there. Do I have to have that on there? It has been that way for 25 years, and I just didn't put it on there because I didn't think it was necessary.

BEVERLY GRIEBEL: Now, that means you repair guns?

MR. BALIVA: Well, yes, when I take a gun in, I will put a scope on it, mount the scope on it with the screws and that's part of gun smithing, I guess.

JEFFREY PERKINS: Part of sales? Customer sales?

MR. BALIVA: Yes. I didn't know if it needed to be on the application or not. I never had it on there. But I see the other people have it on there.

BEVERLY GRIEBEL: Counsel, any opinion on that?

KEITH O'TOOLE: Full disclosure.

BEVERLY GRIEBEL: Does that need to be on the application that he is doing that?

KEITH O'TOOLE: It is the Board's call, but ultimately, you're given a permit for the activity that occurs on the premises. So to the extent you leave out any activity, presumably it is not permitted.

JEFFREY PERKINS: Do you do any repairs outside of -- I mean any smithing outside of the sales, per se?

MR. BALIVA: No.

JEFFREY PERKINS: If somebody buys a gun and you add a scope, you're selling it?

MR. BALIVA: Yes. If somebody says, "Dave, can you clean my gun," I go through and clean it with oil and cloth, and that's -- I mean there is no gun building or any of that stuff going on. I mean a lot -- when you say "gunsmith," you think about the guy on the lathe with -- building the barrels. There is none of that stuff. I don't have any kind of equipment like that. It is just the menial, put -- a guy orders a gun and a scope, I will put it on there for him. I just didn't know if it had to be on the application.

KEITH O'TOOLE: Just to clarify, if he is doing the work, it should be disclosed. If he is not, it doesn't have to be disclosed because there is nothing to disclose.

BEVERLY GRIEBEL: Okay. So now could we add this on, or does it need to be readvertised?

KEITH O'TOOLE: No.

BEVERLY GRIEBEL: So we could add another condition, gun smithing activity allowed?

RICHARD PERRY: Incidental to the sale. Sales and maintenance.

BEVERLY GRIEBEL: Incidental to sales and gun maintenance.

Now, the other question that sometimes comes up in the audience. Catalogue sales, would you order items for people and then they would be delivered by UPS; is that correct?

MR. BALIVA: UPS or FedEx or whatever.

BEVERLY GRIEBEL: One of the delivery places.

MR. BALIVA: Right.

BEVERLY GRIEBEL: And they will only get released to an adult?

MR. BALIVA: Right. They will have me sign for it.

BEVERLY GRIEBEL: Just the addressee, or any adult in the home?

MR. BALIVA: No addressee. What happens is when they try to send a gun to me and I'm not home to accept it, they bring it to UPS on Lehigh Station. I go over and pick it up, show my ID and I pick it up there.

BEVERLY GRIEBEL: That is not one thing they leave between the doors.

MR. BALIVA: No, not a good idea.

Then if there is no one there to sign for it, how do they have proof that you accepted it and it didn't walk. So it protects both of us.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Michael Martin made a motion to approve the application with the following conditions, and Peter Widener seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to maintain required federal, state and local licenses.
7. Security system to be centrally monitored and maintained.
8. Gun safe to be maintained.
9. Gun smithing activity allowed as incidental to sales and gun maintenance.

The following findings of fact were cited:

1. Customary Home Occupation.
2. No change in the character of the neighborhood.

4. Application of David Loveridge, owner; 15 Adela Circle, Rochester, New York 14624 for renewal of conditional use permit to allow a 30' high amateur radio tower at property located at 15 Adela Circle in R-1-15 zone.

David Loveridge was present to represent the application.

BEVERLY GRIEBEL: This was approved in January of '01, and you're still using the equipment and everything?

MR. LOVERIDGE: Everything is fine, yep. No problem.

BEVERLY GRIEBEL: Any complaints on this?

DENNIS SCIBETTA: None that I'm aware of.

BEVERLY GRIEBEL: I think if there were, you would be aware.

One of the conditions was applicant to correct neighborhood interference with radio, so I guess there hasn't been any. You haven't heard anything from your neighbors?

MR. LOVERIDGE: No.

BEVERLY GRIEBEL: That's good.

DAN MELVILLE: No question on the tower, but in our last approval -- it is supposed to be 30 feet high, but findings of fact says tower to be only 26 feet tall will not be intrusive. So I just happened to notice that.

MR. LOVERIDGE: It goes up a little bit, but it's not a big deal.

MICHAEL MARTIN: 30 feet?

MR. LOVERIDGE: Yeah.

DAN MELVILLE: Just make sure that we correct that.

BEVERLY GRIEBEL: I will change that to 30. It doesn't move?

MR. LOVERIDGE: Just a little bit. Not much.

BEVERLY GRIEBEL: One gentleman has one that he cranks up quite a bit when he uses it.

MR. LOVERIDGE: Well, it's hard because of a lot of the wind. The wind --

BEVERLY GRIEBEL: I don't know how we got the 26 feet there.

DAN MELVILLE: It is funny, it was not caught.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Granted for a period of 5 (five) years.
2. Applicant to correct any neighborhood interference due to the ham radio transmission.

The following findings of fact were cited:

1. Tower will not change the character of the neighborhood.
2. Tower, being only 30' tall, will not be intrusive.

5. Application of Michael Koban, owner; 7 Hilltop Drive, North Chili, New York 14514

for renewal of conditional use permit to allow an office in home for catalog sales of firearms and gun smithing at property located at 7 Hilltop Drive in R-1-15 zone.

Michael Koban was present to represent the application.

MR. KOBAN: Good evening, how are you doing tonight?

BEVERLY GRIEBEL: Good. How about you?

MR. KOBAN: I'm doing great.

BEVERLY GRIEBEL: This was approved in November of '05.

MR. KOBAN: Yes. I had two five-year conditions and one year. So it has been around for a little bit.

BEVERLY GRIEBEL: I think I will add the same thing about the gun smithing as –

JEFFREY PERKINS: Already there.

MR. KOBAN: I have it on my application. If you review my folder, I have turned in -- I actually do have a New York State gun smithing license along with my dealer license. That gentleman replaced, you know, just scopes and gun cleaning, which I do the same thing, but I actually replace broken and worn parts. So I have my -- my federal license and my State license coincide with that.

DAN MELVILLE: It was advertised that way.

MR. KOBAN: Mine actually has -- for the federal license there is actually just gun dealer. You check another box for the gun smithing. Same thing with when you have a dealer license in New York, you put another check and you have gun smithing.

BEVERLY GRIEBEL: Okay. Now, all these things, they come and visit you?

MR. KOBAN: They come at any time they would like to show up. If there is any question of any nature, there -- and they have the legal right to come knock on the door at 3 o'clock in the morning if --

BEVERLY GRIEBEL: If they so desire.

MR. KOBAN: Yes.

BEVERLY GRIEBEL: To check out all your books and make sure all of that is right?

MR. KOBAN: Yes.

BEVERLY GRIEBEL: You have the same thing with delivery and UPS?

MR. KOBAN: UPS by adult signature only. UPS, FedEx Ground and the postal service. People don't know about the postal service, but the postal service also. You have to sign for it.

BEVERLY GRIEBEL: So they all have the same restrictions. I know sometimes neighbors -- I know when this all came about five, six, seven years, people were asking this and that about what happens. I have kids in the neighborhood and all of this. But it is done very safely. You have the security system.

MR. KOBAN: Correct. Security system, appropriate gun safes. No signs in front of my house as one of the conditions from the Town. No advertisement. No parking on the street. Most of mine is done -- I have a little bit of set hours, but most of mine is done by appointment only. Friends and family. I brought my books with me. Just over the course of the last five years since I have been here, last time I sold 20 firearms. So it is not, you know, selling millions of them by the crate loads.

BEVERLY GRIEBEL: But you can get guns for friends and family.

MR. KOBAN: Yes. Friends and family, usually. With the regulations now and -- the gentleman mentioned the larger chain stores, um, they -- they have the monopoly on some of the bigger named items. I do a lot more of the repairs. Somebody buys a toy and it breaks, somebody has to fix it. That -- I'm the toy repair person, I guess.

BEVERLY GRIEBEL: Because nobody at some of these other places can fix them.

MR. KOBAN: No. When you buy something -- Gander Mountain has somebody on staff every once in a while, but if you go to Dick's and you buy something, they will say send it back to the manufacturer. I deal with a lot of older antique things. I fix them.

BEVERLY GRIEBEL: You can get them working again.

PETER WIDENER: I had two questions. Your license is -- they expire in 2007. What is the term on those?

MR. KOBAN: Three years.

PETER WIDENER: If we gave you a five-year term?

MR. KOBAN: What happens is since – for that gentleman who was present before – this all came about of – having a zoning ordinance didn't come about the Brady Bill of 1994. What it was is the -- the federal department -- they would not renew your federal license if your town had an in-home business ordinance. So what the ATF does, if I get my renewal, I take that letter and submit that with my renewal application. That covers the ATF's regulation about the in-home business.

PETER WIDENER: You're assuring us you will renew?

MR. KOBAN: Oh, yes.

PETER WIDENER: The other question I had, you advertise -- not advertise. You ask for gun smithing in your application, but it doesn't really say that on our conditions. Like you said, Bev (Griebel), maybe we ought to add number nine and put --

MICHAEL MARTIN: It is in the application.

PETER WIDENER: It is on the application, but not on the conditions.

DAN MELVILLE: The conditions is something you can't do.

PETER WIDENER: I'm asking should we put it on the conditions?

MICHAEL MARTIN: It is already there as approved. It is approved for catalogue sales --

DAN MELVILLE: The conditions are usually something he can't do.

PETER WIDENER: The last guy we put it in as conditions.

BEVERLY GRIEBEL: Because it wasn't in his application.

PETER WIDENER: Okay.

MR. KOBAN: Mine has been in my application since -- 11 years now.

BEVERLY GRIEBEL: Yours always had it in there.

MR. KOBAN: I, too, would ask the Board for an extension longer than five years, but I will -- you know, five years -- since I have had it approved for the last 11 years that I have been here.

GEORGE BRINKWART: What is the extent of the gun smithing? Rebarrel, rechamber?

MR. KOBAN: More parts replacement. Broken firing pins, worn hammers and receivers. People lose parts. I do have a small lathe and a small mill, but I don't have the barrel-making equipment. That is a specialty art in its own right. I'm more of a parts replacement person, you know. You crack your stock, I will replace the stock. Or break your firing pin -- that is a common occurrence, believe it or not. Hunting season, somebody loses -- on a semi-automatic shotgun, they will lose what they call the charging handle. Those are replaced probably a few times a year. They just fall out.

BEVERLY GRIEBEL: Fall apart.

MR. KOBAN: Yes. It is a mechanical thing. Someone has to fix them.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Michael Martin made a motion to approve the application with the following conditions, and Peter Widener seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Renewed for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.

5. No outside employees.
6. Applicant to maintain required federal, state and local licenses.
7. Security system to be centrally monitored and maintained.
8. Gun safe to be maintained.

The following findings of fact were cited:

1. Customary Home Occupation.
 2. Not detrimental to the neighborhood.
6. Application of Frank Pignatelli, owner; 2816 Chili Avenue, Rochester, New York 14624 for renewal of conditional use permit to allow a chiropractic office in home at property located at 2816 Chili Avenue in R-1-12 zone.

Frank Pignatelli was present to represent the application.

MR. PIGNATELLI: Hi. How are you?

BEVERLY GRIEBEL: Good. How are you?

MR. PIGNATELLI: Good, thanks.

BEVERLY GRIEBEL: You have been in business there how long?

MR. PIGNATELLI: Going on 20 years.

BEVERLY GRIEBEL: 20 years. And you have quite a bit of parking in the back, as you go in the driveway and around?

MR. PIGNATELLI: That's correct.

BEVERLY GRIEBEL: You see people by appointment?

MR. PIGNATELLI: That's correct.

BEVERLY GRIEBEL: So you don't ever have a load-up where you run out of parking spaces?

MR. PIGNATELLI: No.

BEVERLY GRIEBEL: You still have one outside employee?

MR. PIGNATELLI: At times. Yes. Right now I'm by myself.

BEVERLY GRIEBEL: You have six or seven cars that can be parked there. Office hours are -- it looks like Monday through Friday, 9 to 7. The conditions last time, we granted it for five years. Office hours shall be 9 a.m. to 7 p.m., Monday -- Monday, Wednesday and Friday, and 9 to 6 on Tuesday and Thursday. Is that what it is? Tuesday and Thursday are 9 to 6?

MR. PIGNATELLI: Pretty much. Sometimes I take every other Thursday off and it doesn't run that late. And Tuesday as well, it never runs that late.

BEVERLY GRIEBEL: Just depends.

MR. PIGNATELLI: Yes.

BEVERLY GRIEBEL: There should be no more than one additional employee other than the owner. No on-street parking permitted. No further expansion of business without proper Town of Chili approval. No outdoor advertising other than that expressly permitted by the Town of Chili sign ordinance. You have just one, the one sign on your property?

MR. PIGNATELLI: That's correct.

BEVERLY GRIEBEL: Amongst all your lovely landscaping. It always looks nice driving by.

MR. PIGNATELLI: Thank you.

DAN MELVILLE: He has been there forever it seems.

RICHARD PERRY: Dennis (Scibetta) –

DENNIS SCIBETTA: No.

MR. PIGNATELLI: I have a question. Could I have it extended out a little bit longer?

BEVERLY GRIEBEL: It has always been for five years?

MR. PIGNATELLI: It has always been for five years.

BEVERLY GRIEBEL: Probably the first time was one year.

MR. PIGNATELLI: One year.

BEVERLY GRIEBEL: The Board will discuss that.

DAN MELVILLE: 20 years he has been there now.

BEVERLY GRIEBEL: I don't think there ever was a 20. I don't remember any on my time on the Board.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Michael Martin made a motion to approve the application with the following conditions, and Peter Widener seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. The conditional use permit is granted for a period of ten years.
2. Office hours shall be between 9:00 a.m. to 7:00 p.m. on Monday, Wednesday and Friday; and 9:00 a.m. to 6:00 p.m. on Tuesday and Thursday.
3. There shall be no more than one (1) additional employee other than owner.
4. On-street parking will not be permitted.
5. There shall be no further expansion of the business without proper Town of Chili approvals.
6. There shall be no outdoor advertising, other than that expressly permitted by the Town of Chili sign ordinance.

The following findings of fact were cited in support of this approval:

1. Dr. Pignatelli has stated that there shall be no more than one (1) outside employee.
2. The total square footage to be occupied by the office is approximately 29 percent of the total structure, the remainder to be used for residential use.
3. The applicant will reside on the premises.
4. The chiropractic office will be a secondary use to the main dwelling.
5. No complaints from neighboring properties.
6. Landscaping is very well done: attractive.
7. Application of William Viviani Jr., owner; 36 East Bellaqua Estates Drive, Rochester, New York 14624 for variance to erect a deck 42' from rear lot line (60' req.) at property located at 36 East Bellaqua Estates Drive in R-1-20 zone.

William Viviani was present to represent the application.

MR. VIVIANI: Hi, good evening.

BEVERLY GRIEBEL: I found the diagram very interesting, they put your house right on the setback lines.

MR. VIVIANI: Yes. Wasn't that nice? I can't even go out the back sliding door without penetrating the setbacks.

BEVERLY GRIEBEL: Yes. It is a wonder. I guess in the front it is the side lot on the setback.

MR. VIVIANI: Right.

BEVERLY GRIEBEL: It is funny how they did that.

MR. VIVIANI: I think it was because of the garage. They had to move the house all of the way to the right side of the lot in order not to hit the setback, so --

BEVERLY GRIEBEL: Well, it is a funny shape also. It is really odd.

I did get a diagram from the Building Department what that lot behind you is going to look like. I was kind of interested to see. Of course if anyone -- now anyone in the audience wants to look at these diagrams, go up at any time.

If and when they develop behind you, on that stub road, that is going to connect through. I guess if people want to -- want it developed there and they see your deck and don't want to be next to it, don't buy that lot. It would be pretty obvious at that time.

MR. VIVIANI: It won't be any wild structure, just your basic deck and tastefully done, I hope.

BEVERLY GRIEBEL: You have a lot of land to mow.

MR. VIVIANI: We have put things all off to the side.

BEVERLY GRIEBEL: Are you putting in the pool?

MR. VIVIANI: No pool. Not right now anyway.

GEORGE BRINKWART: Dennis (Scibetta), you basically have two fronts on here.

DENNIS SCIBETTA: Corner lot.

GEORGE BRINKWART: The side, the back -- the back of the lot line is determined by where the primary entrance is, and that determines the side setback?

DENNIS SCIBETTA: Actually, not. It is because of the corner lot, it has the dual frontages. It doesn't matter which side has the entrance. It is still considered frontage.

GEORGE BRINKWART: Either one side or the other could be considered side setback?

DENNIS SCIBETTA: That's correct.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

DECISION: Unanimously approved by a vote of 7 yes with no conditions, and the following findings of fact were cited:

1. The only logical spot for a rear deck.
2. Corner lot problem.
3. Not detrimental to the neighborhood.

Note: A building permit is required prior to construction of this deck.

8. Application of James Sanagorski, owner; 902 Chili Ctr. Coldwater Road, Rochester,

New York 14624 for renewal of conditional use permit to allow an office in home for catalog sales of firearms, sporting goods display, and to allow overnight storage of theatrical special effects for rock bands and plays at property located at 902 Chili Ctr. Coldwater Road in R-1-12 zone.

Betty Carbone was present to represent the application.

MS. CARBONE: Hi. I'm Betty Carbone, not Jim Sanagorski, but I'm here because he had surgery and he is recuperating, and the only change that he did put on here, I have notes. He is no longer selling --

BEVERLY GRIEBEL: Just a minute. You're here for him?

MS. CARBONE: Representing him.

BEVERLY GRIEBEL: What is your relationship to him?

MS. CARBONE: Significant other.

BEVERLY GRIEBEL: Okay. Okay. You're on the deed, the plot map.

MS. CARBONE: Yep.

BEVERLY GRIEBEL: Does he work for a government agency?

MS. CARBONE: He works for the City of Rochester.

MICHAEL MARTIN: They wouldn't have an interest.

BEVERLY GRIEBEL: State, County or Town. He didn't check that.

MICHAEL MARTIN: Any officer or employee have an interest?

BEVERLY GRIEBEL: What does he do?

MS. CARBONE: I believe he is a supervisor for Parks and Recreation.

BEVERLY GRIEBEL: This was a renewal. And it was catalogue sales of firearms and sporting goods display, and what is this new thing he wants to add?

MS. CARBONE: What is the new thing? The storage of the theatrical effects? Is that what you're talking about?

BEVERLY GRIEBEL: Yes.

MS. CARBONE: I was starting to telling you before, he was no longer selling the firearms out of the home. He is strictly selling like the catalogue items, camouflage cloth, knives, bows, arrows, that type of -- he gave me a whole list here. I really don't want to be here, but he is in serious pain, so...

The overnight storage, it is a storage area that is alarmed. What it is is the actual merchandise that is in there is flash powders, paper, electrical, colored smoke charges. It is what they used to do back in the '80s in the bars with electrical or like special effects. That is what it is. And he has a special storage unit that is alarmed and it cannot be broken into it. It is New York State inspected and approved.

BEVERLY GRIEBEL: Special storage unit, where is that located?

MS. CARBONE: In the garage. It is alarmed.

BEVERLY GRIEBEL: Part of the garage?

MS. CARBONE: Inside the garage, which is connected to the house.

BEVERLY GRIEBEL: Flash powder and other --

MS. CARBONE: Flash powder, paper, colored smoke charges.

MICHAEL MARTIN: Concert stage effects?

MS. CARBONE: Yes. That type of thing.

RICHARD PERRY: Dennis (Scibetta), is that permitted?

DENNIS SCIBETTA: That's a good question.

RICHARD PERRY: I would think not.

MS. CARBONE: It wasn't on the previous --

RICHARD PERRY: Whether it is a New York State --

DENNIS SCIBETTA: It goes under storage of hazardous materials, I believe. That may be a question that --

BEVERLY GRIEBEL: Fire Marshal?

DENNIS SCIBETTA: Yes.

MS. CARBONE: Wasn't this on his previous renewals at all?

BEVERLY GRIEBEL: I am looking at -- renewal of conditional use permit to allow office in the

home, catalogue sales of firearms and sporting goods display, and I remember the sporting goods. We asked him about that.

DAN MELVILLE: That wasn't on the last one.

BEVERLY GRIEBEL: How long has he had this other equipment stored there?

MS. CARBONE: Um, that's a good question. I thought that was on there the last time.

DENNIS SCIBETTA: He does have a license for explosives magazines certificate.

BEVERLY GRIEBEL: Is that allowed in a residential area?

DENNIS SCIBETTA: I think that came up as to why this was approved before or why this question wasn't brought up before. I think that is something that needs to be addressed. I don't know. I'm not aware right now at this time if there is any issue with the Fire Marshal, if he is aware of this. I'm not exactly sure where it is.

BEVERLY GRIEBEL: I don't remember this the last time. I remember the addition of the sporting goods. But the -- I don't recall this. Are you telling me that was on the last time and we didn't put it in the approval letter?

DENNIS SCIBETTA: He has been doing this since -- well, he had it inspected in '06.

BEVERLY GRIEBEL: I don't think I would have forgotten that.

MS. CARBONE: It was for quite a few years.

BEVERLY GRIEBEL: I think we really need him here.

MS. CARBONE: He is in no condition.

BEVERLY GRIEBEL: I understand that. So we might have to table it and see what --

RICHARD PERRY: Keith (O'Toole) is wishing to speak.

KEITH O'TOOLE: The point is rather moot whether you approved it or not five years ago. The issue is whether it conforms with the New York State Fire and Building Code. If it doesn't conform, it's not permitted. That is very simple.

So if you're of the mind to approve an extension, I would make the extension subject to the Fire Marshal's approval and that should settle the issue.

BEVERLY GRIEBEL: Well, I think I would like to know how long it has been stored there, and how long he has been doing this and whether he has spoken with the Fire Marshal, et cetera, et cetera.

MS. CARBONE: How long has he been doing this with the Town of Chili? He has been getting this renewed every five years --

DAN MELVILLE: This has not been on the previous applications.

BEVERLY GRIEBEL: The flash powder. Has he been doing it longer than that?

MS. CARBONE: As far as I know, yes. Yep. He has quite the unit. It was custom made. It was very expensive. It weighs over 900 pounds.

BEVERLY GRIEBEL: How long have you been living there?

MS. CARBONE: Um, quite a while. But we have been recently separated, so I have been helping him out with his surgeries and different things, and this is one of the things I step in for.

BEVERLY GRIEBEL: So you were not living there when this was renewed five years ago?

MS. CARBONE: No.

DAN MELVILLE: According to the previous application in 2001 it was present for renewal of a conditional use permit to allow office in home for catalogue sales of firearms and sporting good display at property located at 902 --

BEVERLY GRIEBEL: Right. There is nothing about powder. I would have remembered.

DENNIS SCIBETTA: I have my own questions about whether it is allowed in there under occupancy laws.

RICHARD PERRY: Exactly.

MS. CARBONE: Well, then I guess this will have to be probably tabled until Jim (Sanagorski) can appear in person. Is that a possibility?

DAN MELVILLE: You could -- if you want to approve this, like Keith (O'Toole) said, with the Fire Marshal --

BEVERLY GRIEBEL: I'm not comfortable with that.

DAN MELVILLE: Even if the Fire Marshal doesn't approve it, he can't do it.

MICHAEL MARTIN: He has the State permit, but that doesn't mean anything to me because I don't know what it means or anything.

MS. CARBONE: He has a thing with the property, where it is stored.

BEVERLY GRIEBEL: I want to know how long he has been doing it.

DENNIS SCIBETTA: Beverly (Griebel), I would appreciate it if you make this approval subject upon the Building Inspector's approval and research into the matter of the storage of this.

BEVERLY GRIEBEL: I have some questions for him. I'm not approving it until I get some details from him how long this has been going on.

DENNIS SCIBETTA: It has to do with the code and the way these things are stored.

BEVERLY GRIEBEL: If we have a vote tonight, I will not vote in favor of this at all, period.

So we either table it or I give a no vote.

PETER WIDENER: Madam Chairwoman, you may want to notice the explosive magazine certificate is for the Town of Gates and not Chili.

MICHAEL MARTIN: That is something I would like to ask him about. I am sure it is just a misprint. Because the address is correct.

PETER WIDENER: But there is a possibility if that was a misprint then also for explosives and detonators could be a misprint.

MICHAEL MARTIN: Detonators is --

PETER WIDENER: Absolutely. But --

MICHAEL MARTIN: A lot of questions that I would prefer to have the applicant --

BEVERLY GRIEBEL: I'm not voting positive on this.

MICHAEL MARTIN: What is his recovery going like?

MS. CARBONE: That I'm not sure. I know he is going into the doctors on Friday. He should be able to drive himself by then. If not, I will have to take the time off from work.

MICHAEL MARTIN: Our next meeting would be December 18th?

MS. CARBONE: He should be fine.

BEVERLY GRIEBEL: Yes. December 19th. Generally it is the fourth Tuesday, but in December we move it up a week so it won't be between Christmas and New Years. So it is the 19th. We could table it to that date. If he is not able, we would have to delay it until January.

MS. CARBONE: He should be fine.

BEVERLY GRIEBEL: Because I have questions. I guess other Board members have questions.

MS. CARBONE: He had emergency surgery the day before Thanksgiving.

BEVERLY GRIEBEL: I can understand that. I can understand why you're trying to help. But we have some questions that only he can answer.

MS. CARBONE: Okay. I just thought -- I assumed because he had that box there forever and -- when is the last time you seen anybody advertise a club with special effects after the big problem they had at -- you know. So nobody really even does it any more. It is just a fun thing for him.

BEVERLY GRIEBEL: Well, maybe he shouldn't have them there.

MS. CARBONE: It was back in the '80s it was a big thing. Down at The Penny Arcade. We used to go for all of that.

So he will be notified by mail?

BEVERLY GRIEBEL: Yes. There will be a letter in the mail, if the Board votes to table this. I don't want to go through public comment on this. We don't have any details on all of these issues.

MICHAEL MARTIN: Move to table.

RICHARD PERRY: Second.

MS. CARBONE: Do you recommend that he have the Fire Marshal inspect it before coming to --

BEVERLY GRIEBEL: It would be good. Yes.

MS. CARBONE: Okay. So he can be prepared for that.

RICHARD PERRY: He should probably get in touch with the Building Inspector, too.

MS. CARBONE: Okay.

RICHARD PERRY: Should he coordinate the Fire Marshal through you, too, also?

DENNIS SCIBETTA: Yes. I would start there.

MS. CARBONE: Fire Marshal and the Building Inspector?

DENNIS SCIBETTA: Yes. Have him call me immediately, if you could, at his convenience.

MS. CARBONE: Does he know who you are, Dennis (Scibetta)?

DENNIS SCIBETTA: I can give you my --

MS. CARBONE: I see your name up there. I didn't know if you knew Jim (Sanagorski).

DENNIS SCIBETTA: I think I do.

MS. CARBONE: I think you do, too.

DECISION: Unanimously tabled by a vote of 7 yes until 12/19/06 at 7:00 p.m. for the following reason:

1. Tabled to December 19th or a later date depending on availability of applicant.

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

Applicant must be present for the public hearing to answer questions.

9. Application of Joyce Burgess, owner; c/o Larry Mastrella, Realtor; 57 Monroe Avenue, Pittsford, New York 14534 for variance to allow existing deck to be 18.9' from rear lot line (40' req.) at property located at 1 Yankee Court in R-1-15 zone.

Larry Mastrella was present to represent the application.

BEVERLY GRIEBEL: Apparently this has sold a couple times and was not picked up before.

MR. MASTRELLA: Yes. Here are some photos.

RICHARD PERRY: That sign was doing double duty.

MR. MASTRELLA: Was it?

RICHARD PERRY: You had the realtor sign on one side and the Zoning Board. Actually we probably should have postponed it because the sign wasn't visible from both directions.

MR. MASTRELLA: I wasn't in charge of the sign. I will just tell you who I am so we have an understanding. I'm a real estate broker with Realty USA. I handle relocation properties. This particular property was handled by Sirva Relocation. What they do is they -- their client is General Motors. This particular lady who owned the property, Ms. Burgess, worked for General Motors. They, in turn, transferred her to another part of the country. My role is to sell the property.

BEVERLY GRIEBEL: What is your name?

MR. MASTRELLA: Larry Mastrella. Lawrence J. Mastrella. I have been a real estate broker for 37 years. In this particular case -- I'm only assuming this -- this was the model in that particular subdivision. Back 20 years ago when the homes were built, a lot of times the builders would get a C of O, and when they sold the property, or during the time of processing the house, they would put different things like a deck and certain things that weren't on the C of O application. I'm assuming that this is what happened on this particular property, because it has been transferred at least four times that I know of. It could have been another time in there.

DAN MELVILLE: How long has that deck been up there?

MR. MASTRELLA: I think it might have been from the model. It could have been there 17, 18 years.

DAN MELVILLE: There was no building permits required -- I don't know if it was 15, 16 years ago. It didn't require building permits or anything for a deck.

MR. MASTRELLA: But it looked to me like that deck was put on by the builder. Again, I'm only assuming this. I know if you look at the description of the deck, that that hadn't been painted in at least ten years. We, in turn -- part of trying to market the house -- painted the deck, and from being around decks and how much they deteriorate, that deck had been at least up there for at least 10 to 12 years. I do know that. But I'm just assuming that is how the deck was put up. I could be wrong. All I do know, there were no permits on this deck, and now the process, which is the right way to do it, the attorneys representing the buyers, they put in their contracts the contracts are approved subject to

permits. When the people who bought this home -- the Murty's (phonetic), their attorney asked for that. We found out that there were no permits for this particular deck.

As you can see from the pictures, the way the house is situated, on a very odd corner, that the deck off the family room would shoot out that way. There is now some pretty high hedge rows. I would imagine -- they seem to be like 10 or 12 feet high. That is on the neighbor's side, and the deck shoots out towards that. So it is not the normal 40 feet.

BEVERLY GRIEBEL: You can't even see it from the neighbors. I did stop and look at it, and met the new owners.

MR. MASTRELLA: The Murty's (phonetic) -- they got put into the situation. I mean they had to close the transaction because their house was sold in the city. We tried to get the application in in October, and when we found out about the situation, we were about a week late, so we had to table it for today.

BEVERLY GRIEBEL: And that happens. We see this quite often. Sometimes the whole sale is squashed and you can't get a mortgage on it unless everything is approved. So you're lucky that that went through. This house, again, was the model house.

The dimensions on the lot, I guess one side is okay, the 14.9, but the side, 35.8, it is -- it is weirdly placed.

MR. MASTRELLA: Yes, it is.

BEVERLY GRIEBEL: Two fronts.

Anyway, questions?

GEORGE BRINKWART: Question to the side table. Dennis (Scibetta), do you have any record that this was maybe a subdivision development or like 278 where there was consideration given to the setbacks because it doesn't meet front setback requirement either?

DENNIS SCIBETTA: No. I wasn't aware of that, George (Brinkwart), but it could be -- there might be something that was in there because it was a model or something at that time. I couldn't tell you. You may have something to look at.

GEORGE BRINKWART: We ran into this in --

DENNIS SCIBETTA: Yes.

GEORGE BRINKWART: Where we have special side setbacks, considerations in this zone.

KEITH O'TOOLE: Generally speaking, the issuance of a C of O on family structure indicates conformance with zoning code. Tends to be more legal point of view with accessory structures because they're so commonly added after the fact.

DENNIS SCIBETTA: In reference to Rick (Perry)'s question, I believe it was -- even though it didn't require a permit at the time, it still had to adhere to setback rules and regulations -- or

DAN MELVILLE: 15 years ago you could put up a deck up without --

GEORGE BRINKWART: Keith (O'Toole) makes a good point, which makes me think there was an Article 278 on it, because it doesn't meet the front or the rear setbacks. It is possible. Should we check this out to see if it -- if, in fact, it may comply?

DENNIS SCIBETTA: Or could have been someone's determination of being a corner lot, their determination of the corner lot to allow the setbacks on that.

KEITH O'TOOLE: We can look into it.

BEVERLY GRIEBEL: The bottom line is they got the mortgage on the house with the strange setbacks all around.

MR. MASTRELLA: There was no problem with that. Strictly, obviously, the deck situation. People are in, in the house, and I'm representing the relocation company because they found out two weeks before it was to close, approximately that, that there was no permit for the deck. This is happening more now than it has over the last 30 some years that I have been in the real estate business, that now the attorneys do a great job by checking on this, and we have to go through the procedures and you're right, some transactions do -- they're not as easy to rectify as this. I mean there are sheds on properties that people just threw out, and they're on somebody else's lot. And we have additions to garages that somebody put out, without permits. You know, causes major problems.

This is strictly the deck. The next-door neighbors --

BEVERLY GRIEBEL: Deck is a more minor --

MR. MASTRELLA: It is a minor thing. The people next-door certainly haven't put up their hand saying they want the deck removed. And it has been there for -- been there. People have seen it.

BEVERLY GRIEBEL: Now the shrubbery has grown up around it.

MR. MASTRELLA: Part of the things to get the house in condition was to paint the whole inside, clean the carpet and the deck. The deck has been recently painted. You can't see it from that picture. That is why I know the deck --

BEVERLY GRIEBEL: I was out there looking. It looks nice.

This went to Monroe County Planning. This one we got back. Airport approval and a local matter. Got one.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Michael Martin made a motion to approve the application with no conditions, and Jeffery Perkins seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with no conditions, and the following findings of fact were cited:

1. No impact on neighboring properties due to extensive plantings.
2. Deck has been there many years with no complaints.

Note: A building permit is required for this deck.

10. Application of Kevin Klein, owner; 718 Paul Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for an upholstery and carpet cleaning business at property located at 718 Paul Road in R-1-15 zone.

Kevin Klein was present to represent the application.

MR. KLEIN: Hi.

BEVERLY GRIEBEL: This is a renewal. This was from November of '01 and you don't have customers call at your home?

MR. KLEIN: No.

BEVERLY GRIEBEL: You go out to your clients?

MR. KLEIN: That's correct.

BEVERLY GRIEBEL: You store equipment and things at your house?

MR. KLEIN: I store equipment and supplies.

BEVERLY GRIEBEL: Cleaning supplies?

MR. KLEIN: Yes.

BEVERLY GRIEBEL: Any hazardous?

MR. KLEIN: Some solvents involved, but only three gallons of solvent at any one time in the house.

BEVERLY GRIEBEL: So that would be a small amount.

MR. KLEIN: Yes.

BEVERLY GRIEBEL: You ever order a year's supply?

MR. KLEIN: Never do.

BEVERLY GRIEBEL: You have one outside person working with you?

MR. KLEIN: Yes, I do. Sometimes two. Depending on the season.

DAN MELVILLE: They don't work in the house with you?

MR. KLEIN: I'm sorry?

DAN MELVILLE: They don't work in your house?

BEVERLY GRIEBEL: No. They work on the client's premises assisting?

MR. KLEIN: Right.

BEVERLY GRIEBEL: Granted -- last time granted for five years. No on-premises advertising. No on-street parking pertaining to the business. The hours of operation is per the application. No retail business or customers allowed on the property to conduct business. Phone business and storage only. Those conditions still satisfactory?

MR. KLEIN: They're all the same.

RICHARD PERRY: Any complaints?

DENNIS SCIBETTA: No, but looking at the September 26th, 1991 approvals, and there were some other conditions on there, the application was granted following the following conditions: subject to Fire Marshal approval and inspection on a yearly basis. I'm wondering why that had not been continued. Probably because of the solvents. It is not that great a concern, but just like to see why that wasn't continued on, that condition.

BEVERLY GRIEBEL: Did you change the amount of chemicals or any products that you used?

MR. KLEIN: Well, in 1991, I really didn't have a feel for what my solvent use would be, so at that time I did have, you know, maybe ten gallons on the -- and when I had it inspected, it was fine. I had, you know, enough -- it was stored in proper places. Then once I got the feel for the business, then I reduced that down to the most I ever have on hand is three gallons. The Fire Marshal at the time -- I can't remember what his name was -- that was his suggestion. So it worked out good.

BEVERLY GRIEBEL: Jim Christian?

MR. KLEIN: No. I think his name was Scott.

BEVERLY GRIEBEL: Scott. Okay. He is the assistant. Okay.

He didn't have any problem. You want it back on?

DENNIS SCIBETTA: Add it on, just so it is in there. I would feel more comfortable.

BEVERLY GRIEBEL: That is the only thing that was left off?

DENNIS SCIBETTA: That's all.

BEVERLY GRIEBEL: I don't recall back then, years ago, but it may have been a discussion, lesser quantity, but we can put that back in.

DENNIS SCIBETTA: We are aware of it also. If there ever was something at the house, we are aware of something that is there and it can be added in for the Fire Department. Our new software allows us a great number of goodies that ties things together and prevents things and preplans.

BEVERLY GRIEBEL: They know where chemicals are and all of that?

DENNIS SCIBETTA: Exactly.

BEVERLY GRIEBEL: The Fire Marshal would know what is stored there.

DENNIS SCIBETTA: Fire Department.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Michael Martin made a motion to approve the application with the following conditions, and Peter Widener seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.

5. No retail business or customers allowed on property to conduct business.
6. For phone business and storage only.
7. Fire Marshal's inspection and approval on an annual basis.

The following findings of fact were cited:

1. Customary home usage.
 2. Not detrimental to neighboring properties.
 3. No complaints from neighboring property owners.
 4. Meets conditional use requirements.
11. Application of Frank Lentine, owner; 4329 Buffalo Road, North Chili, New York 14514 for variance to erect a 5' x 3' double faced freestanding sign to be placed on front lot line (15' req.) at property located at 4329 Buffalo Road in G.B. zone.

No one was present to represent the application.

BEVERLY GRIEBEL: This went to the Monroe County Department of Planning and it came back as a local matter. The applicant is not here.

MICHAEL MARTIN: Move to table to December 19th.

BEVERLY GRIEBEL: Okay. Second on that?

PETER WIDENER: Second.

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

DECISION: Unanimously tabled by a vote of 7 yes to table until December 19, 2006 at 7:00 p.m. for the following reason/finding of fact having been cited:

1. Applicant failed to appear for the public hearing.

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

Applicant must be present for the public hearing.

The 10/24/06 Zoning Board minutes were approved as submitted.

The meeting ended at 9:00 p.m.