

CHILI PLANNING BOARD
December 9, 2008

A meeting of the Chili Planning Board was held on December 9, 2008 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: George Brinkwart, Karen Cox, John Hellaby, Dario Marchioni, John Nowicki, Jim Powers and Chairperson James Martin.

ALSO PRESENT: Ken Hurley, Town Engineering Representative; Chris Karelus, Building Department Manager; Keith O'Toole, Assistant Counsel for the Town; Pat Tindale, Conservation Board Representative; Fred Trott, Traffic Safety 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 see we have a Boy Scout organization. Would you stand and identify yourselves for everybody?

UNIDENTIFIED LEADER: Troop 90 from Chili, and we're here for a communications merit badge.

JAMES MARTIN: Very good. Glad to have you with us.

As far as the agenda goes tonight, I will make a couple of changes to the order. There are actually two Wegmans applications on the agenda tonight, one under Informal, and one under Public Hearing. What I would like to do is go ahead and do the Informal first. Mr. Pires, if that is okay with you -- and I will read that application at this time.

JOHN HELLABY: Mr. Chairman, I request to be allowed to step down on this application as I'm employed by Wegmans.

JAMES MARTIN: You're recused, Mr. Hellaby.

INFORMAL:

1. Application of Wegmans Food Markets, P.O. Box 30844, Rochester, New York 14624 for final site plan approval to erect a four-story office building addition totaling 400,000 sq. ft. and two one-story additions totaling 2,552 sq. ft. at property located at 249 Fisher Road in L.I. zone.

Art Pires was present to represent the application.

MR. PIRES: Good evening. My name is Art Pires with Wegmans Food Markets here to represent the application. As noted, we're requesting final this evening for the 400,000-square foot, four-story office expansion with one-story approximately 2500 square feet on the overall aerial off to my right. As you can see, I have noted a couple push pins there. Two red. The first red at the bottom indicates the location of the office expansion. The upper one will refer to the second application, the store maintenance expansion as well as the other two pins that are up there at the far top of the plan.

The only thing we have to add at this point for the record is we have had a cultural resource management report conducted by the Rochester Museum & Science Center that was finalized on December 1st, and if I might just read a brief from that, and I will submit the formal copy to the Board. Under Section 9, Phase 1, Conclusions and Recommendations. And I quote, "The project area exhibited a distinct lack of prehistoric Native American cultural material. As such, no prehistoric archaeological site was identified within the project area."

Then it goes further on to say that "Upon finding no historic or archeological site that was designated with the area of potential effect, therefore, the Rochester Museum & Science Center recommends no further archaeological work to be undertaken at the area of potential impact."

And that sums it up after a lot of background analysis, but I would like to put that on the record.

The second outstanding matter that I understand to be the final is the matter of the landscape cost fee to -- that is associated with this project. Whereas my understanding of the Town statute is 1 percent of the total project cost, in lieu of the 1 percent of the approximate \$40 million project, we have consideration of the breath and scale and the uniqueness of this project, compared to any other project in Town, and, you know, one size fit all formula of 1 percent. We're asking instead that in addition to our \$100,000 worth of landscaping improvements on the site associated with the office expansion, that we -- that we donate half again in kind, that being \$50,000 to the Town of Chili Tree Fund, if that should be acceptable to the Board. We have had conversations with the Chair of the Conservation Board, Ms. Pat

Tindale, and I await to hear further discussions and the decision and any questions that the Board might have regarding that.

JAMES MARTIN: Pat (Tindale), you and I talked. I believe the offer Wegmans has come forth with regarding landscaping fees is acceptable to the Conservation Board; is that correct?

PAT TINDALE: Very acceptable, yes. Thank you.

JAMES MARTIN: So I will go to the Board. Do you have any questions on final for this particular project? 50,000 sounds like a reasonable offer.

The Board indicated they had no questions.

DARIO MARCHIONI: Thank you.

KEITH O'TOOLE: The only comment I have is that you should adopt a resolution accepting that. Nothing further.

JAMES MARTIN: Adopt a resolution what?

KEITH O'TOOLE: Accepting the offer in lieu of 1 percent.

JAMES MARTIN: Okay.

CHRIS KARELUS: None. They have been great to deal with.

JAMES MARTIN: This is not a Public Hearing. This is an informal on final tonight.

I will make a resolution as follows: Keith (O'Toole), I'm not going to go into all of the whereases and all that. I think I will make a simple resolution that the Board agrees to accepting the offer from Wegmans of \$50,000 donation to the Chili Tree Fund. Would that be acceptable?

KEITH O'TOOLE: Yes.

JAMES MARTIN: The resolution will be that the Planning Board of the Town of Chili accepts the offer of Wegmans Food Market for a \$50,000 donation to the Chili -- Town of Chili Tree Fund in lieu of the 1 percent landscaping fee that is in our current code.

DARIO MARCHIONI: Second.

All voting members were in favor of the motion.

JAMES MARTIN: We did SEQR at preliminary. There was a negative determination on a Type I project, so that has been completed. On the final site plan approval application?

DECISION: Approved by a vote of 6 yes with 1 abstention (John Hellaby) with the following condition and resolution that was passed:

1. The Planning Board of the Town of Chili accepts the offer from Wegmans Food Markets of a \$50,000 donation to the Town Tree Fund in lieu of the requirement stipulated in Section 115-31(c-1) of Town Code.
2. All previous conditions remain in effect.

PUBLIC HEARINGS:

2. Application of Wegmans Food Markets, owner; P.O. Box 30844, Rochester, New York 14604-0844 for preliminary site plan approval to erect a 2,900 sq. ft. addition to maintenance building at property located at 291 Fisher Road in L.I. zone.

JAMES MARTIN: You are recused again, Mr. Hellaby.

Art Pires was present to represent the application.

MR. PIRES: Mr. Chair, I also have exhibits that mimic the exact that I will be showing to the Board as well as to the --

JAMES MARTIN: Do you have one to post? I will start with the aerial, if I might, and reference the top red, there, the push pin. That shows the existing store maintenance building, and as orientation, Chili Avenue is in this locale (indicating). Market Street (indicating). This is the Market Street north (indicating).

So as you come into the facility, once again that is the store maintenance building (indicating). Reference again off to the left, this is Fisher Road (indicating), the ball fields and you have the residents more than 1,000 feet back beyond the heavily treed area behind on our property behind the store maintenance building, so relative to the overall project, that's the location of the existing storage -- store maintenance building and then our proposed expansion is at the northeast corner right there, and I will bring up the large exhibit. I will jump back and forth. But basically what you have in hand as well as the professionals of the Town, we have the existing conditions in the rendered initial sheet showing the existing store maintenance building, and then we have the overlay acetate that shows the proposed addition at the northeast corner of that building and also shows the revised parking.

So once again, north actually on this particular plan is to the left of the building, so this is the proposed addition of approximately 2900 square feet. The improved parking lot here (indicating), incremental. We have approximately 63. We're proposing 17 additional, brings us to a total of 80 parking. The whole purpose for both the addition and the revised parking

improvements are for enhanced working conditions for our employees. That is the long and short of it. They're getting a little cramped in there and we want to have the most efficient offices available.

As part of our original application, you can see the large grayed area, if you will. This is proposed driveway coming back to a proposed trailer storage area where we're proposing to accommodate 23 tractor-trailers we have around our complex. Subsequent to the application, and in simplification and reviewing even closer one's needs in consideration of the current economy and being more than ever fiscally conservative, if you will, we have decided to pull actually the trailer area application from this application. We recognize that -- that we can probably even consolidate the trailers we have on site and we will be presenting to Mr. Karelus' office in the near future the -- the proposal to take this construction pole barn area, which we currently have graveled and paved area and extend that slightly to possibly accommodate ten trailers within this area, but we don't have a definite plan yet. We're still going through that internal analysis.

Once again, though, the key point is we're proposing that this new trailer area and the associated driveway be removed from this application. We did, as required when we first submitted the application, conducted a tree survey, and we have that on hand to submit to the Board, whether it be at this meeting or through the Conservation Board. We can do that at such time, but that is more -- since we have done the work, we might as well submit that information to you.

As far as review comments, we have received a couple comments from the Monroe County Department of Planning as well as the Town Engineer, Lu Engineers, and we're ready to review and comment on those.

As far as federal wetlands, it is recognized that, yes, they are on site. I have just two copies of the exhibit and one for the professionals, if you will, but I would like to submit to the Board -- it shows that the federal wetlands which are located approximately southeast and -- southeast and south of the proposed trailer area, we would be in compliance with federal regulations as far as being separated from them. However, it is somewhat of a moot point since we're not proposing them at this time, but for the sake of completeness in satisfying the review comments, we would like to submit this for the record.

What the sketch shows very simply is we're greater than 50 feet from the federal wetlands, so we're in compliance. Once again, from the Town Engineer's review comments, Airport has signed off on that. Wood lot area, we have spoken to that. A tree survey was submitted and we will provide that to the Town for the record, although it is a moot point, again.

Fence screening, here again, moot, but if that were to come back into the picture as a general statement, the proposed fence at the southern area of the trailer areas, and in the area here (indicating), we have more than 1,000 feet as previously shown going south to the residential, not to mention the very heavily wooded area that was seen on the aerial before, so that we -- is that we respectfully submit that we wouldn't need to landscape along that fence line, if we were ever to come back for that.

Storm water management, um, as we have submitted an engineering report, what we have proposed, that we're draining this particular basin, that being the basin impacted by the trailer area and the minor improvements now to the parking area, that would be directed towards the Fisher Road dry ponds and the area of the ball fields. Water quality issue as presented in the engineering report would be accommodated in the new retention area that would be built southeast of the conference facility, which is once again, that would be built as part of the office expansion.

Okay. So I believe I have addressed any comments that the County and Town has addressed, raised. Any questions from the Board? I would be glad to address them at this time.

JAMES MARTIN: You did -- you had indicated that basically the expansion is for employee benefit. What exactly is going to happen in the expansion?

MR. PIRES: We have offices, business offices, that there would be improved work space area.

JAMES MARTIN: Okay. Since the trailer parking is off the application, I don't have any other questions at this time.

JIM POWERS: Are you going to tie this in at all with the professional building?

MR. PIRES: The office expansion? Both projects right now, because of the current economy, and everybody is trying to find out where things are going to end up in the next year, two years, both projects are currently on hold as far as the food schedule. However, we have intentions on proceeding at some point, but only until we review the next couple of months what happens as well as review their financials for 2008, can we have a better decision on what our construction schedule would be.

But as a general, they would probably occur within the same time frame or piggy-back off each other. And we all hope, as everybody, sooner than later, but we unfortunately are in no position to state. The good news is we're here for the application.

JIM POWERS: Okay. Thanks.

GEORGE BRINKWART: He answered my only question, and that was with the wetlands. Actually, the wetlands are even off the limits of the drawing that you submitted, correct?

MR. PIRES: That's correct. In fact, well, they're not delineated. They're generally in this area back here (indicating), south, as you noted, off the actual application, correct.

GEORGE BRINKWART: Thanks, Art (Pires).

CHRIS KARELUS: Just two things. Just as a point with the Board, the parking spaces

that Wegmans is showing are 9 by 18, instead of 9 1/2 by 18. Just recognizing the approval, the project is recognizing parking space modification.

The interpretation I have of the project, too, as Mr. Pires alluded to, the trailer parking with this project is conducive to the use, so in the past it has been considered ancillary, not a set-alone use approval as others have gone through, thus the trailer storage and the like, as long as it doesn't have impact to the public, is considered ancillary to the project. So it really doesn't have an independent approval with this Board other than site. So I think with the project he discussed about how they're going to reorganization of their use of the trailer storage in the future without having the bulk storage right now, I believe everything will be compliant. They will insure that the plan we review, that it will be code compliant. That is pretty much it. I think the project involving the trailer storage you couldn't probably ask for a better fit. It is very well buffered. I think as far as public perception of that project, it is very well hidden, but not ill taken.

And the other thing I would ask the Board, too, is I know the project expansion for the addition will happen in the same character that they have done pretty much all of their development in office space, so the Architectural Advisory Committee would trigger with this Board, but seeing it is a very small project, I ask the Board consider the elevations and it just be kept in character with the existing buildings when approving the project.

JAMES MARTIN: So basically the Board, if it is acceptable to the Board, we would recommend no architectural review of this expansion --

CHRIS KARELUS: My understanding from Wegmans, it will be in the same character of the office expansion and the park.

JAMES MARTIN: All right.

The parking issue, to be consistent, I mean they have basically been granted the 9 by 18 on previous projects. I would see no reason to, you know, not to afford allowing that parking configuration on this particular application. Any issues with that from the Board?

GEORGE BRINKWART: It's kind of academic.

JAMES MARTIN: Basically we'll need a motion to waive that requirement and a vote.

JOHN NOWICKI: I make a motion to waive the requirement.

DARIO MARCHIONI: Second.

The vote on the motion was 5 yes to 1 no (George Brinkwart) with 1 abstention (John Hellaby).

KEN HURLEY: Only comment I would have is the SWPPP, the overall SWPPP for all your project, your whole site, if this hasn't been addressed in that, there will be a modification to the SWPPP. If you can just send copies to the Town.

JAMES MARTIN: Is that something you will address? I don't need to condition that?

KEN HURLEY: No.

JAMES MARTIN: Thank you.

PAT TINDALE: I just wanted to tell Art (Pires), I do need the three copies I spoke to you about. We don't have them.

MR. PIRES: I think I have them.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Martin made a motion to close the Public Hearing, and Karen Cox seconded the motion. All voting members were in favor of the motion.

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

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: You're only requesting preliminary. No fee paid for final?

MR. PIRES: That's correct.

JAMES MARTIN: No request for waiving final at this time.

James Martin reviewed the proposed conditions with the Board.

DECISION: Approved by a vote of 6 yes with 1 abstention (John Hellaby) with the following conditions:

1. Pending Town Engineer approval.
2. The applicant will not be required to review architectural plans with the Architecture Review Committee.
3. By a vote of five yes, one no, the Planning Board waived the requirement for 9.5 feet x 19 feet parking spaces and accepted a 9 foot by 18 foot dimension.

1. Application of Thomas MacDonald, owner; 4277 Buffalo Road, North Chili, New

York 14514 for conditional use permit to allow a two-family dwelling at property located at 4277 Buffalo Road in R-1-15 zone.

Thomas MacDonald, Michael Calvete, Debbie Palmer and Marcia Havens were present to represent the application.

MR. CALVETE: Good evening, Mr. Chairman and members of the Board. My name is Michael Calvete. C-A-L-V-E-T-E. I'm an attorney. My address is 3161 Union Street, Suite 104 in North Chili, New York, 14514. I am here on behalf of Thomas E. MacDonald, the applicant. I have submitted on behalf of Mr. MacDonald a letter which summarizes the history of this property.

Mr. MacDonald purchased the property in 1992. When he purchased the property, it was represented to him that it was a legal two-family dwelling. It has been used as such since 19 -- it has been used as a two-family dwelling since 1992. The prior owner of the property, or one of the prior owners was Donald Sealy, who I spoke to prior to making this application. Mr. Sealy also understood that this property was a legal two-family dwelling. It was used as such from the time he purchased the property in 1980 until he sold it to Mr. MacDonald and his former wife in 1992. Mr. Sealy recalls that there were tenants in the property when he purchased it.

It appears from the Town records that there was a building permit issued in or about 1971, but the Town records do not indicate whether there was a final inspection or a Certificate of Occupancy issued for the two-family.

Mr. MacDonald recently entered into a contract to sell the property to his neighbor, Jill Wilson, and upon investigation, Miss Wilson was informed by the Town through her attorney, Ms. Havens, who is here this evening, that the property was not a legal two-family dwelling. The tax rolls indicate that the property has been taxed as a two-family dwelling since at least 1995. It is unclear as to why it was changed in 1995 or what the tax status was before then.

So we understand that the proper procedure for us to follow to convert this to a legal two-family dwelling is to ask this Board for a conditional use permit for use as a two-family dwelling, and then before the Town would issue a Certificate of Occupancy, we would have to comply with all applicable codes. There was a preliminary inspection of the property done by Edward Shero of the Town of Chili Building Department on the 25th, I believe, of November, and Mr. Shero indicated that before the Town would issue a Certificate of Occupancy, he would require that the property be up to code. So we understand that would be ultimately what Mr. MacDonald would have to do before he could use the property legally as a two-family dwelling.

So that is the substance of our application, and I'm open to questions or comments from anyone.

JAMES MARTIN: I'm going to go to the Board.

DARIO MARCHIONI: There is a old metal shed back there. Is that going to be staying there?

MR. CALVETE: The metal shed, um --

DARIO MARCHIONI: It looks like it is missing.

MR. CALVETE: I am told that it is being torn down. That is what Ms. Havens -- not Miss Havens. I'm sorry. I couldn't tell who was behind me. It is being torn down, so it will not remain.

DARIO MARCHIONI: It is quite a piece of property. This -- this sketch that you gave us, on the way -- the second apartment is going to be laid out -- it's a little bit confusing. I was wondering if you could go through that and give us an explanation how you're getting to it, or -- or how it is --

MR. CALVETE: On the sketch was --

DARIO MARCHIONI: It is a pen sketch.

MR. CALVETE: It is intending to depict the existing property, and I'm not sure if I can -- could you come up here?

JAMES MARTIN: Perhaps if you have extra copies, you should post it on the bulletin board so the public can see what we're talking about here.

DARIO MARCHIONI: I'm looking at the plot plan, and the problem I have is trying to superimpose the plot plan with these plans here.

MR. CALVETE: I'm sorry, I couldn't hear you.

DARIO MARCHIONI: I'm looking at the plot plan from Avery Surveying, and I'm trying to overlap the sketch drawing on top of it to figure out.

CHRIS KARELUS: I will help the Board understand the layout, okay? We actually did an expansion -- I will draw a line, a black line. This separates the two units, okay? So there is one residence, here is the second (indicating). If you want to pass this down. There is a wall without penetration. There is no doorway, no walkway, nothing that separates what we're going to call the West Number 1 and Number 2, which is the primary home. Number 1 was the addition where the apartment was expanded off the house. I will put a triangle where the door is that -- I'm familiar we did the inspection on the apartment, and I believe the primary entrance into the main is right there (indicating). Again, that wall that separates the two uses, we'll call it, has no doorway, no passage through it. It is a solid wall.

DARIO MARCHIONI: Is it presently you have two different meters or split services?

CHRIS KARELUS: All split services.

DARIO MARCHIONI: Okay. The second apartment would only be one bedroom, right?

MR. CALVETE: Um, yes, I believe so. First one would be. They're both one-bedrooms, or --

JAMES MARTIN: If you will answer questions, can you state your name?

MS. PALMER: I'm Debbie Palmer, and I live in the apartment. Um, there is one bedroom in my apartment and there are two in the main house.

DARIO MARCHIONI: Thank you. Appreciate it.

GEORGE BRINKWART: Actually I have a question for the side table. Chris (Karelus), would you feel that you're going to need -- I mean I read the letter from Debbie (Palmer). Are you going to require architectural drawings to validate what needs to be done to get this into compliance?

CHRIS KARELUS: No. I think what they need to do -- there are certain codes that obviously they have to meet with the two uses. Um, what is constructed -- we'll usually ask for new plans for new construction. I think walk through the units we're pretty satisfied as long as all of the fire smoke detectors are hard wired because that is a requirement. They have to maintain that firewall separation. How they do that, they have to show it to us, but no, I don't think it will be as extensive as requiring architectural plans.

JOHN NOWICKI: So you're basically saying that you and Mr. Shero are satisfied that they can meet the New York State Fire Prevention and Building Codes?

CHRIS KARELUS: They have provided us nothing yet to show us they can meet it. They have cabinetry up. They have everything on that common wall. It's all part of the two uses. There is cabinets, there is sinks, countertops, everything. They have to show us a plan, and we'll agree that they will provide at least one hour of fire separation between the two units.

JOHN NOWICKI: And the heating, there are obviously two heating units in the basement.

CHRIS KARELUS: I believe it is electric baseboard in the addition, which is the apartment. And the main, I'm not sure whether it is forced air through gas, how it is heated.

DARIO MARCHIONI: Gas forced air. We just inspected the apartment unit.

JOHN NOWICKI: You're not sure if they're on separate heaters for utilities?

CHRIS KARELUS: The utilities, in all honesty, there is nothing that requires a separation of the units. It is how they would as a lease -- the tenant, or lease, how they would meter out the service.

JOHN NOWICKI: My only concern is that codes are met, because that is the trick here. I'm not comfortable voting on something that hasn't been examined very thoroughly and carefully.

CHRIS KARELUS: I would request the Board condition the approval if they cannot meet the code or get Certificate of Occupancy, the conditional use permit is considered void.

JAMES MARTIN: We can put some teeth in it.

JOHN NOWICKI: You will have to, especially on multi-family, with the apartment project. I would be very, very comfortable with a strong statement.

MR. CALVETE: And, sir, that was the understanding, that we would meet applicable codes, so that is our application.

Also the utilities are separately metered. Ms. Palmer just told me that.

JOHN NOWICKI: Is the two units occupied now -- you're living in one?

MR. CALVETE: Mr. MacDonald occupies the other unit, the owner.

KAREN COX: But if it is being sold, is the owner the new -- or the potential new owner going to be living in the main --

MR. CALVETE: At this point, it is expected that Mr. MacDonald and Ms. Palmer will continue to live there as tenants for a short period of time. The new owner lives next door, so I don't believe that she intends to occupy the property.

KAREN COX: So both of them will become rental units?

MR. MacDONALD: I don't know her intention, but that would make sense to me.

MS. HAVENS: I can speak to that. Marcia Havens. I'm representing Jill Wilson in the real estate contract and her intention is to maintain her residence in her current home and rent out the two units.

JIM POWERS: Marcia (Havens), is Ms. Wilson's house the brown house?

MS. HAVENS: Yes, it is the brown house. She couldn't be here for health reasons, but she is available by telephone if you have any questions for her that I can't answer.

JOHN NOWICKI: The other thing, too, there is not a drainage district.

JAMES MARTIN: So to clarify. It is listed as not in the drainage district. If it is not in the drainage district and this does go forward, you will need to petition the Town Board for inclusion in the Chili Consolidated Drainage District.

MR. CALVETE: I think that is a mistake in the application.

JOHN HELLABY: It says it is on the property card.

JOHN NOWICKI: But not on the application.

KAREN COX: Maybe the application is wrong.

JAMES MARTIN: It says it is on the property card, so it is probably a moot point. It -- you probably do not need to do that.

JOHN HELLABY: How is the owner going to bring this into the code compliance, the new owner or the current owner?

MR. CALVETE: That is going to be negotiated to the parties to the contract as to who will bear whatever cost there will be.

JOHN HELLABY: So right now you do not know that answer?

MR. CALVETE: No, we do not know the answer. The contract does not provide for

either party to bear that cost. It was an unanticipated development at the time the contract was executed.

JOHN HELLABY: My only fear is once it is sold, I mean before they get the C of O, they have to get your okay, correct?

CHRIS KARELUS: Yes.

JOHN HELLABY: The only other question I have got, does anybody know what is occurring above this garage in the back? It appears to be a two-story type deal and there isn't something else up there, is there?

CHRIS KARELUS: We inspected it, too.

JOHN HELLABY: Has anybody else been up there?

CHRIS KARELUS: Yes, we did. Al (Hellaby), the first thing that crossed my mind was the same. It was storage. It was complete storage, unheated space, just storage.

JOHN HELLABY: All right. That is all I got right now.

KAREN COX: How many bedrooms are in the main house?

MS. PALMER: Two.

KAREN COX: There is one in the addition?

MS. PALMER: Yes.

KAREN COX: So potentially you could have three -- what I am thinking of is future use, and they -- having spent time in these when I was in college, sometimes you have a lot of people living in these, a lot of cars in the parking lot -- excuse me, the driveway. The only concern I have is that, so I guess I would say that it -- to the future owner, ask them to keep track of the cars in the driveway, that it doesn't start looking like a parking lot.

There is no -- have there been any complaints on this, Chris (Karelus), over the years?

CHRIS KARELUS: No. No.

KAREN COX: All right. That was all I had.

JIM POWERS: Just I know there is a lot of work to be done on this to bring it into compliance. Chris (Karelus), looking at this home from Buffalo Road, the eastern apartment that juts out from the main -- the main office house or the two-story part, there is a doorway on that -- that section with wooden steps. Just out of curiosity, would that have to comply in some other way other than wooden steps out of that particular door?

CHRIS KARELUS: No. As long as the rise and the run -- as long as the rise and run meets State Code and it's a stepped entry, the code doesn't really specify what type of approach you would have to take, whether it be wood or concrete. So -- but if it is a condition that you feel is faulty, I mean the intent when we went through the inspection was to check the apartment unit and see -- the major issue was the separation, the fire separation. They have to figure out how they're going to accomplish that, provide that plan to the Town and us agree with it. We didn't do a complete inspection of the overall home. We just looked at the issues that would have to be accomplished to make the uses separated for the conditional use.

DARIO MARCHIONI: I have another question. This is zoned commercial here, right, Chris (Karelus)? I believe.

The reason I'm asking that, I notice the garage is only a foot eight on the property line.

KAREN COX: R-1-15.

DARIO MARCHIONI: So R-1-15, you have to have at least 10 feet.

CHRIS KARELUS: Yes.

DARIO MARCHIONI: This one only has a foot eight. I don't know. I just questioned it. From the grass to the property line.

CHRIS KARELUS: The accessory building, this was built well -- it was built before permit, so we consider that existing, nonconforming.

DARIO MARCHIONI: Just to clarify that. Thank you very much.

KEITH O'TOOLE: Just to point out to Mr. Calvete that either he or some other attorney will have to record a notice of decision from the Board at the County Clerk's office, record it in miscellaneous records, indexed against the names of the then-current property owners and provide us with a time stamped copy and accordingly sealed.

MR. CALVETE: Thank you.

JAMES MARTIN: You want that as a condition of approval?

KEITH O'TOOLE: Yes.

JAMES MARTIN: Then you can give me the wording, and I will include it.

CHRIS KARELUS: I would just ask if the Board sees it fit to grant the conditional use, they consider a 90-day time frame to get those issues with respect to the building code before it is considered valid. I think it is more than generous amount of time to get the things done.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Being so close to the college, I can see where this would be a prime spot for college students to try to rent. Can the Board limit the number of cars that are put -- parked in this -- on this property? That would limit X number of people living in this apartment. In other words, overcrowding it, maybe. But it's a thought.

JAMES MARTIN: I will turn to the side table. I think as long as they fit within the driveway, I don't know if there is any limit we can put directly on that from a condition standpoint. I will seek comment from the side table on that.

KEITH O'TOOLE: I guess we're approving it as a two-family. This isn't an issue of

transient housing, as I have seen out in the Village of Brockport where they have a history of renting single room occupancy. And the State Courts have told us that a family means there has to be some sort of relationship. It doesn't have to be by blood, but there has to be some semblance of a family unit.

Now, in family unit, you could have one car, you could have no car, you can have ten cars. I'm not sure we have ever imposed such a condition before, and I'm not quite sure why we would. But they do have to park their cars on the driveway, and if you want to have a condition that says no off-street parking or no parking on the grass to make that a little clearer, that is fine.

JOHN NOWICKI: Is that something that is enforceable by local enforcement people?

KEITH O'TOOLE: I think you can certainly prohibit them from parking on the grass, if that is what you want to do.

KAREN COX: Is there a limit -- I'm sorry.

KEITH O'TOOLE: I'm sorry?

KAREN COX: You were --

KEITH O'TOOLE: It's just -- it is a conditional use permit, so you can impose the condition. It is just that you want to make the condition simple and clean that so we can enforce it, and generally speaking, you also have to keep in mind we're not going to be called out at 8 o'clock at night if somebody decides to park on the lawn or have a 4th of July party, so you don't want to get carried away.

KAREN COX: Is there a limit to the number of occupants you can have in a -- in a -- or units like this? Is there language in the code somewhere?

JAMES MARTIN: I have never seen any.

KAREN COX: Okay.

JAMES MARTIN: Sounds like we would have a hard time making something stick like that, Dorothy (Borgus). Common sense is to keep it in the driveway.

KAREN COX: The owner is at least for now going to be living next door.

MS. BORGUS: But owners change, as we see.

KAREN COX: And I agree, and that is why I stated my or asked -- or stated my concern into the record.

It sounds as though she will be there for a while. So with her being next door, it's easier if there is issues with the property to contact the landlord.

DARIO MARCHIONI: Can we put a condition no parking in the front, no parking in the front of the building? No front lot parking?

KAREN COX: The driveway goes in front of the building. They just have to park on a hard surface, how is that?

JAMES MARTIN: I think the issue Keith (O'Toole) has brought up, if you're having a temporary situation of a party or something like that, you will end up with parking not in the driveway, okay? And --

DARIO MARCHIONI: People use the front to park all of the time.

KEITH O'TOOLE: I guess my point would be if they have been occupying it as a two-family for over 30 years and we haven't heard a problem in all that time, what is the problem?

JOHN NOWICKI: I also understand what Dorothy (Borgus) is saying, too, because we have other spots around Town.

JAMES MARTIN: We have one in our neighborhood, all right, where we have a rental for RIT students, and oftentimes, depending on who has first class in the morning, there is cars out on the street.

MS. BORGUS: It is just in my mind the red flag goes up when you're that close to a college, what are we going to get into here.

KAREN COX: I think typically, and maybe I'm making a generalization here, but having gone to UB and seeing the way students are there and comparing it to the way Roberts students who live off campus behave, there is a big difference. In other words, the Roberts students are better behaved than other colleges, so there is that thought.

MS. BORGUS: I'm a little confused. Is this two apartments and then a live-in home, or it is a live-in home with one apartment?

JAMES MARTIN: Sounds as though there is a main portion of the building which was the original house, and the addition was added -- I forget what year it was added.

MR. CALVETE: Early 1970s.

JAMES MARTIN: And they built an addition onto the main house, which is the apartment portion of that, so that is what we're dealing with. The old main house was built in 1882 or something like that, and the apartment was built in 1971.

KAREN COX: On the west side of the house.

MS. BORGUS: It looks like the Board is taking the appropriate precautions. I hope they suffice.

Thank you.

MS. HAVENS: My client would like the Board to consider extending the conditional use permit, if it is granted for more than a year. I think under your code, normally they're for just a one-year term. So if you could have it be for a longer term before she needs to come back in, that would be appreciated.

JAMES MARTIN: We do have some discretion on the time period.

MS. HAVENS: Thank you.

James Martin made a motion to close the Public Hearing, and Karen Cox seconded the motion. The Board was unanimously in favor of the motion.

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

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 reviewed the proposed conditions with the Board.

The Board discussed the time period for the approval.

KAREN COX: We have had a couple other of these types in the past.

JAMES MARTIN: The most recently were in-laws where we have that standard set of conditions when they come in for an in-law approval, that it cannot be used as a rental. This is already a rental situation.

KAREN COX: We had at least one over on Westside Drive.

JAMES MARTIN: I believe we did, that's right.

KAREN COX: I don't know when.

DARIO MARCHIONI: That was two years, if I remember.

JAMES MARTIN: I think given the fact that there is some potential problems down the road, you know, if it were to be occupied by, you know, somebody that may be creating some problems over there, I would not go for more than two years, assuming they meet the requirement of the building code.

The Board agreed to two years.

JAMES MARTIN: We'll go for two years, Ms. Havens, on this at this time.

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

1. Approved for a period of two years.
 2. The property must be brought into compliance with all NYS Building Codes within 90 days of this approval or the conditional use permit shall be void.
 3. The existing metal shed will be demolished prior to a Certificate of Occupancy being issued.
 4. Applicant's attorney shall record a copy of the Planning Board Notice of Decision at the Monroe County Clerk's Office under miscellaneous records. It shall be indexed under the names of the owners of the property who owned the property at the time of recording the Notice of Decision. A time-stamped copy and recording receipt of the recorded Notice of Decision shall then be provided to the Planning Board attorney along with a copy of the property owner's deed evidencing compliance with this decision.
3. Application of Aldo Lepore, owner; 3210 Chili Avenue, Rochester, New York 14624 for preliminary site plan approval for Phase I of proposed expansion project to allow additional parking in rear of building at property located at 3210 Chili Avenue and portion of 849 Paul Road in G.B. zone.

John Shields, Jim Lepore and Aldo Lepore were present to represent the application.

JAMES MARTIN: For the last Planning Board meeting we did approve the subdivision on this property, but we did not move forward with the preliminary site plan. We're doing so tonight. Thank you.

MR. SHIELDS: Good evening. My name is John Shields. I'm here from Passero Associates representing Mr. Jim Lepore this evening. Jim (Lepore) and his father operate the Chili Liquor Store at 3218 Chili Avenue, and they also own the property directly behind that business, at 849 Paul Road. As you mentioned last week -- I'm sorry, the last meeting, we did receive the preliminary final subdivision and we're here this evening for site plan, preliminary and final site plan review and approval hopefully.

At the last meeting we did go through the extent of the improvements that the Lepores would like to make at both properties, and I would like to just go over a couple of those highlights.

What the plan shows is that providing cross access between the different parcels, between the Chili/Paul Village, the Chili/Paul complex and the liquor store, close vehicular access, the plan shows extension of -- or available -- additional available parking behind the liquor store.

The heavy gray area up on the plan on the board, and it also shows pedestrian access from that rear parking area to the front of the building where the main door is located.

Also, the Lepores would like to -- to create some traffic-calming measures for the driveway that is located behind the liquor store, between the liquor store and the 849 Paul Road office building. It's a cut-through from Paul Road to the plaza, and what the Lepores would like to do is -- what we're proposing are some striping and the addition of a curbed island in order to kind of channel the traffic. What we're proposing is 10-foot drive aisles on either side of a curbed aisle in hopes that that will create the traffic-calming back there and slows people down and kind of makes it a little less attractive as a cut-through, perhaps.

MR. SHIELDS: And lastly, this was mentioned at the last meeting. Essentially in the subject of another application the Lepores would like to entertain the idea of a building addition that would go along the rear of the existing building, about a 5,000-square-foot footprint, and in that addition they would offer additional retail space and perhaps storage space down in the basement level. Again, that -- if that goes through, it would be the subject of the future application. It is on the plan you have in front of you labeled as future and grayed out, but just for your reference.

Again, at the last meeting on November 8th we did have the opportunity for a small amount of feedback from the Planning Board regarding site plan issues, and one of those items that was mentioned that I think we have addressed, it was also mentioned by the Town Engineer, was pedestrian access from the proposed parking area behind the building to the front door of the building. What we have done to provide that pedestrian access is a 4 foot wide striped area along the west side of the proposed asphalt, and that still leaves a 20 foot wide drive aisle, and because it is striped, if emergency access needed it, it allows 24 feet for that access, should it be warranted.

I note that the handicapped space for the -- for the liquor store, rather, is located along the front of the building where the grades are relatively flat. I will point out the Town Engineer had some concerns. He issued a November 7th letter. We addressed those concerns and revised the plans and resubmitted, and I believe that is what you have in front of you.

Now, the Town Engineer received those, and on December 8th he had a couple additional comments. He asked us to show land-banked parking on Lot 2, which we have now done and it will be on the final plan. He has also asked us -- he had asked about lighting in the rear, the -- the proposed parking lot, and he had mentioned that the -- the couple of pole-mounted lights seemed adequate, but in addition he talked about building-mounted light on the southeastern corner of the building, and -- I'm sorry, the northeastern corner, and there are actually building lights already mounted, so we would make sure those lights are mounted and angled toward the parking area, if necessary.

One final mention I will mention is landscaping. In the traffic-calming aisle we're proposing, there are two burning bushes. Those would actually be relocated from the site to that area, and then the rest of the disturbed area on site would be just -- would be replanted with lawn for the time being. At the time of the future building addition proposal, we would -- we would then propose to get into more detailed landscaping and foundation plants around the building, other planting around the site, and I believe that this was mentioned to Ms. Tindale at the last meeting that we were at. As I recall, the Conservation Board was comfortable with addressing the additional landscaping when we came back for --

PAT TINDALE: We would like to see the whole plan once -- the whole site plan.

MR. SHIELDS: When we come back with the building addition?

PAT TINDALE: Yes.

MR. SHIELDS: Yes, ma'am.

JOHN NOWICKI: Do you have any idea if that is going to take place?

MR. SHIELDS: I'm sorry?

JOHN NOWICKI: How far out is the building addition?

MR. SHIELDS: The building addition, if it happens at all, I think it is at least a minimum of a year.

MR. JIM LEPORE: I would say at least a couple of years.

MR. SHIELDS: I don't want to mislead anybody. The building addition is a potential future addition. It is not the subject of this this evening, by any means. If the Board decides, we can certainly work with the Conservation Board to show some additional landscaping on this plan, as well.

JOHN NOWICKI: Because I'm just trying to figure out what we're actually looking at here to approve. It says preliminary site plan. You have the future building story addition with the basement, but yet all that area currently is going to be used for parking.

KAREN COX: No.

JOHN NOWICKI: No?

MR. SHIELDS: The future building addition, in the green, on the board, would -- would be lawn for the time being.

JOHN NOWICKI: You will put that into lawn?

MR. SHIELDS: Yes.

JOHN NOWICKI: You won't use that at all in the back of the building?

MR. SHIELDS: We would -- to the extent we would have to grade through some of the -- or some of the existing asphalt, whatever we don't grade through, I guess we would use temporarily as probably employee parking, up against -- behind the building.

JOHN NOWICKI: What are the intentions here with that piece of land that is -- that is

currently parking right now, isn't it?

MR. SHIELDS: It is. All of the way up to against the back of the building.

JOHN NOWICKI: So what will happen with that now? How is that going to be used?

MR. SHIELDS: It would remain asphalt, and it would be used for parking, more than likely employee parking over customer parking, but yes, you're absolutely right, it would be used for parking.

JOHN NOWICKI: That is what I am trying to get a picture of here. I'm not looking at -- the future is not there. It won't be there for a couple of years maybe. What I am looking at is the parking, and all my concerns are for safety of people getting up that hill and proper lighting and things like that. But again, I want to know what is going to happen to that space.

MR. SHIELDS: The space behind the building that is asphalt right now would remain parking. You're absolutely right.

KAREN COX: Why isn't it shown?

JOHN NOWICKI: Well, it is wintertime now. Can you use that this winter?

MR. JIM LEPORE: There are two dumpsters. There is a cardboard dumpster and a trash dumpster, a couple of recycling bins. There is also parking for the vans for the handicapped kids, four slots there.

JOHN NOWICKI: You don't have too much room left over.

MR. JIM LEPORE: No, there is not much. And delivery zone, as well.

JOHN NOWICKI: That was my concern at this point.

JAMES MARTIN: I don't know exactly what to call it -- pathway or whatever to get from the lower parking lot up to the upper parking lot.

Jim (Lepore), why don't you come up to the podium because there will be questions directed to you, too.

I'm assuming you will probably have some customers parking back there and going up to the front of the store to the entrance; is that right?

MR. JIM LEPORE: Yes.

JAMES MARTIN: You're showing basically a striped kind of ramp going up from the lower to the upper parking lot; is that correct?

MR. JIM LEPORE: Yep.

JAMES MARTIN: Will you just have it asphalt paved? What is your proposal with that particular aspect of the project?

MR. JIM LEPORE: Just going to have it -- like you said, have it asphalt paved.

JAMES MARTIN: I just -- my concern is, are we going to be in ADA compliance, all right, with that rise from the lower to the upper parking lot? I will take a quick timeout here.

The Boy Scouts, present in the audience, began to exit the room.

JAMES MARTIN: Thank you for being with us tonight. I hope this has been a lesson in civics for you all. If you're ready to leave, we'll delay the proceedings for a minute for you to exit.

My concern is are we going to be in ADA compliance for the grading going from the lower to the upper parking lot?

Are you going to have -- are there going to be cars coming down? You know, you have it graded now. I mean there is a ramp there. Is it anticipated that there will be traffic going from the lower to the upper, upper to the lower parking lot, down that ramp? Is that going to happen?

MR. SHIELDS: Yes.

JAMES MARTIN: Okay.

MR. SHIELDS: Yes, sir.

JAMES MARTIN: I think you're going to have to think very seriously about pedestrian safety on that particular walkway, all right, from the standpoint of two things. You know, what is the angle or the grade from an ADA compliance standpoint, and I really think you're going to have to think seriously about a railing or something on the outboard portion of that, number one, to protect the pedestrians from traffic going up and down there and also to give them something to hang on to as they're going up and down the pathway from the lower to the upper parking lot.

You know, I walked it the other day. I mean right now it's, you know -- I'm fairly able-bodied, you know, to traverse it without any problems, but I have that concern for your customers that may be parking back there that the only way they can get into your store is to go up that ramp into the front door of the building, the current building. So I certainly want that noted that those are issues in my mind.

MR. SHIELDS: With respect to the ADA compliance, I'm not certain that the entire site needs to be ADA compliant. We certainly need to provide parking spaces that are handicapped accessible and a handicapped accessible route from that parking to the front door which we're providing along the front of the building. I don't know that all of the spaces on the property necessarily need to be -- to meet that ADA requirement, although I understand beyond that requirement is your concern for anybody's safety coming up that ramp, and I think specifically with regard to ADA.

JAMES MARTIN: Just your own liability protection. If that gets icy, you really need to think how you want to engineer that for your maximum protection from a liability standpoint. If somebody slips coming up that ramp, you know what that is going to mean.

KAREN COX: Didn't John (Caruso) mention that the ramp they currently have is not going to be the final grade? You know, right now it is pretty steep. I seem to recall him

mentioning that, specifically that it will be graded out so it is --

JAMES MARTIN: He did say that that was going to be graded out.

KAREN COX: Right now it is just kind of a way to get back there for anybody who is adventurous.

JAMES MARTIN: That is down the road. My concern is if you move ahead with the project as it is currently laid out, with the elevation and differences that you have got, I mean you really need to think through the engineering aspects of that, for a maximum protection from a liability standpoint and from the Chili residents' standpoint who might be walk up that ramp.

MR. SHIELDS: Okay.

KAREN COX: Would the applicant consider the possibility of putting in a raised sidewalk instead of a striped walkway? You know, with a curb? Because it -- because the curb would be more of a deterrent, I think, than some kind of a hand railing. The hand railing will get smacked and that will be the end of it.

MR. SHIELDS: One benefit of just having the striping is that it -- it does allow 24 feet if required by emergency access. With the striping it is still 20 feet. Other than that, you can -- we can look.

KAREN COX: Just throwing it out here.

JAMES MARTIN: We're not trying to engineer your project. Just understand what we're trying to do.

MR. SHIELDS: I understand.

JAMES MARTIN: I will just say basically the pathway from the lower to the upper parking lot should be engineered for maximum pedestrian safety, okay? Assuming this goes forward.

MR. SHIELDS: We can work with the Town Engineer and the Planning Board to --

JAMES MARTIN: That is my expectation.

MR. SHIELDS: Sure.

JAMES MARTIN: There is a lot of cross access agreement notes on your plan. Obviously, you know, all cross access agreements have to be completed, properly recorded and copies supplied to the Assistant Town Counsel and the Building Department, so that is a necessity.

MR. SHIELDS: Okay. I believe many of those are in place, but we can confirm that.

KAREN COX: Two questions. I know we talked about one of these at the last meeting, so I apologize if I'm re -- you know, repeating this question. The three parking spaces that parallel Chili Avenue that are currently in the State right-of-way, I am sure they were not in the right-of-way before they put that extra lane in, but they are now. Did the State have some sort of agreement with the property owner to still allow that parking in their right-of-way, and will those spaces be removed when the new parking goes in in the back?

MR. SHIELDS: We will still -- actually, I think Chris (Karelus) had some input on this, if he doesn't mind repeating what he said at the last meeting.

As a result of a taking by New York State DOT, um, I think it put this property into some hardships, and correct me if I am wrong, but I think you mentioned the three parking spaces in the front of the property, um, were kind of preexisting, nonconforming and could remain.

CHRIS KARELUS: John (Shields), what she is asking, though, what I think she is asking, with the future project, would the owner be willing to take those out until the issue goes away? What I explained to them is the progression of getting to where it is today. But what they're asking today is will the project take that issue away with the future work compliance. I don't think they're concerned how it got to where it is.

MR. SHIELDS: She is saying by providing additional parking in the rear --

KAREN COX: Are you considering removing those? I haven't heard and I haven't seen or experienced any issues with those slots; in other words, someone backing out, smashing into the cars parallel parked. But I know in busy times, you know, seasonal busy times, you know, the driving lane can get a little crowded with the three cars parked there. I'm not asking for an answer tonight. I'm just wondering if that is a consideration.

MR. ALDO LEPORE: We used to have about eight parking spaces there, facing this way (indicating), and the State took my property and they gave me nothing for it.

KAREN COX: I understand.

MR. ALDO LEPORE: Now, what that has got to do with the parking in the back? We need the front the most, not the back. The back will help when we make the bigger store, but right now, we need the front. They already took five from us, and now you want to take three more? For what purpose?

KAREN COX: I wasn't saying that is a requirement of the Board. All I'm asking is has it been considered. That's all.

MR. ALDO LEPORE: I mean -- I'm wondering what purpose you want those three parking spaces in the front? Who is going to benefit from it except the people that have to go in the back?

KAREN COX: No, I --

JAMES MARTIN: We're not requiring that they be removed?

MR. ALDO LEPORE: Oh, but you're suggesting.

JAMES MARTIN: Well, it is just one of those things. They are in the right-of-way.

JOHN NOWICKI: It's on State property. It is on State property. You don't own the land, and is the State going to come to you and say we want rent?

KAREN COX: No, they don't do that.

MR. ALDO LEPORE: They took that, and they said how about if we give you -- when I signed the papers, because for two years, five years, I didn't sign the papers. I will not sign the papers because they took all that land. Then they came back to me. They said we going to redo it. We not going to take your parking spaces. You will still have it. As a matter of fact, the engineer, John Caruso, they negotiated with him, and he is the one that negotiated with me. He said, "Al (Lepore), we're not going to take those spaces away."

JOHN NOWICKI: So that is on record.

MR. ALDO LEPORE: So I give him the okay as long as I could have kept those three spaces. Now you want to take the other three. Pretty soon if we make a bigger, they will take another 20 feet and we'll have to knock down the building so we can park it. I mean they took so much the first time, and they took so much the second time and now you want to take three more.

JAMES MARTIN: No. You're okay. We're not going to have you take those three parking spaces.

MR. JIM LEPORE: It hasn't been considered. We never talked --

KAREN COX: I didn't mean to get everybody all riled up.

MR. JIM LEPORE: If we have problems there, we would have considered it, but we have not yet had one accident because of that. That is -- John (Caruso) put those stalls -- John Caruso put those stalls facing sideways. He figured out all of the ratios. All we want to do is angle the parking -- when we stripe it, to angle it a little better so that way we completely eliminate the probability. I can't speak for every driver, but the average driver.

KAREN COX: Now, you -- you're showing taking out -- demolishing that retaining wall. If the -- where the future building is going to be is going to be left as parking, a small amount of parking, as it is? Will that wall come out now when the back lot is built and then you're just going to grade from the dentist office building down to the --

MR. SHIELDS: It would probably come out now. I think it is only a couple of feet. It is a timber retaining wall in poor condition.

MR. ALDO LEPORE: What is the question?

MR. SHIELDS: The retaining wall along here (indicating), would that come out? Would that come out with these improvements now?

MR. ALDO LEPORE: Which retaining wall are we talking about?

MR. JIM LEPORE: Dentist office.

KAREN COX: Wood, timber.

MR. SHIELDS: Along here (indicating). Here is the dentist office (indicating).

MR. ALDO LEPORE: That is supposed to be all elevated higher except where we put the dumpsters. That is going to be all elevated. In other words, we going to keep that elevation, that -- that the doctor's office has. Except when we go towards the back, that is where we're going to put the dumpsters. That is going to be low so they can come in from the driveway without going up or down. So we are going to keep that.

KAREN COX: You're not going to demolish it or you're going to keep it? I'm confused.

JOHN NOWICKI: On the drawing it says, "demolish existing retaining wall."

MR. SHIELDS: This retaining wall I think can come down, and until the future building comes in, the retaining wall can come out and we can grade just straight down.

MR. ALDO LEPORE: From where?

MR. SHIELDS: From the dentist office.

MR. ALDO LEPORE: For what purpose? So you can climb it?

KAREN COX: Your engineer shows that the wall is going to come out, so the question I have is because there is now -- you know, it's small. It is a 2 foot drop. You're going to need to grade --

MR. ALDO LEPORE: First of all, if we take the wall out, it is going to be this steep (indicating) because we only own on that wall -- we only own about a foot and a half or two. So if we take -- if we take the wall out, there -- there is no gaining, because you're -- as a matter of fact, the people might walk up or down and slide and hurt themselves. With the wall now, they have to kind of --

KAREN COX: I have done that.

MR. ALDO LEPORE: -- climb it.

MR. SHIELDS: The demo of the wall will be part of the future. If and when we come back for a future building addition, the demo of that wall will take place. I will revise the plan to show that.

JOHN NOWICKI: You just have to change your notes on here.

CHRIS KARELUS: I think it has to go with the grading. You can't grade that back lot without that. Period.

If you're going to grade that area -- Mr. Lepore, if you're going to grade that parking area, that wall goes. Your engineer was right on. The way they're marrying the grade, there is no way you can do the parking area with the grade functional with that wall existing. You can't make it happen. You're grading up to that the wall. The grading plan you're showing back here shows that you're grading into that wall. You have to do it.

MR. ALDO LEPORE: We not going to raise the level of the parking until we built the addition.

CHRIS KARELUS: But your plan grade right now for your parking area, and Jimmy (Lepore), in order to get the grades to match the plan, you need to do it. You need to get that grade higher now because your grades are going to be too severe. Your slope to the property will be too severe. Your engineer has designed the parking area so the grades will be adequate. If

you do not -- if you keep that wall there, your grades will be too severe because you will not absorb that 2 feet of grade in that back parking.

MR. ALDO LEPORE: But I understood we're not going to touch that until the future. Where we want to park now is on the east side.

CHRIS KARELUS: I think just trust your engineer.

MR. ALDO LEPORE: In other words, if we raise it now, if we raise it now, if we extend 65 feet back, and we raise it 3 foot, when I make the store bigger, which is 65 feet, I got to take all that dirt out again. So that area was supposed to stay as it is.

MR. JAMES LEPORE: I guess I don't understand if it has been that way for this long, why can't it stay until we come back --

DARIO MARCHIONI: We're not the ones designing this.

GEORGE BRINKWART: That is not what your plan shows.

CHRIS KARELUS: You have a parking -- your biggest issue is going to be your grade transition. How high your front lot is getting into your back lot. This drive aisle needs to be worked on. This area on the drive aisle back in to where you back the building is -- you kind of want that bay area into your new storage space, right now it doesn't work. I think what they're concerned about is the grades where people are walking from one spot to the other will have to go into these other areas that are 8 and 6 percent, and wet and ice conditions, and that back lot, that parking area that you're looking to add on right now to link up to that front area, you can't have that work without grading happening in your back lot like your engineer is showing in your plan. Again, increasing the grade back there about a 1 1/2 to 2 feet, in and out.

JAMES MARTIN: I want to move on. We're not going to solve your engineering problem right now. You will have to work with the Building Department, with your engineer to resolve this issue.

MR. SHIELDS: We're more than happy to do that.

JAMES MARTIN: We're looking to a plan that we're trying to approve, and I want to be sure what we're approving is essentially what is going to be built back there. If it is not, we'll have to table this until we resolve these issues.

JOHN NOWICKI: It is a plan that has to work with both sides.

MR. JIM LEPORE: Absolutely.

JOHN NOWICKI: It has to be safe for you and your customers and it has to be safe for the Town. That is the bottom line, end of story.

JAMES MARTIN: So at this point --

DARIO MARCHIONI: Karen (Cox) had a question.

KAREN COX: That was all I had. I don't want to --

JOHN HELLABY: I hate to keep beating it to death, but I'm totally confused now. How much of that concrete curb under this plan gets put in now along this east side? All of it?

MR. SHIELDS: The curb that is shown along the -- what I will call the future building for now?

JOHN HELLABY: No, the east side of the parking lot. It says where you're removing all of the timber stuff and it is all new curb from where it goes down the hill with the 5 foot radius back along those spaces, those islands in the back, is all that getting put in now?

MR. SHIELDS: The entire curb on the east side -- we're asking for approval of the entire curb on the east side to be installed. We're asking for approval of the island, the traffic-calming island and an island to the south of that traffic-calming island.

JOHN HELLABY: So I look, and this parking lot would be laid out exactly as it is shown on this drawing, Number 2 of 3, and not just what is out there today, correct? Other than the issue that it is going to slough off into any future building pad, otherwise you have a grading problem. I realize that.

MR. SHIELDS: You're right. There is a line that represents the edge of the pavement, and that line runs -- runs into and meets an existing curb at the west -- called the west entrance to that drive through.

JOHN HELLABY: What is the timing on this? To my knowledge, I think the asphalt plants close in a week or two here, if they aren't already.

MR. SHIELDS: I think the timing to complete that portion of the work this spring.

JOHN HELLABY: The next question I have got is a couple times I was back there, the trucks that actually make deliveries seem to back up to that dirt pile that some people claim they drive over. I can't believe they drive over that, but they were -- had a ramp off the back of the truck onto that. Once this is in place, where are the trucks going to unload?

MR. SHIELDS: He is saying right now trucks are backing up to here (indicating), coming down the ramp.

MR. JIM LEPORE: No. They're backing up here (indicating), pulling the ramp over here (indicating).

JOHN HELLABY: Where are you going to unload these trucks once this parking lot configuration is all done? Naturally you won't be able to back them up there now.

MR. ALDO LEPORE: Right now they're doing that because for them it is better.

JOHN HELLABY: It's fine. I don't have a problem right now. Once this is done, what will you do with them? Where are they going to unload?

JAMES MARTIN: Will they continue to load on the east side of your building?

MR. ALDO LEPORE: Eventually there is going to be on the west side of the building, eventually, when we build the building.

MR. JIM LEPORE: That is not the question. The question is now.

JAMES MARTIN: For the time being, until -- until new construction or whatever, you will have them unloading where they are currently unloading?

MR. JIM LEPORE: Correct.

JAMES MARTIN: You're looking at the building, on the right side.

MR. JIM LEPORE: The northeast side.

JOHN HELLABY: Plus go up the driveway on the side for the time they're unloading.

MR. JIM LEPORE: Correct.

JOHN HELLABY: How often do these deliveries occur?

MR. JIM LEPORE: Two, three times a week.

GEORGE BRINKWART: On Sheet 2 of 3, I was looking over that, and Item Number 9, there are State regulated wetlands on this parcel according to New York State DEC mapping. It doesn't agree with the application that you filled out. What is the story on that? You got --

MR. SHIELDS: As I read that note, that is incorrect. There are no State regulated wetlands on the parcel. That note needs to be revised.

GEORGE BRINKWART: I guess I would ask for you to put some dimensions on the proposed striping, too. Just offhand do you know what the roof is (inaudible) and your landscaped, hatching area.

MR. SHIELDS: The striped area of the front of the building, I believe is 8 feet, 96 inches is the minimum. That is what we're showing.

GEORGE BRINKWART: The dimensions of that.

MR. SHIELDS: Certainly.

GEORGE BRINKWART: I don't want to belabor the point, but at the last meeting when this was originally presented to us I asked the engineer to take a look at some of the grades that he had proposed, and frankly I find 7 percent, 8 percent grades in a parking area inappropriate. I really was hoping he would take a look at that and maybe have some gentler parking there. What is out there existing today isn't bad, but I don't think 8 percent is -- I think that is too steep.

The other thing you might want to take a look at some of the grading there. You have a spot elevation 574.4. It is about 4 feet from a 574. Take a look at that.

MR. SHIELDS: We can do that certainly. Certainly.

GEORGE BRINKWART: As it stands I can't support parking on that type of a grade. I am certainly willing to go out with you and take some look at other parking in the General Business area in the Town of Chili to find anything that is 8 percent parking parallel to the contours, but I can't -- I don't buy into that. That's all I have.

MR. SHIELDS: We did look at the grading. Um, so your comments last week or last meeting did not fall on deaf ears. The 8 percent max, um, for about 40-foot portion we didn't -- we don't find excessive given the fact we're trying to tie an elevation on the front of the building that is about 75 to about -- about 6 feet higher than the rear and we're trying to do that over a fairly small distance. We don't find the 8 percent to be --

GEORGE BRINKWART: Well, you're showing a 2 percent in the drive aisle there. And frankly a drive aisle can be a lot steeper than 2 percent. I would rather have a steeper drive aisle than parking. You have people coming out of the liquor store carrying bottles of glass in winter conditions with 8 percent slope, you will have customers land on the ground picking glass shards out of their butt on a slippery day. You just think 8 percent is inappropriate. If you can demonstrate 8 percent or 6 or 7 percent is typical for parking we have here in the Town of Chili, I will buy into it, but I don't think you're going to see a lot of that, John (Shields).

MR. SHIELDS: I don't propose it is typical. I guess I'm not familiar enough with parking lots in the area, Chili specifically and, well, now typically I don't think it is unheard of for a parking lot, but your comments are noted, yes, sir.

DARIO MARCHIONI: I agree. Where you have the 2 percent, I think that can be shortened up, so where you have the 8 percent you can get a 7 something there.

KAREN COX: Keep in mind, though -- if you make that 2 percent steeper, then they will be walking on a steeper walkway, so maybe there is a way.

GEORGE BRINKWART: Nothing is from nothing. (Inaudible) going to walk 2 percent a ways and (inaudible).

KAREN COX: Can they split the difference and go 6 percent?

GEORGE BRINKWART: Either way we have to get from one elevation to the other.

JAMES MARTIN: I think -- I think we're trying to engineer the project for them, okay?

DARIO MARCHIONI: Just comments we're making.

GEORGE BRINKWART: It is up to them.

JAMES MARTIN: I have already noted the pathway from the lower to the upper parking lot should be the maximum (inaudible), and I think that is conducive for vehicle traffic, slope, everything should be engineered so we're not going to have problems there.

GEORGE BRINKWART: It's true, but you have to consider this, as well. You can walk up and down a greater slope than you can traverse. If you're trying to walk across, traverse a grade, it is much more difficult than --

JAMES MARTIN: I understand. The car will be on the slope.

MR. SHIELDS: I'm sorry, the grade we're showing is parallel to the walkway. Is that what you are asking about? You're saying we would be traversing.

GEORGE BRINKWART: Your cars are parked parallel to the contours so you have to walk across the slope to get to your cars. That is my concern.

JAMES MARTIN: The car will be like this (indicating), you have to walk to it, which is very easy to slip when you're opening the doors and all kinds of things can happen.

MR. SHIELDS: Mr. Lepore asked me to point out the grades that we're talking about with the 8 percent and the 7 percent are in the neighborhood of -- if you come into the Chili/Paul complex, I believe it is, the building, 849 Paul Road, if you come into that from Paul Road, there is a -- there is a grade that comes up immediately.

MR. ALDO LEPORE: That grade coming to the building is steeper, coming up and going down is going to be -- that's our -- that's how ours is going to be on the other side, approximately. Coming from the plaza, from the back going up. He took a scope on it and he figured we should have about the same as that. In other words, it would be less than the one coming from Paul Road right now, going to the complex. Chili/Paul complex there, that building, it's not as steep as that. But it's going to be as steep as the other side, which is a little bit longer. According to John Caruso.

JAMES MARTIN: That is a driving lane, right, the cars are coming in and out of there?

MR. JIM LEPORE: Right. Right.

JAMES MARTIN: They're not parking there.

MR. ALDO LEPORE: No, they're not parking.

JAMES MARTIN: That is the difference. When you have cars parked on a slope, that is the potential problem.

MR. ALDO LEPORE: But that is only temporary. We make it that way temporarily. But when this is finished, we'll only have the slope from the driveway going kind of, um, the same degrees that we have that driveway now and then it would be pretty much level with the other parking lot that we have. It will be graduated because also the high point of the north of my property now, it's about a foot higher than the drain, so we're going to top that down some also.

MR. JIM LEPORE: So the starting point will be lower, so it will make it less grade.

MR. ALDO LEPORE: So if we have now 3 foot, we're starting.

GEORGE BRINKWART: You may have that clear in your head, but that is not what your plans are saying. So get with your engineer and figure something out.

MR. ALDO LEPORE: We'll have to get together and show it on the paper again.

KEITH O'TOOLE: Mr. Chairman, are we going to table this? Is that where we're doing here?

JAMES MARTIN: I don't know. I mean I -- I would defer to the Board where we're headed with this whole thing, but obviously -- what is on the paper and what we're hearing are two different things, okay?

JOHN NOWICKI: I think they have the information from the Board on what has to be done. The engineer knows what has to be done. I think it would probably be a good idea from Mr. O'Toole's standpoint to consider tabling it.

JAMES MARTIN: I don't think we're dealing with unsolvable problems.

MR. SHIELDS: Yes, sir. I would agree.

JAMES MARTIN: But what you're showing us is not --

JOHN NOWICKI: Something we can't vote on.

JAMES MARTIN: There is a lot of issues with that.

JOHN NOWICKI: Again, like I said before, we're on both sides of the aisle. We have to make sure you guys are comfortable from a liability standpoint as well as the Town, too, because of the decisions we have.

DARIO MARCHIONI: There really isn't much that has to be adjusted, but just a matter of what he sees, put it on paper.

MR. SHIELDS: I do understand.

JAMES MARTIN: I think Passero will have to work with the Building Department to be sure whatever plan is finalized here, all right, is going to be in compliance with the figures we have asked for and things we discussed, but I don't think it is the Board's position to reengineer this project to make it work.

CHRIS KARELUS: I think the points the Board make are all engineering based. From what I have heard is the curbing on the east aisle, that the landscaping that is proposed in the plan that is showing should be installed now. To get into agreement and get the slope as gradual as we can, keeping the slope walkable from the back lot to the front lot and safeguarding the public, um -- I myself do think that the drive aisle in that back parking lot area has to be safeguarded in some way for traveling foot traffic from the back to the front. We can work those items out in the plan and brief the Board.

JOHN HELLABY: At this venture, I would make the suggestion that this whole addition thing goes away. I want to see what are we going to end up with back there. If this addition is two, three years down the road, it shouldn't even be on here.

JAMES MARTIN: I agree.

Given everything that has been said, and the issues that we have in hand, I would make a motion that we table this application pending further engineering of the project, and that when they're ready to come back, we'll hear it again.

JOHN NOWICKI: So moved.

JAMES MARTIN: It has been seconded.

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

JAMES MARTIN: So it has been tabled until a future meeting when all of the engineering requirements have been taken care of.

DECISION: Unanimously tabled, by a vote of 7 yes to table for the following reason:

1. Pending resolution of several engineering aspects associated with the project.

FOR DISCUSSION:

1. James Gizzi - for proposed commercial building at 4348 & 4354 Buffalo Road in G.B. zone.

Patrick Laber, Larry Fenity and Jim Dizzy were present to represent the application.

MR. LABER: Good evening. I'm Patrick Laber from Schultz Associates, and I'm joined tonight by Larry Fenity of Fenity Associates, the project architect, and also Jim Dizzy of Titan Rock, LLC.

What we're showing you tonight is basically described right now by the address. 4348 and 4354 Buffalo Road. I'm not sure if everyone is -- are familiar with the site. I assume you are. It is just east of the Walgreens just completed on Buffalo Road. Currently comprised of two parcels. The smaller parcel encompasses the existing buildings at the southeast corner of the site and the intent here is to merge the two parcels into one, 1.7 acre parcel and demolish the buildings that are there right now, along with removing both driveways, and then develop a one single General Business zoned parcel with a two-story 24,580 square foot building that would contain both retail and professional office use.

And before I get too far into describing this, I just want to mention that this project will be looking to develop according to the draft code that is currently under review by the Town, and we won't be coming back and making our application until we know that that has been passed obviously, but we wanted to get this in front of you, this Board tonight, just to take a look at it.

Access to the site, as I said, the two accesses right now will be closed off. One access is proposed with one lane in, two lanes out down at the southeast corner of the site.

Utilities, we have access to all major utilities, water on the south side of the road, sanitary on the north side.

In terms of storm water management, for quantity purposes to meet the Town and the State regulations, we'll be doing underground storage. Whether that is chambers or large pipes, it is to be determined, but that's how we'll be handling the quantity portion and then similar to what Walgreens did next to us, we'll have mechanical filtration system to handle the quality portion of that. And again, we'll make sure that that all meets SPDES regulations and Chili's regulations also.

In terms of landscaping, landscaping will be provided throughout the site. Um, obviously the north side is of particular attention. We're going to have the 30-foot buffer that is required by the draft code, and that will be a four-season buffer, planted extensively. Something else that will provide additional screening is that the site has a lot of relief on it right now. Rising up as it heads towards north. Um, when we level out this site to get a building pad and also get reasonable slopes on the parking, that will result in about a 6 foot elevation change at the northeast corner, about 2 foot elevation change at the northwest corner. So the site will be sunken down from original grade that should help and aid in buffering from the residential lots to the north of us.

I believe it is Town Code also that a landscaping architect design the landscaping, so obviously we'll have that in place also.

Um, lighting, obviously there will be site lighting provided. It will all be dark sky compliant. Again, with particular attention to the north side housing, shields will be added to the fixtures themselves. We'll also be looking at possibly lower wattage or shorter poles in that area to insure there is no light spill or impact onto the properties to the north.

And then our biggest challenge on this site will obviously be parking. On the plan that you have, right now I believe there is 93 spaces shown. In speaking with Mr. Karelus, we have had to make a few changes to the site to, um, satisfy the Fire Marshal, and that is widening the west drive lane around the building, adjacent to the drive-through from 17 to 26 feet, and then also we have moved the dumpster, I believe it was over here in the northwest corner. It has been moved to the northeast corner and tucked in where two parking spaces were shown before. So right now on this plan we're showing 9 1/2 wide by 19-foot deep spaces, and one thing we would be asking the Board to consider is possibly allowing 9 foot wide spaces. This would allow us to get a lot closer to the parking requirement that we have to meet right now. When common spaces such as stairwells and elevator shafts are removed from the building area, um, it works out to be that we need 112 spaces per zoning. I did take a look to see what 9 foot wide spaces would do to that and that gets us to 105, so it gets us a lot closer to where we need to be and makes any variance a lot less substantial.

Other than that, the second variance that we will need on this because of how the site is laid out is parking in the front. That is a variance that we'll need, according to the parking code. Um, as I said, we have met with the Fire Marshal, and this site has been designed to pass a 50 foot long semi tractor-trailer, so they were going take a look at that and confirm that that matches the requirements for the trucks, but we're confident that we can deal with that one way or another, if it isn't.

Other than that, I will let Mr. Fenity take you quickly through the building and the look of

that.

MR. FENITY: I'm Larry Fenity with Fenity Associates, architects from Spencerport.

Again, it is a two-story structure. The intent is that the first floor will be predominantly retail, so we're trying to give them very much an open type situation there. On the east end would be the entry tower and we'll look at that in a second for the offices upstairs.

The second floor is intended to be professional offices. The owner believes that he can probably be looking at medical and professional offices and fill that out comfortably. At the west end there is a drive-through, and again, the -- our hope there is either a bank or possibly some sort of a food service, but I think a bank is probably what they're looking at most likely right now.

In terms of the materials and design of the building, we have taken a look at all of the buildings in the area. We recognize we'll be going before Architectural Review Board, so I will keep this kind of short rather than give you too much architect speak on this, but we're using brick base and tower throughout, you know, on the -- on -- the tower and on the base throughout tying into a lot of the buildings that are adjacent that have brick, both at the college and the drugstore next to us and across the way with the -- where the video store is. We're using metal roofs. Again, they're showing up in a number of the buildings nearby. And again the other material predominantly on this structure other than glass would be either an EFIS system or Drivet type system, something that is used at the Rite Aid and much of the plaza behind that has quite a bit of that. So we're trying to use the materials that are right in the area so we tie into this, and some of the vocabulary of it and yet still create a building that has character and identity of its own, so it fits in with North Chili, but still reads well on its own.

The colored rendering we were looking at before was the south elevation. The east elevation is obviously the one that has the entrance to the offices. And then the rear elevation -- again, this is a building that all sides will be developed. It is not a front and a back of a structure. Otherwise, our hope is that -- you know, as a new building, rather first class type structure that we attract good quality entrance to the location because it is certainly a wonderful location and the area is developed well, so I guess that is pretty much it.

JAMES MARTIN: We'll look forward to how the Architectural Review Committee deals with this and what recommendations are forthcoming with it. But from -- from the elevations we have seen, it looks like a fairly attractive building.

MR. LABER: I think the developer believes this will fill a need in the area. There is really not a whole lot of professional office space in the North Chili area here. They believe they have a good market in this area for that.

JIM POWERS: What retail services would you offer there? Did you mention?

MR. LABER: Not specifically. There is -- other than they're looking at a bank possibly in the area for the drive-through. Other than that, I don't believe that anyone has committed or there has been any discussions with anybody so far. But obviously it would be market-driven and we would be looking into that more as we go along the process and get closer to getting some sort of approval.

JAMES MARTIN: I believe when we reviewed this at DRC, I recommended you have a conversation with Roberts Wesleyan to see if they had any interest in something of commercial nature that might fit into your future plans, so hopefully you will do that. I'm sure they have ideas.

KAREN COX: Suggestions on what would be good for their students and stuff?

JAMES MARTIN: Well, what would be an attractive retail offering that would fit in with, let's say, the academic atmosphere of Roberts Wesleyan College.

JOHN NOWICKI: Are you looking at something similar to like a small Park Place?

MR. GIZZI: Yep, exactly.

JOHN NOWICKI: I was just going to ask a question. Are you considering offering apartments or anything like that?

MR. GIZZI: Not at this point, no.

JOHN NOWICKI: You're a west-sider, right?

MR. GIZZI: Yes, I am. I live right in Chili.

KAREN COX: He lives in my neighborhood.

JIM POWERS: Is this --

JAMES MARTIN: There were some -- you know, the Town Engineer had made some comments. You have addressed one of the more critical ones in getting that drive aisle expanded. Certainly the other ones, the SPDES permits and the certification and all of those are things that you need to deal with, so I won't go into any of those details. If this proposal moves forward to a formal application, then we'll deal with those at that time.

KEITH O'TOOLE: If I may. Couple things. First, the code does require that there is no front parking, and in order to get relief from that, they would have to go to the Zoning Board.

I kind of question that in this instance, and certainly I would ask that they go to the Zoning Board first if they want to pursue that variance because as I look at this project and I notice there is actually very little landscaping on the project relative to the site coverage and that's why they're trying to squeak around all of the parking regs.

For example, there looks to be some residential uses across the way, across Buffalo Road and considering the grade of the site, I would expect there would be some light wash shooting across into those houses. If you had more site, more depth, or if you didn't have front parking, you wouldn't have to worry about that issue.

Land banking. Land banking of parking spaces is designed primarily for industrial uses

where you have shifts and you don't need the parking right now. The idea of using land banking in a retail use strikes me as -- I mean fanciful, to say the least. And besides, the spaces are -- I mean angled spaces backing up into a bypass lane aren't really a practical design, and in order to use them anyway, you have to sacrifice what little landscaping you have on the boundary line.

In terms of the architecture, I know the Chair has mentioned in the past that he would like to see retail development of this type to be more like Freeport, Maine, and less like -- well, certain other places, which we won't name. I kind of wonder perhaps if the Glue Factory would be more of a baseline for the development than perhaps the rather contemporary design that is offered here. Of course that is more up to the Architectural Advisory Committee.

I would like to see cut sheets on the lighting. I know Walgreens went with the gooseneck lights and the Board seemed to be in favor of those last time and perhaps they can offer those, and we don't have to stick by the shoe box type which would be a little more in keeping with the North Chili pattern of development.

Um, as far as the parking is concerned, and this -- this has bothered me for a long time. I don't understand why we can have relief from 9 1/2 feet to 9 or 9 1/2 feet to 8. I mean cars don't change just because the Planning Board says you can have a parking space this wide versus that wide. The reason we have that relief in the code is for sites like Empire Beef where the Board can say, no, we want you to make bigger spaces for parking of trucks, or like for parking of buses like they did on that Scottsville Road property, the old Spector site. It isn't a quick fix for avoiding a trip to the Zoning Board of Appeals. If they want relief from the size of parking spaces, I mean there is no rational argument for it other than the fact they don't want to do it.

If they want relief from the number of spaces, certainly they can make that petition for a variance in front of the ZB and they can make their case why the uses in this building are somehow special, but from when I can tell so far, I believe they have one tenant at least they have shared with, at least a bank, or at least that is what this is designed to receive. Unless they have their tenants lined up, we don't know the occupancy of what the building will be, so it is tough to argue you don't need the spaces when you don't know what your tenants will be.

Nothing further.

DARIO MARCHIONI: I thought we're going to build smaller cars.

KEITH O'TOOLE: In Europe, Dario (Marchioni).

DARIO MARCHIONI: That's what the three big car companies are working on. But that's another issue.

I was just -- the 40-foot rear yard, are we going to -- it looks like we only have 30 feet.

JAMES MARTIN: I don't mean to interrupt you, but he already stated that the site plan will be designed in accordance with our new code, which is in process of being adopted at this point in time.

CHRIS KARELUS: Got adopted last Wednesday.

JAMES MARTIN: Got adopted last Wednesday.

So I can't cite what those issues are going to be, but they will design to the new code. I know the 30 foot buffer is an absolute requirement between any parking -- any, you know, space and adjacent residential properties. So you can't -- Dario (Marchioni), you can't cite what is in our existing code. It is void at this point.

DARIO MARCHIONI: Okay. What percentage of -- of the building is going to take up by this property?

MR. LABER: I believe it is on the plan.

UNIDENTIFIED SPEAKER: 18 percent?

MR. LABER: Yeah.

DARIO MARCHIONI: That's all of the questions I have right now. I like the architectural so far. I was just wondering, can we have a clock on that round?

MR. GIZZI: We thought we were going to hear that.

DARIO MARCHIONI: Like the one Wegmans built with the clock, the new building. That's an attractive thing.

JAMES MARTIN: Again, comments that Mr. O'Toole made, please take those into account. They are serious issues.

MR. LABER: Right.

JAMES MARTIN: So somehow, you're going to have to work through that and find out where you end up with a ZBA perspective.

MR. LABER: Okay.

CHRIS KARELUS: Can I ask the Board? I think the -- they need general direction where to go, whether it is a variance for parking or whether the Board is going to give them the relief. What I can say to the project's credit, number one, across the street, yes, they are two rental units, apartments. They're not family-owned and operated. They're commercially zoned. So just keep that in mind. That whole district is developed to try to have this type of project present itself along that whole corridor of GB. What it is today is rental units that is commercial in nature. It's a construction business at one end of them for an office space, and the second one is a primary, is a knickknack store, stop with a second-story residential.

What this project has done, and I have seen it, and they asked me, they pushed to try to get the landscape island element incorporated with the project. So they didn't -- they had the break-ups still. Those landscaping intermittent elements, they're not asking for the variances for them. They have tried to get that involved in their project.

And asking us about the appearance of the building, I did recommend to them that they go to that draft code that is now adopted because they were in that transition period, and I think to

their credit, they have really made an attempt to try to look at those sensitive areas in the conceptual plan and address them. You know, they have done a lot of up-front work with us, with MS4, SPDES and dealing with Ken (Hurley) and David Lindsay to try to find out how this project could advance. What needs -- excuse me. Site plan, drainage.

So I think this project in particular, you can't assign. When a multi-unit project like this, multiple-user project like this comes through -- I have even worked with their engineer. The parking codes really don't even apply. When you have a mass build-out of independently retail leased spaces throughout it, there are common areas and our parking code doesn't even apply -- you can't apply that square footage to atrium space, mechanicals, things that are common to these types of developments.

To their credit, they really evaluated that the space count that will be reflected what the user is. To the project's credit, if we -- if -- this is for the Board or for the zoning variance. They could make 9 1/2 spaces work and they could sacrifice all those 10 foot landscape islands that are around the project, I think half a dozen to 8 of them they have integrated into the parking area. That is the balancing act I would ask the Board to consider with this project. The general scope and nature that it brings to that project, the General Business and nature to that whole corridor, and who is actually owning in fee title the areas we're looking at with buffering and how to keep that project sensitive to whose eyes are on it. People are renting into projects that are in General Business corridors that are not family-owned and operated, family-owned residences that are directly living across the street from this project.

JOHN NOWICKI: Consider snow removal, too.

KEITH O'TOOLE: To build on that point, my recollection from the nearby Walgreens site was that snow storage was inadequate. I kind of wonder where they're going to put the snow here, because they have essentially the same level of landscaping.

DARIO MARCHIONI: You could haul it out.

MR. LABER: That is what ends up happening, you have to haul it out.

KAREN COX: I guess I wrote down more of a rhetorical question, with parking, and I think it is going to be driven more by Zoning Board, and that is -- which is the lesser of the two evils here, fewer larger spaces, you know, spaces that -- that comply to our code, then you would have future spaces available, or smaller spaces so as to allow the site to more closely match the code, and they have already said right now even with that, it won't meet the number requirement. But we seem to be going down this road a lot lately, where we're saying, okay, we'll take smaller spaces, to more closely meet the number required by the code, but if the -- you know, taking Chris (Karelus)'s comment into account, if the larger spaces still provided adequate parking for the proposed uses, and allowed the landscape islands to stay, we have to think about that.

That's all.

CHRIS KARELUS: I think what I have suggested to them is with their architect, bring in their plans as they can get -- as more precise as they can and then we'll look at the parking. Because up in those common use areas, the elevator shafts, the mechanicals those rooms that are gross areas in the building, they shouldn't apply the parking code to them. They're not usable space.

KEITH O'TOOLE: If I may, the code is what it is and you calculate based on what we have in the code.

Mr. Laber, aren't you calling out spaces that are 9 1/2 feet right now?

MR. LABER: Yes.

KEITH O'TOOLE: So obviously they do have room for 9 1/2 foot spaces. They do have room for the landscaped islands. Again, I really strongly encourage you not to provide relief from that.

Thank you.

MR. LABER: The only reason why we ask for that is it was our understanding that that was something that could be considered. I didn't realize it was this touchy of an issue as it actually -- as I'm hearing right now.

In looking at those common areas, the numbers that are on the plan right there -- the architectural plans become more refined, removing the common areas from the equation, in the building stairwell, elevator shafts, brings us down to 112 spaces we need right now. We're at 92. If we did get relief, we would be at 105. Um, that difference in there of 12, 13 spaces, I'm not so sure if that will really make or break the project in either direction.

Um, there has been a study done by the County on parking, and they found that throughout the area that a lot of the parking codes actually require developers to put in more parking that may -- than may be necessary. When you start getting to a development like this and you go over 20,000 square feet, um, they found that the parking requirement, if it is dropped down to about one every 450 square feet, that that is usually sufficient. 200, up to 20,000, but then beyond that, they found that dropping that usually is sufficient. So -- so we are looking into this, and we're not just asking for -- for the allowance to go down to 9 feet. We are pursuing other avenues to see justifications for possibly having slightly reduced parking.

JOHN NOWICKI: Mr. O'Toole, just a thought. Only because of what is going on in the technical world today, when it comes to automobiles, you could conceivably say in the future, and not too far out in the future, hybrid parking only in some of these parking spaces, because let's face it, the size of the vehicles are coming down, but it will not happen right away. But I can see where you will have conditions where you can have a parking area, just one section just for hybrid cars.

DARIO MARCHIONI: In Florida they have areas for compact cars, full-sized cars,