

CHILI ZONING BOARD OF APPEALS
December 18, 2007

A meeting of the Chili Zoning Board was held on December 18, 2007 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Paul Bloser.

PRESENT: Todd Benz, Jordon Brown, David Cross, Michael Martin, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Chris Karelus, Building Department Manager; Keith O'Toole, Assistant Town Counsel.

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

PAUL BLOSER: First we'll go over the signs for the different properties we're looking at tonight.

Application 1, John Clark, Attridge Road.

PAUL BLOSER: This is a carry-over from last month. Signage? Guys? I saw one on the first day. I haven't been back.

The Board indicated they would hear Application 1.

The Board indicated they would hear Application 2.

The Board indicated they would hear Application 3.

1. Application of John Clark, owner; 154 Attridge Road, Churchville, New York 14428 for variance to erect an 8' x 20' carport to be 26' from front lot line (75' req.) at property located at 154 Attridge Road in R-1-15 zone.

John Clark was present to represent the application.

MR. CLARK: John R. Clark, 154 Attridge Road, Churchville, 14428.

PAUL BLOSER: This application, I have been by. You have a garage there, and by what I am seeing in this application, you just want to put a carport off the front of the garage, yes?

MR. CLARK: Yes. It can come down any time. It's just a roof, so I don't have to clean the snow off the car.

PAUL BLOSER: The garage is not accessible to the car.

MR. CLARK: No. It -- it wasn't accessible when we bought the home 31 years ago. They had it all built in with workshop.

PAUL BLOSER: Okay. You have been there 31 years?

MR. CLARK: Excuse me?

PAUL BLOSER: You have been there 31 years?

MR. CLARK: 31 years, yes.

PAUL BLOSER: How are you constructing this? How are you proposing --

MR. CLARK: You have a drawing there. 4 x 4s in the front. 2 by 4s and plywood on the top. It's just to shield the snow off the car.

PAUL BLOSER: Are you doing anything on the sides?

MR. CLARK: No.

PAUL BLOSER: Just strictly a roof, correct?

MR. CLARK: Yes.

PAUL BLOSER: You're putting plywood on the roof and then roll roofing or something for a low slope?

MR. CLARK: Right.

PAUL BLOSER: It is close to the road. I guess I would ask of the side table, Chris (Karelus), in driving around Town, I haven't seen anything like this. Carports I have, but they have been on the side or there is a larger setback. This is pretty close to the road. But in driving by the houses, it is the older section, so they were long before any 75 setback, so the house itself is pretty close to the road also along with the neighboring houses.

Have we done any of these before, to your knowledge? Do you have any comments on this?

CHRIS KARELUS: I'm not aware of any that have come by in this recent year, and in Town, again, I'm not familiar with many of these that do exist.

PAUL BLOSER: Okay.

Is this something you're going to have somebody put up for you?

MR. CLARK: Yes.

PAUL BLOSER: Or are you doing it yourself?

MR. CLARK: The last one I had up there, I didn't get -- it was a temporary thing, and the neighbors put it up. They will probably be helping on this, and somebody from the church -- Pearce Memorial is going to head it up, because he knows what he is doing.

PAUL BLOSER: Chris (Karelus), my understanding on this, too, as I read the code, this would be classified as an other structure, so these 4 x 4s would have to have footer inspections; is that correct?

CHRIS KARELUS: Yes. Depending on how, if, in fact, it is going to be attached to the structure, anything that is -- this Board does, and the owner would have to understand this, would be subject to Building Inspector's approval.

PAUL BLOSER: Are you attaching this to the garage or will this be free-standing?

MR. CLARK: The back of it will be into the garage, and the front of it, the 4 x 4s will be in cement. The last one I had, the wind blew it down on that real bad day, almost wrecked the car.

PAUL BLOSER: So you had one up prior to that one?

MR. CLARK: Yes. It -- it was a cloth thing, you know.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: First off, it would help if we had a drawing up.

This Board, I know from past experience here, does not look at their opinions as being precedent. However, I have also heard it from the same Board when another application came through, we can't deny it because there is precedent. So I'm not quite sure just which way you look at your decisions, and I think you ought to solidify some point, one way or the other and go with it. But all those houses along Attridge Road are close to the road, as you just stated, Mr. Chairman.

And what if everybody wants to put one out there? I can't see how this is going to improve the neighborhood. You know -- Mr. Clark, you know, has a problem with the snow and everything, but he does have room to add onto his garage. If you're going to do a garage project, he does have space to add onto the end of his garage and make a regular garage. It isn't as though he is limited by lack of land.

I don't really see where there is a need for this. I can appreciate he has a concern and a -- and a wish to have things different, but I think there are other choices, and I would hate to think everybody on Attridge Road who lives this close to the road could put up a structure like this. I don't think it's a good thing to do. I don't think it is good for the neighborhood.

Thank you.

PAUL BLOSER: You sparked a comment I wanted to make and I didn't put it in my notes. Mr. Clark, when I went by and looked at the house -- can you hear me okay?

MR. CLARK: Excuse me?

PAUL BLOSER: Can you hear me okay?

MR. CLARK: Yes.

PAUL BLOSER: When I did go by your house and looked at the location, I guess the question I wanted to ask you is would there be a possibility to put it to the left side of the garage, as you're looking at the garage, to the left side so it is closer to the house? It would give you a closer walkway to the house, but then it wouldn't be right that close to the street.

MR. CLARK: Over on this side of the house (indicating)?

PAUL BLOSER: Well, put it on the garage, but to the left side of the garage, on the house side of the garage.

MR. CLARK: Yes. It's -- it could be that way. In fact, it could be in the back of the house, because we already planned this that -- that I didn't even know that our house was even too close to the road, you know.

PAUL BLOSER: When it was built --

MR. CLARK: I had nothing to do with it.

PAUL BLOSER: It was adequate when it was built.

MR. CLARK: But we figured that this was close to the road and there might be some objections to it, and so we kind of talked about it and we could put it somewhere else if it would be acceptable to you.

PAUL BLOSER: Okay.

BEVERLY GRIEBEL, Spring Flower Drive, North Chili

MS. GRIEBEL: Former Chair of this Board. I was on the Board 14 and chaired for 13. We had one carport that I vividly recollect. It was approved, and I rue the day every time I drive by and see that, it is a mess. It's a junk heap in front of a house. There are blue tarps and orange tarps and all kind of junk in front of the house. I can't recall what they did with the garage, if they had added a room there, made it a room and put the car in the front, but it is a mess. I rue that day and I voted never to approve anything like that again and it never did come up again. It is actually on Westside Drive.

I'm not sure what this looked like before, or what it is going to look like, but I would caution the Board that it could end up to be an eyesore like that one.

MR. CLARK: Could I say something?

PAUL BLOSER: Yes.

MR. CLARK: This would not be a mess. I wouldn't be allowed to (indicating).
(Laughter.)

MR. CLARK: I mean it wouldn't look like hobos.

MS. BORGUS: Thank you, Mr. Chairman.

I just like to make one point. I know the Clarks. They're lovely people. They're wonderful people. And I truly believe them when they say it is just going to be a roof, but they're on a windy spot. It's high there, and I -- I know the temptation will be there sooner or later for somebody to hang tarps off the side or something because they're going to get snow in from the side. The top, you know, the roof is just one part of the problem with snow. So I think the Board should bear that in mind, as well.

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

PAUL BLOSER: Mr. Clark, did you understand what he said? Could you hear it okay?

MR. CLARK: Not fully.

PAUL BLOSER: If -- if this Board was to deny your application based on how you proposed it, you could apply to the Building Department for a permit to put the carport on the side of your garage and then -- and tie it into the existing roof line with the existing shingles. At that point, by applying that way, putting it on the side you would not need a variance from us to do that. Okay?

MR. CLARK: Okay. Then I wouldn't have to come back and get an okay on it?

PAUL BLOSER: No. No. As long as your side setbacks were okay. But -- but they would have to put a design together to the Building Department for approval because you would be adding onto the existing structure. You would need the building permit. You would have to deal with them anyway.

MR. CLARK: The roof line would have to be equal with the roof line there? Because the yard goes down, you know.

PAUL BLOSER: In the back.

MR. CLARK: It would be quite high.

PAUL BLOSER: The -- what would?

MR. CLARK: If I had to stay equal with the roof line up there -- well, no.

TODD BENZ: Just has to be slanted.

MR. CLARK: Okay. I'm sure that Jack can figure that out pretty good. I will have him -- from percent, with his line of work.

PAUL BLOSER: I think what we're looking at is the -- the -- we have to vote on it, as how it is proposed. If we deny it based on how it is proposed, you can still go to the Building Department and propose putting it on the side and you would only then have to deal with them. You wouldn't have to apply to this Board for anything. You could do it all right through the Town Building Department, if you put it on the side of your garage.

MR. CLARK: But you mean you may not deny it? If I get all -- if -- from what I hear, it's going to be denied because it is too close to the road.

PAUL BLOSER: Correct.

MR. CLARK: That's a legal way to deny something, you know. Okay. So it is going to be denied. We'll put it on the side.

PAUL BLOSER: You can go in the Building Department tomorrow and get a permit to put it on the side.

MR. CLARK: The structure will be a little different because it will only have one side, or one, you know -- because it will come up to the house here.

PAUL BLOSER: Uh-huh.

MR. CLARK: And it will be different. I will draw that up and bring it in. Okay?

PAUL BLOSER: And they will review it, one. But we still have to take a vote on how it is proposed right now, in the front, with that short setback.

MR. CLARK: Thank you for listening.

MRS. CLARK: I appreciate your feedback because I had not considered those things. I think that sounds good.

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

James Wiesner made a motion to approve the application, and Michael Martin seconded the motion. All Board members were not in favor of the motion.

DECISION: Unanimously denied by a vote of 6 no with the following findings of fact having been cited:

1. Applicant can also gain benefit with no variance by placing carport on side of garage.
2. Only building permit required.

- Application of Anthony Dellafave, 47 Bellmawr Drive, Rochester, New York 14624, property owner: Michael Dellafave; for conditional use permit to allow an office in home for a driveway sealing business at property located at 47 Bellmawr Drive in R-1-15 zone.

James Wiesner was recused from this application.

Anthony Dellafave, Michael Dellafave and Debbie Dellafave were present to represent the application.

PAUL BLOSER: Anthony, you said, correct?

MR. ANTHONY DELLAFAVE: Yes.

PAUL BLOSER: What can you tell us about your business, what you're doing with it, where you're storing vehicles, what you're storing.

MR. ANTHONY DELLAFAVE: Just basically a part-time business while I'm in college to make a little money in the summer. I have one truck and one trailer that is parked in the backyard. I have pictures if you want to see them. I have it on a flash drive and I have hard-copy pictures.

PAUL BLOSER: If you can put the hard copies here, we would be able to see them up here on the Board.

That --

MR. ANTHONY DELLAFAVE: That would be the truck and trailer.

PAUL BLOSER: Is there a tank on the back of the pickup truck?

MR. ANTHONY DELLAFAVE: I have it on the trailer. Here is a picture of the trailer itself. You can kind of see the tank right there (indicating).

PAUL BLOSER: Are there any chemicals stored on site, cleaning chemicals, solvents?

MR. ANTHONY DELLAFAVE: No, sir.

PAUL BLOSER: Strictly just basically storing the trailer?

MR. ANTHONY DELLAFAVE: Yes.

PAUL BLOSER: Where is this being stored again?

MR. ANTHONY DELLAFAVE: It is right on the side of my house. I have more pictures.

MR. MICHAEL DELLAFAVE: If I could add.

PAUL BLOSER: For the record, could you state your name, please?

MR. MICHAEL DELLAFAVE: Mike Dellafave. 47 Bellmawr, his dad.

There is a 6-foot stockade fence around our garage.

MR. ANTHONY DELLAFAVE: There is the side of the garage with a 6-foot stockade fence. We just had a gravel drive put in front of it. There is the fence open, and I back through the fence into the yard.

MR. MICHAEL DELLAFAVE: You can't see it from the street, for the neighbors. The fence is higher than the actual truck or trailer.

MR. ANTHONY DELLAFAVE: I have a picture of the side view of the truck that shows the fence is higher than the truck and the trailer.

This is from the outside of the fence, proving that you can't see it.

JORDON BROWN: How do we really know the truck is behind that? Just kidding.

(Laughter.)

MICHAEL MARTIN: I would like a little more information about how you operate. You have the truck and the trailer. What exactly do you do? Where is the other stuff?

MR. ANTHONY DELLAFAVE: That's it, the whole business. All I do is basically hand out flyers, get calls. My cell phone is the business phone. I don't get any calls there. Customers don't come there. And basically just go out in my truck and seal driveways by myself.

MICHAEL MARTIN: Where do you store the sealer?

MR. ANTHONY DELLAFAVE: Inside the tank. At the end of the year it is emptied out.

MRS. DELLAFAVE: He picks it up in the morning.

MR. ANTHONY DELLAFAVE: I -- usually every morning I go and get it.

MICHAEL MARTIN: Contractor store.

MR. ANTHONY DELLAFAVE: Monroe Sealer at Mt. Read and Lexington Avenue.

MICHAEL MARTIN: They fill the tank directly.

MR. ANTHONY DELLAFAVE: There is a hatch on top of the tank they put a hose in and put it in.

PAUL BLOSER: There is no transfer of chemical or sealer on site?

MR. ANTHONY DELLAFAVE: No.

MR. MICHAEL DELLAFAVE: The application said home office. It is not really. It is just to park the vehicle there. He doesn't conduct any business there at the house.

MICHAEL MARTIN: Paperwork or anything?

MR. ANTHONY DELLAFAVE: My cousin Johnny takes care of all of the paperwork. Occasionally I have a couple bills there but very rare.

MRS. DELLAFAVE: There is nothing from the outside.

MR. ANTHONY DELLAFAVE: The only thing that comes is my mail there and I was actually going to get a P.O. box so the mail won't even be coming there any more.

TODD BENZ: In the summer when you're sealing driveways, where are you storing the vehicle at night?

MR. ANTHONY DELLAFAVE: The backyard. It was in the driveway for about two

weeks at the end, being the fall when it got wet my truck got stuck. We put it on the side of the garage while the gravel driveway was put in. We paid \$1,000 to put the gravel driveway in so it won't get stuck and that way it can be back there the whole time.

CHRIS KARELUS: You're the only employee?

MR. ANTHONY DELLAFAVE: Yes.

CHRIS KARELUS: You're just operating your own? No help associated with it?

MR. ANTHONY DELLAFAVE: No. Occasionally my cousin will help me.

CHRIS KARELUS: Do you have any need for disposal of materials? How do you handle that? Have you run into situations in your business where you find there is excess you have to dispose of?

MR. ANTHONY DELLAFAVE: No. This is my first year in business, but I planned it out well, and at the end of the year, I kept the minimal amount in there and used it for jobs. I've sealed driveways for free, you know.

MRS. DELLAFAVE: Families have driveways, you know.

PAUL BLOSER: Counsel, do you have a copy of the application in front of you?

KEITH O'TOOLE: Yes.

PAUL BLOSER: Number 11? There is nothing checked there. Is that something we should be concerned with?

KEITH O'TOOLE: We should. I mean for the applicant, a question -- are you employed by the Government or work for the Government in any capacity?

MR. ANTHONY DELLAFAVE: No, sir.

KEITH O'TOOLE: For the record, he indicated no.

PAUL BLOSER: Okay.

HEATH MILLER, 69 Bellmawr Drive

MR. MILLER: If this Board approves this application tonight, I would like the Board to impose some conditions on the approval. Number 1, that there are no signs allowed on the property. That there is no on-site parking allowed associated with this business.

I am glad to hear that the truck and tank are being stored behind the stockade fence. I would ask that the Board impose some kind of condition that the truck and the trailer may not be stored in the front yard anywhere or in the driveway, that it has to be stored -- it has to somehow be effectively screened from the road. It seems like that is what is happening now, but if you could just impose that as a condition of your approval, I would appreciate that.

Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just a question or clarification. Am I understand -- to understand from the applicant then that every time he brings the truck and the trailer to the residence, he takes the fence down and he backs the trailer and the truck into the backyard?

MICHAEL MARTIN: There is a gate.

MR. ANTHONY DELLAFAVE: It was just wide enough for a person to walk through. We made it a double gate with hinges so we open the gate up every single time and back it in.

PAUL BLOSER: Is this pickup truck your day-to-day vehicle?

MR. ANTHONY DELLAFAVE: No, sir.

PAUL BLOSER: So it's parked back there now?

MR. ANTHONY DELLAFAVE: Yes. You can drive by it now. It is in the backyard. I have another vehicle, a car that I drive all of the time.

MS. BORGUS: Okay. I guess it would be more or less up to the neighbors more so than somebody who lives a distance away as I do, but I sure would not want to see that in somebody's front yard, even during short stops, even during a work day. It is not something anybody should have to look at in a residential area.

PAUL BLOSER: It is a standard pickup truck. I don't think we can limit the parking of the pickup truck itself, because it is -- it is a regular truck.

CHRIS KARELUS: It is a licensed vehicle.

PAUL BLOSER: So we have no control over that. The trailer would be a concern.

Mrs. Borgus -- or not -- Heath (Miller), you made a comment. I apologize. You made a comment about no on-street parking and signs. There is a standard list of things that we put out with any type of this occupancy, and those are part of this standard. No signs, the whole thing.

MR. MICHAEL DELLAFAVE: It was parked on the street for one day while they were working on the driveway. I don't know --

PAUL BLOSER: When it is a maintenance issue like that, that is not a situation, but it sometimes becomes a habit with people.

MR. MICHAEL DELLAFAVE: Just the one day.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: Can I ask for the reason for the -- Mr. Wiesner's recuse, first?

PAUL BLOSER: Um --

MR. RETTIG: Is he a neighbor?

PAUL BLOSER: He is a neighbor.

MR. RETTIG: Okay. I just ask for clarification. Thank you.

I just want to make a comment that the equipment, the truck and the trailer have been parked in the driveway in the past. This is a residential neighborhood, and my comment for

conditions is that no construction equipment should be parked on the property. This is a residential neighborhood. I understand in regard to licensed vehicles.

I'm talking about the trailer. I will be more specific, because the tar in the trailer -- in the tank, in the trailer is potentially a smell in a residential neighborhood. It is a potential hazard.

If he has a spill there, I don't care if it is accidental, kids come by and open up a valve. He would have to report that to the New York State DEC as a violation, which would be very, very costly for the homeowner.

And I would also make that comment in regard to this Board that there be no construction vehicle, meaning trailer, for this construction in a residential neighborhood, for those reasons I think it would be wise for this Board to deny that. He can store that off site, wherever, like everyone else. This is not and should not be something that we accept in a residential neighborhood.

MARYELLEN BUBEL, 57 Bellmawr Drive

MS. BUBEL: 57 Bellmawr Drive for 40 years. I would like to show you the pictures that I took last summer.

MRS. DELLAFAVE: I would like to comment we did have it out there when we had problems with it in the back, and that is when we contracted someone to come and put the driveway in. We had no choice for that time period. But I would have to say that ever since we put that driveway in, that truck or trailer have not been in the front yard or driveway.

MR. ANTHONY DELLAFAVE: If you notice all of the vehicles are on the far side of the driveway because they had the construction equipment digging on the driveway -- along this side of the driveway. That is why they're all lined up like that.

MRS. DELLAFAVE: We really are being sensitive to the residents -- I don't want it out front, so well really -- we just started the business this summer, to figure out what we needed to do. We just moved in the house in July, so we had to have time to put the driveway in and get it behind the gate, open the gate so we could put it in the back there all of the time.

MS. BUBEL: I walk every morning in the warm weather, and every time that trailer passed me on its way out of the track, it was trailing tar. There is actually a ribbon of tar all of the way up the road.

And I reference that regarding these laws that were passed December 5th, regarding the water runoff, polluting the sewers and ditches that we all have in the backyard and the front yard.

MR. MICHAEL DELLAFAVE: If I can comment.

MS. BUBEL: Can I just finish?

MR. MICHAEL DELLAFAVE: Go right ahead. I'm sorry. Pardon me.

MS. BUBEL: As Mr. Rettig pointed out, this is potentially a spill. It's an eyesore. It was parked on the side of the road for about three days, and it is a hazard. On the road and in and out of the road every day, it's a hazard.

Thank you.

MR. MICHAEL DELLAFAVE: If I can add -- I'm sorry? Can I speak now? The water that runs off the trailer is from his cooler. He opens his cooler up every morning to let the water out. The day it was parked on the road I put cones around it, and that is the day they put the driveway in.

MR. RETTIG: Just a further clarification for the record, this tar material according to New York State DEC is classified as a hazardous material.

PAUL BLOSER: In my time on the Board we had a situation like this over in Wheat Hill. It was a summer occupation. It was a school teacher, I believe, and he had his tank on a trailer in the driveway all of the time, and other employee's cars, and finally we came to a resolution of the problem. He had a home office. Phone, a desk and a file cabinet. All of the other business of driveway sealing was off premises on a rental site, year round. He was not allowed to have it in the driveway, in the yard, anywhere over there.

PAUL BLOSER: Thank you.

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

MR. ANTHONY DELLAFAVE: We tried to call the Town to say it is not for the office, just for parking there. They said it is my name (inaudible), therefore, I need a permit. That is what they told my dad when they called.

CHRIS KARELUS: With the conditional use permit, it gives the allowance to have a business operated out of the house. Whether it is connected to the cell phone -- I guess it's connected to your body which resides in the house so, in fact, the business is happening out of the house. What the illegal use is, and that is the trigger, the need for the conditional use permit because with this Board, they look at the operation of the business at the house which, in this case, includes the trailer.

Just to reiterate to the Board, the vehicle he has is not in question. Whether he has a sealing business on the side or not, it's a registered vehicle to a homeowner within that residence. It's a legal vehicle. The trailer itself is not an illegal vehicle. It's a registered vehicle. In fact, it is holding the tank which is associated with the business. He is asking for a conditional use permit under this Board's purview to see how that business operates at that residence. That is one of the things this Board has to consider, whether that trailer happens to stay at the location or it's -- the business is allowed to occupy the use as it is currently and the trailer has a home elsewhere. That is the interpretation of the code for the Zoning Board's conditional use permit.

The Board discussed the application.

MR. MICHAEL DELLAFAVE: Can I add something? It is not tar. It is sealer. Water-based.

PAUL BLOSER: But it is still a chemical in the EPA's eyes.

MR. MICHAEL DELLAFAVE: It is just --

JORDON BROWN: At the end of every day it is empty?

MR. ANTHONY DELLAFAVE: Yes. I mean there may be a little bit, but the majority of it is empty. That is why I go over there every morning to buy more.

The Board discussed the application.

MICHAEL MARTIN: Does the tank have to be inspected to maintain for leaks or anything?

MR. ANTHONY DELLAFAVE: No.

The Board further discussed the application.

MICHAEL MARTIN: Any sealer left over would harden?

MR. ANTHONY DELLAFAVE: When we got the tank when we first lived in Greece, there was one small leak on the back. The sealer actually filled the leak and stopped the leak.

MICHAEL MARTIN: That's the beauty of the product.

The Board further discussed the property.

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Michael Martin seconded the motion. All voting members of the Board voted yes on the motion.

Michael Martin made a motion to approve the application, and David Cross seconded the motion. The vote on the motion was 3 yes to 2 no (Jordon Brown, Paul Bloser) with 1 abstention (James Wiesner). The motion died for lack of a majority of the Board voting in favor of the motion.

DECISION: Denied by a vote of 3 yes to 2 no (Jordon Brown, Paul Bloser) with 1 abstention with the following findings of fact having been cited:

1. Benefit can be achieved by other means feasible to applicant by storing chemical tank trailer off site.
 2. Presents undesirable change in neighborhood by storing commercial equipment on site in residential neighborhood.
 3. No measures presented for potential spill response from tank.
 4. Self-created hardship.
3. Application of Henry Paszko, 225 Stearns Road, Churchville, New York 14428 for variance to erect a 10' x 4' double-faced freestanding sign to replace existing freestanding approved in 1992, variance for sign to be 9.3' from front lot line (Buffalo Road) and 5.3' from side lot line (Foxtail Lane) at property located at 4201 Buffalo Road in N.B. zone.

Kip Finley and Dr. Henry Paszko were present to represent the application.

MR. FINLEY: Kip Finley. Hello, everyone. I am Kip Finley with Avery Engineering. Dr. Paszko is here tonight if we have any questions that he needs to address.

We're here to basically request a variance, which is actually technically an update of a 1992 variance for a sign that is already existing at the property. As long as everybody can hear me, I will just come up here.

Right now there is an existing sign at Mayflower Village on Buffalo Road at -- is it Foxtail Drive? It looks like that (indicating). It's deteriorated on the top and on the bottom.

I don't know if many of the Board know the histories. There are three buildings in the office park. Building 3 has been approved to be subdivided. It is in the final stages of getting the shared driveway, dumpster, signage agreement approved by the attorneys and then by the Town Attorneys so we can file the subdivision plat.

So now this deal should be going through to close on the selling of Building 3 in the next week or two.

The sign out front really only represents it is the office complex, so the request is really to put more sign faces on there to describe what the -- is going to be there.

Dr. Paszko is affiliated with the Churchville-Chili Family Medicine, and the Monroe

County Sheriff is already there. Childtime Day Care is already there. Via Health Lab is potential new tenants in Dr. Paszko's building, right? And the chiropractor, is that --

DR. PASZKO: That is next to the sheriff.

MR. FINLEY: So what we're doing is taking the existing sign and modifying it by putting in this panel on the bottom (indicating) and also not in the picture is this top piece of wood needs to be replaced because it is rotted out. And then the sign would all be repainted so all of the colors match and everything.

The sign won't really be much bigger other than a couple inches taller in this area (indicating) to get the extra words in there. And then this top piece used to be a -- something that was a shape, and I don't know -- it was part of a logo for that. That's not going to be replaced. It will just be a straight piece across the top.

So basically, although it says it is a variance to erect a new sign, it is basically to fix up the old sign and make it into a more comprehensive sign.

The one thing I wanted to ask for clarification is that barring any major problem, the Building 3 will be sold and that parcel in the next couple of weeks. They have an agreement that is for the shared parking, for the whole parking lot among buildings. It is also in easement form that will be filed. And it includes an easement on this portion of the property so that Dr. Paszko would have access to this or any of the tenants to update their panels. And also takes care of shared trash and things like that. If for some reason the deal fell through or something and Dr. Paszko remains a tenant, I would want to make sure that the sign could still be erected with these panels, and I don't know if that is -- right now we have it as Dr. Paszko and Hilton Enterprises who owns the sign and the buildings is co-applicants, so I just would want a clarification that if something terrible happened and the deal didn't go through, we could still have the sign to advertise all of the businesses.

PAUL BLOSER: This is on both sides of the sign?

MR. FINLEY: It's a two-sided sign. It would be identical on each side of the sign.

PAUL BLOSER: The actual square footage you're increasing it?

DR. PASZKO: No, it would not.

MR. FINLEY: I was going to say, if it was, it would be by a sliver along the bottom, but I guess I will say no. Dr. Paszko has been working with the sign people to iron out the details of it.

PAUL BLOSER: Question for the side table then on something like this because the variances are already put in place. This is strictly an amendment to the existing; is that correct?

KEITH O'TOOLE: 12 to 1, dozen the other. It is still a new variance.

PAUL BLOSER: It is a new one?

KEITH O'TOOLE: Yes.

PAUL BLOSER: Okay.

JORDON BROWN: So everything is up for grabs all over again? In other words --

KEITH O'TOOLE: Well, let me put it this way -- bear with me for a second.

MICHAEL MARTIN: Is the whole sign being replaced, or --

MR. FINLEY: Repaired. It's a wooden sign. The top rail is rotted and the bottom rail is rotted, but the rest of the sign is the sand-blasted type. It is pretty expensive to replace --

MICHAEL MARTIN: You're not actually tearing down the sign and building a new sign?

MR. FINLEY: No. I don't think the pictures -- this represents it better. There is stone pillars on both sides and a planting bed and landscaping. It is fairly substantial to pick it up and move it somewhere else.

MICHAEL MARTIN: But in terms of an existing variance, if you tear the sign down, then that variance goes away for that sign, but you're not tearing this one down.

MR. FINLEY: Basically a repair and adding -- I think the gist of it is right now it is representing Mayflower Village and we're asking to have multiple entities represented on the sign. I think that is actually the biggest gist of it.

KEITH O'TOOLE: Mr. Chairman, treat it as an amendment. I had a side bar. We're clear on that.

PAUL BLOSER: That is what --

DAVID CROSS: Technically we require a street number on a sign. Has that been looked at?

MR. FINLEY: I don't know. Do you know if the street Number 4201 is anywhere else on the property?

DR. PASZKO: Not that I'm aware of.

TODD BENZ: Could that have been up on top where that little thing was?

DR. PASZKO: No. It was just almost like a leaf on top. It is actually lying underneath the sign there. The number was not above the sign. Just the maple leaf that broke off.

PAUL BLOSER: Kip (Finley), is that something that could be done, put a number on top when that Board is replaced, with a street number?

MR. FINLEY: I think it would be physically possible to put an oval back there with 4201 on the top rail and paint it to match.

DAVID CROSS: Or the columns.

MR. FINLEY: Actually, I could picture something like in the -- an elliptical plaque or something on the side.

DR. PASZKO: That would be better.

MR. FINLEY: Then you don't have the wind knocking it.

DAVID CROSS: On both sides.

MR. FINLEY: Yes. I think that is probably more physically possible. You have probably a minimum size of 5-inch letters or something?

PAUL BLOSER: I don't know if we have that in code.

KEITH O'TOOLE: Yes, we do. 4 1/2 or something like that.

MR. FINLEY: Okay. That's fine. That is a big enough column to have that big of a sign on it.

PAUL BLOSER: As this is an amendment, Counsel, do we take this to public comment or not?

KEITH O'TOOLE: Yes.

CHRIS KARELUS: The only thing -- and I know Dr. Paszko has been championing this to get the comprehensive sign there. With the number plate and the additions to the sign, this is all going to happen with the -- with the reworking the sign now. It is not something that happens piecemeal. The Town has a sign permit application and that is what we would anticipate needing for construction. Just so it's clear.

MR. FINLEY: We talked about that before. It won't be a patch work, when they put the sign -- with the new green banner on the bottom with the text, that rest of the sign will be painted to match and it will all be done, fixed up at one time.

CHRIS KARELUS: The only other question I had is a lot of the plates on the remainder of the suite spaces, will those be independent plates, because the way people have leases, and they -- this year or two years from now someone else may come in and occupy that space. I would -- you would have to have the plate updated --

DR. PASZKO: Those names will obviously change. The lab is -- is not going to be there probably before the spring, so that name obviously won't be put up.

CHRIS KARELUS: They will be independent plates.

DR. PASZKO: There will be a spot for people to put their vinyl lettering up.

MR. FINLEY: They peel the letters.

DR. PASZKO: They peel the letters.

MR. FINLEY: I think it's the substrate. Like would you have vinyl lettering on a car, on the grass. You can scrape those off and put the new vinyl letters on the background rather than like a street name sign where you actually rivet a plate to it. At least that is what it looks like.

CHRIS KARELUS: Looks like a changeable copy sign and we don't allow that. I understood these would be static plates. That is etched wood on the existing Mayflower sign. My understanding was these would be etched wood, permanent weather proof.

DR. PASZKO: It is like a Lexan that would be put on there.

CHRIS KARELUS: I would definitely discuss the construction with the Board because that changeable copy, that type of sign is not allowed in Town.

DR. PASZKO: Then we can go with plates then.

MICHAEL MARTIN: I don't see changeable copy.

PAUL BLOSER: It is not so much changeable copy as it is --

CHRIS KARELUS: It is. If the name plates change, there is the static and dynamic. The static sign is the one by plate, and the changing of the plate is the only way it can be modified.

MR. FINLEY: Really if they have it as one Lexan plate and they came with a new Lexan plate that said Via Health and screwed it to it that is okay.

CHRIS KARELUS: It is the movement of letters that make --

MR. FINLEY: The vinyl letters, it would be the same letters. Because they apply them and you etch them and they're stuck there until you scrape them with a razor blade. They're not removable pieces.

CHRIS KARELUS: I guess just make sure the Board is concrete on the construction of the new sign.

MR. FINLEY: The vinyl lettering is like decals. I have put them on our company vehicles and that, and it's -- they're on pretty well.

MICHAEL MARTIN: It's a permanent fixture.

MR. FINLEY: Right.

MICHAEL MARTIN: It is correctable.

MR. FINLEY: It is correctable in that you have to take a razor and peel the decal off and put a new one on.

MICHAEL MARTIN: It is not like the letters that you stick in between the slats.

MR. FINLEY: It is permanent and will be there ten years unless you scrape it off and put a new sign on or repaint it or something. It is not meant to be changeable. The plates, the place has some turnover, but not that fast.

MICHAEL MARTIN: Not going to be every morning.

MR. FINLEY: Every morning? Today -- today we're specializing in a health lab. No. (Laughter.)

JAMES WIESNER: Any lighting at all on the sign now?

MR. FINLEY: I don't think so. There is a streetlight on the corner, but no up lights on the sign.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I'm kind of surprised at this, to say the least. The original sign was for Mayflower Village which -- and a mention of homes. Now what we're going to have here is a

commercial sign. You aren't going to end up with what you started out with. It was no mention of businesses on the other one. Not any. And now the commercial aspect kind of takes over the sign. You're going to end up with an entirely different animal here.

Secondly, I can tell you, because I was in property management. The last part of my job with Genesee Hospital was property management. When you keep replacing letters, overtime they're not going to match. They weather, they turn yellow, they get dirty. This is going to end up a hodgepodge. A visual hodgepodge. And as far as putting a number, a house number or an office number or whatever on there, how can you put one number on there when there's -- I don't know, hundreds of numbers in Mayflower Village? You're not putting a sign on for one office. It's a Mayflower Village sign which would be a whole gamut of numbers. So that's completely off the wall to think you can put one number on this sign.

And I wonder what you're going to have when supposing, as an example on your sign, Via Health Lab changes to something that's long in -- in -- in letter size? What will you do then? It isn't going to fit. You're trying to do a fits-all here that just doesn't work. You see what I mean? If you had a long name, 2 or 3 long names of occupants there, then what?

You might better scrap this sign and start over and put up a directory sign so that you can have real signs added for real tenants on something that -- that fits the need. This doesn't. This is like the house that Jack built. Won't work, guys. It will be awful. You will wish -- if you approve this, you will wish you hadn't.

Thank you.

DR. PASZKO: Can I respond to that? This will be -- my name is Henry Paszko. I will be paying for this, the repairs to the sign which now is not looking good. It will look excellent. I will look professional when it is done. The sign is owned by the person who owns the office complex, Hilton Enterprises. Not by the -- I guess the homeowners in that community. He is not going to repair the sign. It will continue to deteriorate over the years. I -- I think I would be benefiting the community there by making the sign look excellent, making it look like new. So I -- so I disagree with you.

MR. FINLEY: I guess that would be the gist of it is that I am pretty sure that the sign is only for the office complex and it is the person that owns the complex that has it. It is probably that it was erected at the same time when the whole development was being done, and there was some shared use of it. But in this case I don't have any record of any easement from the Homeowners' Association over the sign for their use of it.

I think really Mayflower Village is intended to be the three office buildings, but it is known, the whole development I think is known as Mayflower Village. I don't actually remember the name of the subdivision, if it was called that or it was called something else. Today.

DAVID CROSS: Excuse me. Lot 300 of the Mayflower Village Business Subdivision. We're calling it the Hilton Paszko Subdivision being a resubdivision of Lot 300 of Mayflower Village Business Subdivision.

MR. FINLEY: In my mind it doesn't answer whether the whole subdivision was called that. But at this point, it is acting as the sign for the office complex, and that is who owns it.

As far as the panels, I think to address the one comment is, when we had talked it over with the Building Department, technically we're asking permission to have six entities labeled on the sign versus one. That would be a part of the change as I understand it. I can see there will come a time when some of these will change over and the sign will need to be updated again to allow six -- a combination of six others, but basically it's the -- right now for the sign permit is to have it in that orientation with those names to be put on.

So I don't know if that is a -- asking to be very specific on the application, to say we want the six entities labeled or permission to have six on the sign.

BEVERLY GRIEBEL, Spring Flower Drive

BEVERLY GRIEBEL: From Spring Flower Drive. This is the application I came in to speak about. I'm the only one here from Mayflower tonight. I was formerly on the Board, not on the Board there any more.

Originally it was one big parcel, the whole thing. Then the front commercial part was carved out. It was various owners and different things.

But I wanted to come tonight to say I appreciate Dr. Paszko leaving the Mayflower identity there for the neighborhood. There is currently 122 or -- 122 homes in the back. It will be 160 when it is fully built out.

Um, the site of it was no problem before. But now that the whole front part is owned by the commercial owner. So I was afraid we were going to lose our identity, directing people, and fire vehicles and whatever to find Mayflower. So I appreciate that that is staying and the small signs on the bottom, I haven't heard anyone over in the neighborhood complaining about that.

We did some repairs to the sign I think about three years ago. Some temporary things, because we didn't know if it was all going to go, because with the owner at the time then, there were -- there were comments that the whole sign was going to go. So we didn't do a major overhaul of it. So that is why it further deteriorated, because we didn't know what was happening. We didn't want to change the whole thing and find out that we would wake up some morning and it was knocked over by the new owner. So that is why it deteriorated.

So I appreciate that the Mayflower identity is planning to remain.

Thank you.

HEATH MILLER, 69 Bellmawr Drive

MR. MILLER: I just had a question regarding the Monroe County Sheriff. Is there already a sign -- is there an existing sign for the Sheriff's Office over there?

BEVERLY GRIEBEL: It's a separate one on the front yard.

MR. MILLER: Okay. So then would there be two signs for the Monroe County Sheriff's Office? If this were to go on this sign, would you still want the other one up there?

MICHAEL MARTIN: I would. I'm not messing with the sheriff.

MR. FINLEY: I could probably address that. Each of the different tenants have put signs up over time. I think there is actually a separate one for the day care, too. And they all have different rationale for why they're up. I think as attrition happens and as the Sheriff moves out, that sign will come out. I don't think there will be another sign put back up in its place. The same way if the day care moves out, when their sign comes down, this becomes the marquis sign for that office complex. But I mean that's -- they all are -- they're all tenants in the other building, so they're not permanent fixtures.

MR. MILLER: Okay. The only concern I had is I remembered there was an application that came before the Board for a business out on Paul Road and there was some concern about each tenant within this one parcel having their own separate sign and you're -- rather than just one directory style sign. So my only concern was if this -- this appears to be like a directory style sign, so if you're going to have this sign, does it make sense to take down the other individual signs since they're all going to be located here? That -- that was the only concern I had.

MICHAEL MARTIN: Those are different owners? The other tenants? They own their own signs?

MR. FINLEY: Hilton Enterprises owns all three buildings and the land now. And then the sheriff, the day care and the chiropractor are all tenants. They -- they took it upon themselves to put up their own signs over the years, and I don't think the Town is making them take them down, but I think when they leave, the signs go and they're not going to be replaced. I don't think other new tenants will be allowed to put signs -- you can -- I mean ask the Building Department.

CHRIS KARELUS: No. They would -- refacing the sign would be another variance request in front of this Board. Just also to note the numbers and the sizes of the signs, nothing is being asked for a variance on this application. It is the amendment to the faces that were previously approved.

Mrs. Borgus, I also wanted to make a point to say Dr. Paszko has approached Town from the previous application for the parent office before it was subdivided off the parcel.

There was also a variance granted for a sign right on Foxtail to direct, have a directory style sign, suite space, A, B, C, D, E, F, however many suites are in the development's commercial end would all be signed -- I can't see Mrs. Borgus, but those would all be signed at that directory sign, so this would give them general direction into the site and the directory sign would get them to what suite space they're in. I know Dr. Paszko was interested in pursuing that, as well.

MS. BORGUS: I would like to speak again.

PAUL BLOSER: Okay. Yes, Ms. Borgus.

MS. BORGUS: So then each one of these applicants or tenants will have three signs a piece? Right?

KEITH O'TOOLE: Mr. Chairman, we're here -- we're not here to argue about other signs. We're here to argue about this one.

MS. BORGUS: Exactly my point, though. We're arguing about this sign, which I -- I'm hearing now will be one of three signs for most of these tenants. Now, I thought we had a sign law in Chili and everybody got a sign. And I can appreciate the fact that Dr. Paszko wants to be identified. Everybody in business does. However, I still think that already without thinking even into the future, that they're double-dipping. Even without this directory sign that's proposed if they -- if the child care, the chiropractor and the Sheriff's office already have signs, this is a second sign for them.

We ought to scrap the whole thing and come up with as I said before, a sign that identifies what is there that is changeable when the tenants change, it's tasteful, it's in a row, it's visible. This is just a patch work, and it gives the businesses in there two opportunities right away for identification. Other businesses in Town do not have that benefit. And this Board sits in judgment on them and says no way. Never mind the third one coming up. I'm concerned about two now.

And I would also like to make the point that if this is -- is really a legitimate variance request, then the Churchville-Chili Family Medicine print should be the same size print as everything else in the -- on the sign. It's not. It almost looks like this is Churchville Chili Family Medicine's sign.

To be approved, they should all be on equal footing if you're going to approve it at all, which I think is a mistake right out of the gate. Let's do this and do it right. They need a new sign. A new sign that's identifying what is in there and the other signs should all come down. And I cannot worry about the future, and I don't think that the gentleman who is -- who is representing Dr. Paszko can say for -- with any certainty any more than any of us can what is going to happen in the future. That cannot be a consideration in this decision as to who may or may not -- who may have to take a sign down or who may be moving in or out. It's all conjecture and should have no bearing on the decision you make tonight.

DR. PASZKO: I frequently have seen in Chili where -- with comprehensive signs, um, where some businesses have larger lettering than others. I'm happy to get the larger lettering here because I'm paying for all of the cost of the improvement on the sign. There is no chiropractor

there now. They will be moving in. They do not have another sign at the road. They're not double-dipping. Yes, the sheriff would be double-dipping so to speak, but I guess I'm okay with that as a citizen. I like to know where the Sheriff's are.

This is 6-inch letters. It is barely going to be noticeable. There is no -- I guess once again, I disagree with that.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: I have heard some -- well, I see what is up there. I know Mayflower Village itself has been there.

There are three possibilities. The Mayflower sign itself standing alone identifying the whole complex, which is what I believe -- and as Ms. Griebel indicated initially was the intent of that sign.

I have heard comments from the applicant I think this is for the office complex, quote/unquote. I have heard Mrs. Borgus make a statement that this is conjecture. And I reaffirm that. I state that also. This is conjecture.

I heard another statement, I don't think if the Monroe Sheriff's signs come down it would be replaced. We don't need conjecture. What we need is to table this tonight, come back with a plan. Mayflower Village, individual directory, same size letters, because we have got up there now -- we got Monroe County Sheriffs as a separate sign. We have Childtime as a separate sign.

There is no reason why this family practice or any others should have separate signs. We're going to have signs all over the place. Again, either come back with a complete plan for six or more -- the capability of putting more on this sign, of all of the same letters as a directory, or come up with a separate directory, or don't accept this patch work. That is what you got. Mrs. Borgus said that. You got patch work.

Very simple. It is not time consuming or costly to table this now, have the applicant come up with a plan where he says on -- the other signs will come down, we'll have a directory, we'll do it properly and it will look nice.

PAUL BLOSER: Kip (Finley), could I see the colored photo there that you're proposing?

DR. PASZKO: I might add, I spoke with the Building Department Manager about this several times. The Sheriff's Department, because they received a variance to put their sign up, do not have to take their sign down, at least as I understand it, until it's -- it's saying that the Building Department Manager would not do his job well if he didn't force the other people that -- the Sheriff to take their sign down, but he really can't.

CHRIS KARELUS: Can I explain to everyone the process? Because Dr. Paszko is right. There were variances granted for Childtime or for the Sheriff's's office in addition to what Mayflower had.

And also to address the Board about one of the comments that came from the public, there was a comprehensive sign package that was presented to the Zoning Board of Appeals for a total variance package on the project. All of the signs that Dr. Paszko is kind of following through with, reconstructing this sign to get it to a state where it is nice and it is -- and -- and I would like to add this, though. I would impress on this Board, when he has talked to me in the field, when we did discuss alternatives, that this would be in architectural harmony, both the material, the way it is constructed. I understood they were going to be etched lettering, on a wooden plate to match the architectural character of that sign. I mean that is what I would like to see this project progress with.

The integrity of the sign, it's a good sign. With a couple modifications to some areas that have rotted on the fence -- I'm sure the signage experts, as Dr. Paszko said, this is a good product, as his sign consultant.

What could come before this Board again, Dr. Paszko has a right to come back and independently ask for another sign, which code does allow him one sign per use. If he were to get permission from the owner of the corner property to present another application to this Board. So what this does, is this is putting a comprehensive package together for the whole development. And there has been a signage plan put together comprehensively to look at and this Board has approved -- this prior Board, I should say, through variance process all of the signages that Dr. Paszko is pursuing today. All those variances have been granted. This is just the simple change over of the sign face.

MR. RETTIG: Just a further comment. Following up on what Mr. Karelus just commented on, I would make the following comment. Notwithstanding what the Doctor has proposed and shown, that in -- in making this uniform for the occupants of the facility, that the sign be consistent in its letter size for all listed. The reason being, you're basically making that existing sign a directory sign. Let's make it a directory sign instead of a hodgepodge.

I appreciate what he is doing and paying for the work, whatever. He still has the right to come back for a separate sign. But as an attachment to the Mayflower sign, I would definitely recommend same size letters.

JORDON BROWN: By your comment are you requesting that the Mayflower lettering be the same size as -- I want clarification.

MR. RETTIG: No, not at all. I would be glad to clarify, Mr. Brown. No.

I'm talking about the applicant's, or the individual owner's or property users, renters, not the word "Mayflower" itself.

MICHAEL MARTIN: Dr. Paszko, just to clarify again, you're paying for the complete sign --

DR. PASZKO: Yes. The owner of the complex, I don't know how to phrase this, but he is