

CHILI ZONING BOARD OF APPEALS

February 28, 2006

A meeting of the Chili Zoning Board of Appeals was held on February 28, 2006 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Beverly Griebel.

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

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town; Dennis Scibetta, Building & Plumbing Inspector.

BEVERLY GRIEBEL: Application 1, Harris Seeds, I went by there at least three times over the space of over a week, and there was no sign. Anybody see a sign there?

PETER WIDENER: Madam Chairwoman, could you make a proposal because of the wind storm on the 17th and 18th, that that weekend I didn't see many signs either. Then I started to see them during the week. Maybe we could waive the sign requirement for this month.

BEVERLY GRIEBEL: I went on the 21st around --

PETER WIDENER: Just asking. I'm proposing we waive, I --

BEVERLY GRIEBEL: I went again on Saturday the 25th. I went again today. So there was no sign. Now, I understand over the weekend it might have been a problem because -- I was down in the warm climates, but I understand there was a bad wind storm, that was Friday morning. If they put up the signs early, there might have been a problem, but there was ample time to get another sign up there. I didn't see a sign.

DAN MELVILLE: I did not either. I went by there.

PETER WIDENER: I'm not just saying this one.

BEVERLY GRIEBEL: Some of the others, depending. I hear you. And I appreciate you -- it was windy.

Dan (Melville), you went by several times and never saw a sign?

DAN MELVILLE: I did not.

BEVERLY GRIEBEL: So I think at this point --

MR. BRINKWART: Sunday the sign was on the ground.

PETER WIDENER: Saturday when I inspected the sign was down by -- the sign itself was gone, and the only way they could get a new sign -- earliest was Monday.

BEVERLY GRIEBEL: Monday was closed. It was a holiday.

PETER WIDENER: Tuesday is the earliest. At that time the sign was back up on Tuesday.

BEVERLY GRIEBEL: Harris?

PETER WIDENER: Yes. Then it was down again towards the end of the week?

BEVERLY GRIEBEL: Anyone else see it up?

DAN MELVILLE: I did not.

RICHARD PERRY: I go by there every day and only saw it once.

PETER WIDENER: It was on an A frame setup. I'm just saying that because of the wind and the weather conditions, I thought -- I made a proposal we waive the sign requirement. If not, maybe we could be more community-friendly by doing that. Because --

BEVERLY GRIEBEL: Well, it is supposed to be up for 10 days. You saw it --

PETER WIDENER: Tuesday.

BEVERLY GRIEBEL: You saw it one day?

RICHARD PERRY: I saw it -- I can't remember what day.

PETER WIDENER: It is pretty hard to get another sign if we are not open or if it is Saturday or Sunday.

BEVERLY GRIEBEL: I agree with that. Yet there are some signs that apparently stayed up. I don't know what magic people used to keep them up.

PETER WIDENER: Some of the signs were at the home and not a business.

BEVERLY GRIEBEL: True.

PETER WIDENER: I just thought I would make mention of it and see what the Board --

BEVERLY GRIEBEL: What is the pleasure of the Board? On Number 1?

PETER WIDENER: Not just Number 1. On all of them.

BEVERLY GRIEBEL: We'll go one by one. Hear it or table it?

RICHARD PERRY: Well, two of us saw it, but it wasn't up for very long, so I would guess that had it been up for the majority of the time, that would be one thing.

BEVERLY GRIEBEL: Might have been up two days out of ten, which certainly isn't a record.

JEFFERY PERKINS: The other thing, looking at the application, it is a fence. It is not a big fence.

BEVERLY GRIEBEL: Harris Seeds is a sign.

JEFFERY PERKINS: Right. But, you know --

DAN MELVILLE: I don't have a problem. If it was up part of the time, you know, I do take into consideration that wind storm, so -- I mean I don't have a problem. Even though I didn't see it when I went by.

PETER WIDENER: Just trying to be a little more friendly with the community.

DAN MELVILLE: I don't have a problem if we do hear it.

BEVERLY GRIEBEL: So are you okay with hearing it?

DAN MELVILLE: I -- majority of the Board wants it, I am fine with it.

BEVERLY GRIEBEL: Hear it, table it?

RICHARD PERRY: Um, let's hear it.

DAN MELVILLE: Especially with what we are dealing with.

BEVERLY GRIEBEL: Jeff (Perkins)?

JEFFERY PERKINS: I'm okay.

BEVERLY GRIEBEL: George?

MR. BRINKWART: : I saw it Sunday.

BEVERLY GRIEBEL: Pete (Widener)?

PETER WIDENER: I would like to hear it.

BEVERLY GRIEBEL: Okay. We'll hear that one then.

Number 2, Rosato on Ballantyne Road. I saw the signs tacked in several places there. They were secure.

PETER WIDENER: They had a barn and a porch and that.

BEVERLY GRIEBEL: They did a good job. No problem with that.

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 3, Mr. Gonyo, Scottsville Road. See a sign there.

MR. BRINKWART: I saw it.

PETER WIDENER: No problem.

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 4, Terry Eason, Constitution Circle. I didn't see that one. On Monday when I went out, I saw something face-down on the ground. I went by twice more over the following week, and it was out on the ground. This was a private house. So apparently it was never put back up. If that was the sign. I don't know because I didn't go turn it over.

RICHARD PERRY: It was. It was there the first weekend.

BEVERLY GRIEBEL: It was not there on Monday.

RICHARD PERRY: I didn't go back.

BEVERLY GRIEBEL: I went Saturday and today also.

DAN MELVILLE: Just sat there apparently on the ground and never got put back up.

MR. BRINKWART: : By Sunday it was on the ground.

DAN MELVILLE: When I went by it, I did not see anything, but it was probably covered with snow.

BEVERLY GRIEBEL: Yes, it snowed.

So do you want to table that one?

DAN MELVILLE: Yes.

BEVERLY GRIEBEL: Motion to table that until March 28th at 7 o'clock? Anyone want to make that motion? I will make a motion. Second on that?

DAN MELVILLE: I will second it.

The Board approved the motion by a vote of 5 yes to 1 no (Peter Widener).

BEVERLY GRIEBEL: That is tabled until 3/28. If anyone is here for that, it will be tabled until that date at 7 o'clock.

Did you have a question?

MR. EASON: Could I address the panel here regarding 17 Constitution?

BEVERLY GRIEBEL: Are you the applicant?

MR. EASON: I'm the applicant, yes.

BEVERLY GRIEBEL: Mr. Eason?

MR. EASON: Yes, ma'am.

BEVERLY GRIEBEL: The sign was not up.

MR. EASON: That is correct. It was up, and I was out of town. I was out of town. Apparently it had blown down. It was face-down.

BEVERLY GRIEBEL: Well, nobody put it back up, so we are not going to hear it. So it will be heard on March 28th.

MR. EASON: 28th?

BEVERLY GRIEBEL: Yes. You will get a letter in the mail. You have to have a new sign from the Building Department, you have to post it and maintain it for the full 10 days.

MR. EASON: Okay. Am I excused?

BEVERLY GRIEBEL: Yes.

MR. EASON: Thank you, ma'am.

BEVERLY GRIEBEL: Number 5, Robert Rose on Bellmawr, any problems with that?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 6, Geoffrey Allan & Associates, the Scottsville Road Airpark Drive, I saw a sign out on Scottsville Road on Monday, and then I did see another sign internally on Airpark Drive near number 100. So it is kind of a weird property. It is in the back there.

PETER WIDENER: It is way in the back.

RICHARD PERRY: It was out the first weekend.

BEVERLY GRIEBEL: The one on Scottsville Road went, but the one on Airpark Drive stayed. Any problems with that?

MR. BRINKWART: : I didn't see it.

PETER WIDENER: I saw the sign on the Scottsville Road. Although this is to the 200 Airpark Drive, but it is very congested over there. I say let's hear it.

BEVERLY GRIEBEL: Okay. Hear it?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Just one that is tabled then.

1. Application of Harris Seeds, c/o Richard Chamberlain, 355 Paul Road, Rochester, New York 14624 for variance to erect a 6' x 3' double-faced freestanding sign to be a total of 36 sq. ft. (16 sq. ft. allowed) at property located at 355 Paul Road in L.I. zone.

Richard Chamberlain was present to represent the application.

BEVERLY GRIEBEL: This went to the Monroe County Department of Planning for airport approval and came back without any comments on that. I guess you're not too high for the airport.

MR. CHAMBERLAIN: We are entitled by ordinance to a larger sign because of the size of the building. It is a well-designed sign. We have nothing now. We are a business here in Chili. We need something. It has been freshly decorated and designed, and I don't know what else to tell you folks.

BEVERLY GRIEBEL: I don't have the -- if anyone in the audience wants to look at the diagrams, they can walk over at any time.

What are the colors?

MR. CHAMBERLAIN: Cream coloring with dark green lettering.

BEVERLY GRIEBEL: That is appropriate.

RICHARD PERRY: Second page.

BEVERLY GRIEBEL: Oh, okay. I'm sorry. I was looking for a colored rendering. Ivory background. Posts are darker ivory and then the letters are dark green and border sage green. Very attractive.

BEVERLY GRIEBEL: Very appropriate for your business down there.

MR. CHAMBERLAIN: Actually it is not a new business. We have been in Gates Chili for 127 years.

DAN MELVILLE: You owned it that long?

MR. CHAMBERLAIN: 127 years, yes. One of the oldest businesses in this community.

BEVERLY GRIEBEL: A long time.

JEFFERY PERKINS: Sign lit at all?

MR. CHAMBERLAIN: No. We have a flagpole that is lit. It is relatively adjacent to the flagpole. There are no plans for lighting it at this point in time. The primary purpose -- we don't do any business in the area. . All of the business is generally off site, certainly outside of Chili. We need something to direct the traffic, the trucks that come and deliver the product to us. That is the primary reason we need this sign.

MR. BRINKWART: The existing sign that you have out there, will you take that down?

MR. CHAMBERLAIN: That is a temporary sign to direct truckers so they can find us. Yes.

MR. BRINKWART: The diagram you submitted with your application, I was -- I just want to get a sense of where you intend on locating the sign. I assume that you're going to be putting it 15 feet from the property line?

MR. CHAMBERLAIN: Yes. Within ordinance, yes, absolutely.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JERRY BRIXNER - 14 Hartom Road

MR. BRIXNER: I have often wondered when I passed the building what kind of business was taking place there. I spoke with Mr. Chamberlain a few minutes ago to get a little background on his business. Very interesting, of course. The sign, as I look at it, now appears very, very pleasant and I think it would make a nice addition to the community. I don't know the

dimensions. The dimensions that Mr. Chamberlain is asking is obviously different from the code dimensions, but I don't know the -- why the code dimensions are what they are, but as far as the attractiveness of the sign, I would be in favor of that type of a sign.

MR. CHAMBERLAIN: I believe the square footage of the signage is well within the code.

BEVERLY GRIEBEL: Yes.

MR. CHAMBERLAIN: Given the length of the -- of the existing building that we have.

BEVERLY GRIEBEL: You want a 6 by 3-foot, total of 36 square feet, 16 square feet allowed for a freestanding sign. That is why you're here asking for a little larger.

MR. BRINKWART: I think maybe a point might be in order for clarification. I spoke to Dennis (Scibetta) on that application. I believe 32 square feet are allowed, because it is 16 square feet on each side, so the applicant is asking for 36 and 32 is allowed, so I don't think we -- it is a minimal variance that is required.

BEVERLY GRIEBEL: Is that correct.

DENNIS SCIBETTA: That is correct. If we had somebody that actually calculated the area of the sign, we would find they're probably within what is allowed.

MR. CHAMBERLAIN: That's correct.

DENNIS SCIBETTA: They took the size of the sign as 3 by 8.

BEVERLY GRIEBEL: 6 by 3.

DENNIS SCIBETTA: Sorry, 6 by 3 giving the 18 square feet, but if you took the actual --

MR. CHAMBERLAIN: It is an oval.

DENNIS SCIBETTA: They're counting the base of the sign.

MR. BRINKWART: : It is oval, but I think you measure --

BEVERLY GRIEBEL: Box it off.

DENNIS SCIBETTA: Yes. Instead of measuring the actual square footage of the oval.

BEVERLY GRIEBEL: So it would be 32 square feet allowed?

DENNIS SCIBETTA: 32 square feet allowed.

BEVERLY GRIEBEL: He wants 36. So that is --

RICHARD PERRY: Minimal.

BEVERLY GRIEBEL: -- minimal. Thank you.

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

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

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Signage to help identify the business on a busy street.

Note: A sign permit is required before the sign is erected.

2. Application of Antonio Rosato, owner; 252 Ballantyne Road, Rochester, New York 14623 for variance to create three undersized lots ranging from 1.41 acres to 4.64 acres per plan submitted (5 acres req.), variance for lot width on Lot #2 to be 193.45' (275' req.)

at property located at 252 Ballantyne Road in A.C. & FPO zone.

Antonio Rosato was present to represent the application.

BEVERLY GRIEBEL: This went to the Monroe County Planning Department Airport Review and came back with no comment.

I was glad to see this revised map showing the septic, because you were in here before --

MR. ROSATO: Yes.

BEVERLY GRIEBEL: -- and we didn't know where the septic was. So you have identified that. Good job.

MR. ROSATO: Thank you.

BEVERLY GRIEBEL: Because we didn't want to divide it before and put the septic on another lot.

MR. ROSATO: Correct.

BEVERLY GRIEBEL: Why are you dividing the property?

MR. ROSATO: My daughter is going to buy the house. And the rest I'm probably going to keep it for myself.

BEVERLY GRIEBEL: So she is going to buy the one with the house on it?

MR. ROSATO: Yes.

BEVERLY GRIEBEL: Then you will keep the other property and then the one across the street with the barn on it?

MR. ROSATO: Yes.

MR. BRINKWART: Are you aware that this property is in flood plain?

MR. ROSATO: Yes.

MR. BRINKWART: You realize that is going to be very difficult to get any kind of approval for a home on that third lot?

MR. ROSATO: Well -- yes. We got the insurance. We got flood insurance on that property. Yep. She already got approval from the bank and everything. We have to close -- as soon as we get done, we'll close. The rest there, going to keep it for myself.

BEVERLY GRIEBEL: Your daughter is going to take the piece with the house?

MR. ROSATO: Yes.

BEVERLY GRIEBEL: The one that is there?

MR. ROSATO: Yes. She already lives there.

BEVERLY GRIEBEL: You will not put a house on the other?

MR. ROSATO: No. Just two lots for my barn. I have a smaller farm. I just use that for myself.

MR. BRINKWART: You will not put a house on any of these lots?

MR. ROSATO: No, no. I just use for pasture.

BEVERLY GRIEBEL: There is a house on parcel one that is already there.

MR. BRINKWART: That is the only building that is going to occur?

MR. ROSATO: Yes.

BEVERLY GRIEBEL: There is a barn across the street.

But parcel three, next to number one, that's one with the Black Creek coming in pretty close. But he is not going to put a house on there.

MR. ROSATO: I use it for pasture. But we have to divide because of the new regulation, across the street, and then the County say you have to have different tax account, you have to divide.

BEVERLY GRIEBEL: It is very confusing.

MR. ROSATO: Well --

BEVERLY GRIEBEL: So you will farm it?

MR. ROSATO: Farm it, yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

PETER WIDENER: I was a little concerned about the railroad. Wasn't there something tied with RG&E right-of-ways through there also? I don't see it on this map, but it seemed like at one time RG&E had a long strip of land that was on the east side of the railroad tracks or west side of the railroad tracks. I'm not sure.

RICHARD PERRY: Well, there is a noted utility easement to the Town of Chili.

BEVERLY GRIEBEL: I would assume with that on there, if there were other easements, they would be shown on here. They should be. This is --

DAN MELVILLE: It is just an easement, though. It doesn't really affect the house that is already there.

JEFFERY PERKINS: Is there an easement to the barn?

DAN MELVILLE: Other than they can't do anything in the easement.

PETER WIDENER: My concern was west of the barn.

JEFFERY PERKINS: It looks like there is quite a bit of space there.

PETER WIDENER: The gentleman that used to live there used to pasture horses up to the railroad tracks, but that was not his land.

MR. ROSATO: No.

BEVERLY GRIEBEL: This is a new survey in October.

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

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

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. One lot is being created for a family member and two lots left for farming, per applicant.
2. Septic location clarified.
3. Application of Robert J. Gonyo, owner; 903 Chili Scottsville Road, Scottsville, New York 14546 for renewal of conditional use permit to allow a landscaping business at property located at 903 Chili Scottsville Road in A.C. zone.

Robert Gonyo was present to represent the application.

MR. GONYO: Good evening. Robert Gonyo, 903 Chili Scottsville Road. I just want to renew the use permit for the business. It has been running 5-year terms.

BEVERLY GRIEBEL: What kind of business do you do?

MR. GONYO: Landscaping and some paving work.

BEVERLY GRIEBEL: Landscape. And paving, too?

MR. GONYO: Uh-huh. Yes, ma'am.

BEVERLY GRIEBEL: To the side table, in this zone, what is allowed to be done there?

DENNIS SCIBETTA: With conditional use, the landscaping business is okay.

BEVERLY GRIEBEL: But the paving?

DENNIS SCIBETTA: There is a question on the paving business. It would require a special conditional use.

BEVERLY GRIEBEL: What does that mean?

DENNIS SCIBETTA: It would require a conditional use permit from the Planning Board to allow the paving business in an agricultural zone.

BEVERLY GRIEBEL: So we can't approve that part of it?

DENNIS SCIBETTA: You would have to refer it back to the Planning Board.

DAN MELVILLE: We can only deal with the landscape part of it.

BEVERLY GRIEBEL: Does the whole thing go back to the Planning Board because he is doing something else? Combination business?

KEITH O'TOOLE: We'll get back to you in just a minute.

BEVERLY GRIEBEL: Now, I looked at the property. I drove around to the back, and made some notes, and because of the holiday, there was a mix-up with my getting the applications. Then when I was looking over the conditions from the last time, I'm concerned with some of them. One of them -- no dumping of any materials whatsoever on the premises, including dirt, stone, mulch, other materials. You have piles of stuff back there. What are they?

MR. GONYO: It's stone for the business. We use it every day.

BEVERLY GRIEBEL: It says maintain a barn for storage of vehicles, equipment and supplies.

MR. GONYO: We just put a new barn up. 40 by 60.

BEVERLY GRIEBEL: There are trucks all over the place back there.

MR. GONYO: You can only fit so much stuff in those barns.

BEVERLY GRIEBEL: Well --

MR. GONYO: We just put a 40 by 60 barn there this summer.

BEVERLY GRIEBEL: What did you have before?

MR. GONYO: A 30 by 50. And 20 by 20.

BEVERLY GRIEBEL: So you have all of them back there?

MR. GONYO: Yes, ma'am.

BEVERLY GRIEBEL: But still -- it says maintain a barn for the storage of vehicles, equipment and stuff. So there are things not in the barn. So it is saying keep them in a barn. This was approved January 26th of '01 for 5 years. The fence. The barn. Dumping of materials, dirt, stone, mulch, other materials. There are piles of it back there. No storage of inoperable equipment unless screened or garaged.

MR. GONYO: Everything is operable on the land and is licensed or a piece of equipment used.

BEVERLY GRIEBEL: No on-street parking. I think you complied with that, but some of these others, the way I read them, I don't read it as compliance with vehicles not in a barn and piles of stuff around.

DAN MELVILLE: What kind of materials are on the property that are dumped besides stones or anything else?

MR. GONYO: That's it. Crushed stone. Topsoil. Screened topsoil.

DAN MELVILLE: That is all used for the landscaping?

MR. GONYO: Landscaping and such, yeah. I mean we are 300 -- better than 300 feet off the road. Everything is fenced. You can hardly see anything from the road. It is not obtrusive to anybody.

DAN MELVILLE: Can that be seen from the road, any of that stuff?

MR. GONYO: I don't think you can see it from the road.

BEVERLY GRIEBEL: The piles of dirt were behind the barn. I drove around. I made a pass through there. And when I first looked -- I didn't remember these from before. It was 5 years ago. Then I got home and was looking at it and I noticed that you had this stuff back there.

DAN MELVILLE: It does say on the condition, you know, no dumping of any materials, and it includes here stone, mulch and other materials. As far as that goes. But if it is out of sight -- I mean maybe this is one of the conditions that could be changed. If it is out of sight and can't be seen, it wouldn't be a problem.

BEVERLY GRIEBEL: I'm not sure. I don't know.

RICHARD PERRY: I guess I would ask whether that truly means dumping. When I think of dumping, I think of waste, and if it is an active part of the business that you need, that's a little difficult to store the stone and mulch and dirt indoors. If it is there and used.

DAN MELVILLE: Especially topsoil.

RICHARD PERRY: If that is used for the daily, weekly, monthly or seasonal conduct of the business, then I guess I don't have a problem with it.

DAN MELVILLE: I can see if it was waste material like old blacktop.

BEVERLY GRIEBEL: It says no dumping of any materials whatsoever on the premises. We had a reason for putting these conditions --

MR. GONYO: I think that was for spoils.

BEVERLY GRIEBEL: No dumping of any materials whatsoever.

RICHARD PERRY: Dumping is the key word.

BEVERLY GRIEBEL: Either the condition is wrong or the gentleman is not in compliance.

RICHARD PERRY: Both could be correct. He -- I would construe dumping as just that, waste.

BEVERLY GRIEBEL: Well, fine point. Maintain a barn for storage of vehicles. Then when they are all not in storage, either he is not in compliance or the condition is wrong. The way I am reading the conditions. Now, this was five years, so it was previously done, and if we copied the same conditions, the way I read it, he has not been following the conditions. I don't know how the rest of the Board feels.

PETER WIDENER: Which conditions is he not following?

BEVERLY GRIEBEL: Number 3. Number 5.

PETER WIDENER: But he has a barn. He just built a new barn.

DAN MELVILLE: As far as the vehicles that are out, are they out during the day or do you store them --

MR. GONYO: Some of the stuff is stored at night to be honest. We have the fences up. We planted 22 trees this year to put more screening up. If you look around the neighborhood, the other businesses, it blends with everything else. I know they don't have conditional use permits like I do, but...

RICHARD PERRY: How many vehicles are left out on any given day?

MR. GONYO: Three dump trucks, and two smaller pick-ups and the rest are maybe backhoes, but everything is behind the fences or the barns.

BEVERLY GRIEBEL: Backhoes, plows and stuff like that.

MR. GONYO: The plows are inside. The -- the plows are out now because it is wintertime. The backhoes will be out in the summer.

BEVERLY GRIEBEL: Side table, do you have any information on prior compliance with the conditions or non-compliance or anything like that?

RICHARD PERRY: According to Number 3, we approved it with the paving business in

mind.

PETER WIDENER: Yes. It says used in a landscaping and paving business.

BEVERLY GRIEBEL: But apparently that was something that we couldn't do.

KEITH O'TOOLE: I don't read that to permit a paving business. I read that to permit the storage of the equipment. My recollection was the -- the idea --

DAN MELVILLE: It was for a landscape business.

KEITH O'TOOLE: My recollection was there was equipment just sitting out in the field. They agreed to construct a building to basically hide it. That was the understanding.

DENNIS SCIBETTA: The buildings were completed in the summer or early fall last year. I haven't had the opportunity to do the inspection myself. It was done by Mr. Kress. Those were approved.

BEVERLY GRIEBEL: So they weren't completed until last fall, yet the last approval was for January of '01?

DENNIS SCIBETTA: Yes.

BEVERLY GRIEBEL: It is a long time out of compliance.

MR. GONYO: As of '01, there was no request for the building to be built.

BEVERLY GRIEBEL: Well, these were the conditions, January 26th of '01.

MR. GONYO: Right.

BEVERLY GRIEBEL: Maintain a barn for the storage of vehicles.

MR. GONYO: As far as -- as far as I can recall, going back a ways, it was put the barn -- put the equipment behind the fence, as much in the barn as you could, out of sight from the road, screening trees where applicable.

BEVERLY GRIEBEL: Well, this was a letter that went to you dated January 26th of '01, with the conditions. Eight different conditions.

MR. GONYO: I think you're splitting hairs, to be honest with you.

BEVERLY GRIEBEL: I'm just reading what is on the letter that was sent to you.

MR. GONYO: I understand.

BEVERLY GRIEBEL: Now the question of the paving business, did you clarify that?

KEITH O'TOOLE: It is not permitted by code, as I can see. Agri business is generally permitted and landscaping is a form of that. That is -- well, it is not customary occupation -- it is a conditional use.

DAN MELVILLE: Does he have to go to the Planning Board or he can't do it at all?

KEITH O'TOOLE: He can't do it.

DAN MELVILLE: Not at all?

PETER WIDENER: Can he depot his vehicles there for the business and run the business somewhere else?

KEITH O'TOOLE: That's a question really of whether the vehicles are in -- an accessory use. It may well be an incidental use to have a vehicle that you drive to and from work; whereas, if you maintain a yard of vehicles, it is certainly a business.

RICHARD PERRY: If they're dual-use vehicles, that could be used for either paving or landscaping?

DAN MELVILLE: Dump trucks and backhoes you can use for a landscape business.

KEITH O'TOOLE: Any vehicle that can be used and is actually used in the landscaping business is permissible, but it is also supposed to be in the barn anyhow. If it is in the barn, frankly I don't think the Town cares too much one way or another.

BEVERLY GRIEBEL: So if he is not allowed to do the paving business there, he would not be allowed to have the stone and other items related to paving on the premises.

KEITH O'TOOLE: That is already a condition, in fact.

RICHARD PERRY: The stone could be a part of the landscaping business.

MR. BRINKWART: Do you feel that landscaping is so narrowly defined to only include

living organic things. I would assume landscaping would include things like walls, pavers, hard scape, too. I know a lot of landscapers do do paving.

KEITH O'TOOLE: I would agree, but not too many landscapers are using asphalt that is in pans and that good stuff.

BEVERLY GRIEBEL: Right. That gets into another area. So what he needs to do is pile stuff there or not pile stuff?

KEITH O'TOOLE: Do not.

BEVERLY GRIEBEL: So this condition Number 5 --

JEFFERY PERKINS: It is pretty clear. First says no dumping of any materials whatsoever on the premises. And that could be raw materials usable for resale, or waste. Then it further states this includes dirt, stone, mulch or other materials which could be implied for resale.

RICHARD PERRY: Choice of wording is very poor. Instead of saying dumping, it should say storage.

KEITH O'TOOLE: It is certainly legal, if you permit to have some storage of some landscaping materials there.

BEVERLY GRIEBEL: It is certainly what?

KEITH O'TOOLE: It is legal for him to have landscaping materials there, if you choose to permit it on that site, if the site can accommodate it.

MR. BRINKWART: Well, this variance -- this is zoned Agricultural Conservation, so full farming operations would be allowed? I'm thinking -- I grew up on farms. There are tractors around, hay wagons around.

BEVERLY GRIEBEL: Sit closer to the microphone so the audience can hear you.

MR. BRINKWART: Various and sundry piles of things you need to use on a farm, I was there Sunday, I thought the property looked very tidy and it was consistent with what was in the area. Again, if we equate his operation to a farming operation, as far as vehicles are concerned and storage and everything else, I don't think it is that much of a stretch.

RICHARD PERRY: I certainly don't either.

BEVERLY GRIEBEL: The point is we had the conditions, and the way I interpret the wording of the -- he wasn't following to them. And the paving business is out. So you can't have the paving business there. So what does that do to your business?

MR. GONYO: Puts me out of business.

BEVERLY GRIEBEL: You would have to do business on a different site.

MR. GONYO: Puts me out of business. I have been -- for 17 or 18 years, it has evolved into the paving business.

BEVERLY GRIEBEL: Evolved into it.

MR. GONYO: Evolved into it. As we went along with the landscaping, one goes hand and hand with the other. So now we'll be out of business you are telling me. No storage of stone, any material, no equipment outside? So basically you're putting me out of business. I think if you went around the neighborhood and looked --

BEVERLY GRIEBEL: We are not talking about the rest of the neighborhood.

MR. GONYO: Well, I'm talking about the rest of the neighborhood.

BEVERLY GRIEBEL: Well, we are talking about this application.

Does the rest of the Board have questions?

RICHARD PERRY: I have one. Dennis (Scibetta), any record of complaints on the business with the property?

DENNIS SCIBETTA: There were complaints in the earlier years, but not as of recently.

RICHARD PERRY: When you say as of recently?

DENNIS SCIBETTA: Back to 1995 and before.

RICHARD PERRY: Nothing since then?

DENNIS SCIBETTA: Not that I have any record of. When I did research it, there were no

things that were -- the last -- the last approval was 19 -- was 2001, and since 2001, there have been no complaints that we have on record.

RICHARD PERRY: It would seem that the people who live in -- and use the area are not concerned enough to complain about anything.

DAN MELVILLE: I do agree with the condition as far as the dumping goes. I wouldn't want to see materials dumped there that, you know -- waste materials. Asphalt, stuff like that. But I think if he has landscape stone and stuff like that, it is -- you know, it is -- it has got to be there.

PETER WIDENER: I would like to suggest we change the verbiage a little bit on this application this time to allow for that, because directly across the road from him, there is a mountain of mulch, a mountain of stone and gravel in a nursery setting. That seems to be very acceptable to the Town. It is fenced and treed. It is a very large business.

BEVERLY GRIEBEL: I don't know anything about that.

PETER WIDENER: I'm just running a comparison. If we are concerned about the paving business, well, maybe we can allow him to depot his vehicles there and run a business somewhere else, but as far as the storage of the not waste material, the usable material, yes, I don't see a problem with that. We put this together in 2001. Maybe we need to look at it again in 2006 now.

DAN MELVILLE: If you're doing a landscaping business, you have to have topsoil and you really can't store that in your barn.

PETER WIDENER: Quite frankly, I don't want to put a business out of business in Chili. Especially one with a good track record.

RICHARD PERRY: I agree.

BEVERLY GRIEBEL: Mr. Gonyo, you said this evolved into a paving business. When did that happen?

MR. GONYO: I may have misspoke there. They go hand in hand. In other words, as you do landscaping, they go hand in hand. So you do a little bit of each. 50/50, 60/40, in that area there.

BEVERLY GRIEBEL: So what is your percentage now of landscaping?

MR. GONYO: 50/50.

BEVERLY GRIEBEL: But if you can't do the paving business out of there, which the side table has said is not allowed, then where does that leave it? And to store the vehicles in a barn.

DAN MELVILLE: He should try to get as many of them in, I think, as possible. I can understand maybe the plows might be out in the wintertime.

JEFFERY PERKINS: What part of the business -- paving, what are you doing on the premises with the paving business? Just storage of vehicles?

MR. GONYO: Depot is probably a good term. We recycle asphalt at the plants.

JEFFERY PERKINS: That is --

MR. GONYO: That doesn't come back.

JEFFERY PERKINS: You are not dumping asphalt on your premises?

MR. GONYO: No.

RICHARD PERRY: You're not even really bringing any asphalt onto your property?

MR. GONYO: No. We recycle.

DAN MELVILLE: It comes from the plant over to the site.

RICHARD PERRY: And are these, quote/unquote, paving trucks also used as landscape --

MR. GONYO: Dump trucks, sure.

RICHARD PERRY: Contractor dumps for the most part?

MR. GONYO: No. They're actually six-wheel dumps. Backhoes, dozer, all of the stuff is used in landscaping as well as paving.

RICHARD PERRY: Okay. So if you're soliciting business or people call you there, you're

doing the business or making the arrangements for the paving from that location?

MR. GONYO: It goes hand in hand, yeah.

DAN MELVILLE: Nobody comes to that location either?

MR. GONYO: No.

DAN MELVILLE: They call you and you go to them?

MR. GONYO: Yes. We go there to do the estimates and the bids.

RICHARD PERRY: I, for one, am with Peter (Widener). I would hate to see a business that has been here and contributing to the Town and paying taxes put out of business.

BEVERLY GRIEBEL: Side table, can we approve this if we -- if he is doing 50/50 landscaping and paving?

KEITH O'TOOLE: You may not approve a paving business.

DAN MELVILLE: Then you can just approve the landscaping business.

BEVERLY GRIEBEL: You -- we can only approve the landscaping?

KEITH O'TOOLE: That's correct.

BEVERLY GRIEBEL: Can we knowingly approve this if he has stated it is 50/50?

KEITH O'TOOLE: As I indicated before, if he is using the site for incidental parking of vehicles which could in certain circumstances be used for paving, I suppose that is okay up to a point. What that point is for you to decide. But it has essentially been the policy of the Town as a general rule if vehicles are parked indoors and we don't see them, out of sight, out of mind. But if they're parked outside, then it becomes an enforcement issue. And I was just flipping through some of the old photographs from years gone by, and we did have a problem with old vehicles basically abandoned in the field along with construction materials, excess asphalt, broken up concrete and that sort of thing. The code is quite clear. In this zone you can have agri business as a conditional use. You can have a nursery as a permitted use, but you may not have a paving business. That's not on the list.

RICHARD PERRY: Again, we haven't had any complaints from anybody, and until such time that there are, you know, that -- if that goes on with the other business --

DAN MELVILLE: You just approve the landscape --

RICHARD PERRY: -- that is the chance that he takes.

BEVERLY GRIEBEL: Well, to maintain a barn for the storage of vehicles. Now, he doesn't have room for all of the vehicles in the barns; is that correct?

MR. GONYO: Right.

BEVERLY GRIEBEL: What do we do with that?

RICHARD PERRY: Who is driving back there every night to police it and make --

BEVERLY GRIEBEL: I am not, but he admits he doesn't have the barn for storage, and when you put the -- the barn in last year, had you gotten more vehicles that you needed another barn, or what was --

MR. GONYO: No. We were trying to get everything inside to comply a little bit, comply more.

BEVERLY GRIEBEL: Had you gotten more last year so you --

MR. GONYO: As you go, you grow, in the business. That's your goal.

DAN MELVILLE: Were you able to get more vehicles inside?

MR. GONYO: Oh, definitely. Sure. Sure.

BEVERLY GRIEBEL: But you have never been able to get them all inside.

MR. GONYO: I don't know how familiar you are with construction of any kind. It is almost impossible to have that many barns. If you go around to any sites you want in Monroe County, construction people can't keep all their business inside. It is not economically sound.

BEVERLY GRIEBEL: We are not talking about the rest of Monroe County. We are talking about these conditions.

MR. GONYO: Yes. But we need to be reasonable here, too.

BEVERLY GRIEBEL: Well, what does the Board want to do?

MR. BRINKWART: What other mechanism is available to the applicant to allow paving?

KEITH O'TOOLE: Use variance.

BEVERLY GRIEBEL: It would have to be to this Board to change the use of the land from AC to a paving business, which would be difficult. That is the highest thing we ever approve is the use variance. You have to prove many different issues to get that. That would be his alternative on that. But the way I look at it, he is not complying with the conditions that were put on five years ago.

DAN MELVILLE: And I agree with you there, but I think some of these conditions probably need to be reworded a little. Some of it I -- I fully agree with, and some of it I think, you know, it has to be reworded a little bit.

PETER WIDENER: In an Ag District, an Ag District is seasonal, okay? And I see combines and hay bales out in the field during harvest and then I don't see them. Well, that means they have stored them somewhere or take them back to their farm and put them next to their barn. So...

MR. BRINKWART: You are apt to see plows and hay wagons laying around all year round on a farm.

PETER WIDENER: Or conveyors.

RICHARD PERRY: At least he has made the attempt to put up screening.

PETER WIDENER: It is hard to store all equipment indoors.

DAN MELVILLE: You can't see it.

RICHARD PERRY: Again, I go back to the fact that there are no complaints.

BEVERLY GRIEBEL: Well, I think some of these conditions may have been put on when there was a lack of compliance, according to the pictures, and we certainly don't want it to go back to that where there is dumping and that sort of thing.

DAN MELVILLE: We should still keep that in there, but he needs to be allowed to have this -- these materials for landscaping.

RICHARD PERRY: A lot depends on what the definition of "is" is.

DAN MELVILLE: As far as dumping, we should specify waste material.

RICHARD PERRY: Yes. I think there is -- the definition of dumping and storage, and I think we should be using both for something more effective than just the word "dumping."

So if he is allowed to have piles there, if it is not waste material; is that what you're saying?

DAN MELVILLE: If it is to do landscaping -- where else would he put the material? You just -- just don't go down do Chase Pitkin -- you can't go down there any more. You don't just go down to Home Depot and buy a couple bags of mulch to go on a landscaping job. You buy it in bulk.

KEITH O'TOOLE: Perhaps a condition to the effect that the applicant will be permitted to store materials used solely in the landscaping business. Those materials permitted will have to be new materials, not waste materials, not recycled materials.

RICHARD PERRY: What would you call mulch?

KEITH O'TOOLE: I call it a new material; whereas, I call broken up concrete recycled material.

RICHARD PERRY: I'm not trying to be smart.

PETER WIDENER: Maybe we could call it marketable material.

KEITH O'TOOLE: No, too broad. Plutonium is marketable.

BEVERLY GRIEBEL: They don't care if it is concrete or what.

PETER WIDENER: True. Tires. Storage of inoperable equipment, Number 6 was another one. Unless it was screened or garaged. In other words, fenced. I think he is doing the best he can on that.

BEVERLY GRIEBEL: He said all of the vehicles are operable, but not all of them are

under cover.

PETER WIDENER: Inoperable would not matter. This says can't store inoperables.

BEVERLY GRIEBEL: Well, he is not complying with Number 3. So if you want to change Number 3, feel free to do that. But these conditions that were written have not been complied with in the five years since they were written, according to the letter he got, which he apparently is not aware of.

JEFFERY PERKINS: If given the code we cannot approve a paving business, my recommendation would be to remove "and paving business" on Number 3.

BEVERLY GRIEBEL: Right. That has to come out of there.

RICHARD PERRY: It would appear from what Dennis (Scibetta) is saying that that has been a part of the business for a long, long time. Back to the beginning. Or near the beginning.

BEVERLY GRIEBEL: Well, according to the applicant, too, it has evolved into that.

The stockade fence or equivalent privacy fence 6 feet in height along the property line of the adjoining residence on the north, from the front line of their garage to the rear property line. That fence is in and has been for a while?

MR. GONYO: Yes.

BEVERLY GRIEBEL: Okay. Maintain a barn for the storage. Okay. That has not been done.

Reissuance of a conditional use permit for an extended period is conditional on the applicant's performance and substantially complying with the restrictions placed herein.

No dumping of any materials whatsoever on the premises, including dirt, stone, mulch or other materials. No storage of inoperable equipment unless screened or garaged.

JEFFERY PERKINS: Number 5, could we agree that we would change that to reflect something closer to what our Counsel described?

BEVERLY GRIEBEL: We can.

I was reading what was on here now. No parking of equipment behind the west property line of the abutting property on the north. That is your -- that you're complying with.

MR. GONYO: Yes.

BEVERLY GRIEBEL: And no on-street parking.

And no employee cars within the front setback. So those -- some of these you have been complying with and some you have not.

MR. GONYO: Yes.

BEVERLY GRIEBEL: Well, the way I interpret it, and the way some of the Board is interpreting it, they think it is substantial compliance. Any other questions?

PETER WIDENER: I have a question to Mr. Gonyo. The Gonyo Construction, where is the d/b/a on the address? Where is the address for the d/b/a? Is it at 903 Chili Scottsville Road?

MR. GONYO: Yes.

PETER WIDENER: Okay.

MR. GONYO: It is actually incorporated.

MR. BRINKWART: I have a question for Keith (O'Toole) again. To my understanding he said we cannot approve --

DAN MELVILLE: The paving.

MR. BRINKWART: The paving portion of it.

DAN MELVILLE: That is not what he is in here for, I believe. It is just -- is just in here for landscaping business.

BEVERLY GRIEBEL: He said 50 percent is paving.

MR. GONYO: Some years. Sometimes 40.

KEITH O'TOOLE: The fact remains, I don't care what his application did or did not say, you cannot approve a paving business.

DAN MELVILLE: We are not approving the landscaping business.

KEITH O'TOOLE: Anything he does beyond the approval puts him at risk of non-compliance.

PETER WIDENER: Unless he goes for a land use variance.

KEITH O'TOOLE: And gets it.

MR. GONYO: What is the probability of that?

KEITH O'TOOLE: I would say very low.

BEVERLY GRIEBEL: It is hard to get. It is changing the use of the land forever and forever. If you wanted to come in here and change putting paving on it, paving could be done on there for eternity.

MR. GONYO: I see what you're saying. Okay. I got almost like a rezoning almost.

BEVERLY GRIEBEL: Yeah. Changing the use of that land. It's forever.

MR. BRINKWART: He could come in for that.

BEVERLY GRIEBEL: He could apply. Anyone can apply for whatever.

MR. BRINKWART: Even if he was denied, he would still be allowed to operate his landscaping business.

BEVERLY GRIEBEL: Right. If it were denied, it would stay agricultural use and he could still do the landscaping. So he would have that option to apply for that land use variance.

MR. GONYO: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Jeffery Perkins made a motion to approve the application with the following conditions, and Peter Widener seconded the motion. The motion was approved by a vote of 5 yes to 1 no (Beverly Griebel).

DECISION: Approved by a vote of 5 yes to 1 no (Beverly Griebel) with the following conditions:

1. Approved for a period of five years.
2. Applicant will maintain a stockade fence or equivalent privacy fence at least 6 feet in height along the property line of the adjoining residence on the north from the front line of their garage back to the rear property line.
3. Maintain a barn for the storage of vehicles, equipment, and supplies, used in the landscaping business.
4. Re-issuance of a conditional use permit for an extended period is conditional on the applicants performance in substantially complying with the restrictions placed herein.
5. No dumping of any waste or recyclable materials whatsoever on the

premises.

6. No storage of inoperable equipment on premises unless garaged.
7. No parking of equipment behind the west property line of the abutting property on the north.
8. No on street parking. No parking of employees cars within front setback line of adjoining residence on the north.

The following findings of fact were cited:

1. This is a customary business in a rural area.
2. No change in the character of the neighborhood.
4. Application of Terry Eason, owner; 17 Constitution Circle, Rochester, New York 14624 for variance to erect a 14' x 12' enclosed porch to be 26' from rear lot line (30' req.) at property located at 17 Constitution Circle in R-1-15 zone.

DECISION: Unanimously tabled by a vote of 6 yes with the following reason having been cited:

1. Applicant failed to properly post the required public hearing notice sign.

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

Applicant must be present for the public hearing.

5. Application of Mr. & Mrs. Robert Rose, owner; 21 Bellmawr Drive, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a floral Business at property located at 21 Bellmawr Drive in R-1-15 zone.

Mrs. Robert Rose was present to represent the application.

BEVERLY GRIEBEL: Do you work for a government agency?

MRS. ROSE: No.

KEITH O'TOOLE: Would you like to?

BEVERLY GRIEBEL: It is a little question in some of the fine print that is sometimes missed.

Now, this was approved a year ago. Where do you do this work at your house?

MRS. ROSE: I do it in my basement.

DAN MELVILLE: Do you have flowers delivered there?

MRS. ROSE: No, I'm doing weddings. I'm just doing it at weddings.

DAN MELVILLE: Now I remember.

MRS. ROSE: Special occasions, that type of thing. Not an every day thing. Like I said, I'm a tailor. I work someplace else. This is a side business I'm trying to develop a little bit.

BEVERLY GRIEBEL: On your diagram here, you have the garage and you have an arrow with printing, "area to be used to make floral bouquets."

MRS. ROSE: We had to change that because that was an issue for you a year ago. Because of the gasoline and stuff in the garage.

BEVERLY GRIEBEL: Well, no, that wasn't the reason. It's because this type of business can't be done in a garage. It has to be done in a home. A home being a place where you eat and sleep. Garage being a place where you store vehicles. So how did it get on this application? Did you copy it from last year?

MRS. ROSE: When I went in to apply, she said she would take care of the paperwork. I never got a call there was a problem. I'm assuming that was a -- that was from last year.

BEVERLY GRIEBEL: I will X that out. That is not valid at this time.

MRS. ROSE: She said I didn't have to make any changes because we agreed upon that last year, it would be inside.

BEVERLY GRIEBEL: I was wondering why that was there.

MRS. ROSE: I didn't realize it wasn't changed.

MR. BRINKWART: You said you do weddings. That is the extent of it?

MRS. ROSE: Weddings, and I have done a couple of funerals, that type of thing. But normally I bring my books to people and then I will bring flowers to the house and make them up and deliver them. I don't have deliveries to the house. I go to the wholesaler and buy the flowers and bring them back. I don't have any big trucks going up and down or anything like that.

RICHARD PERRY: If the business grows, you will have a great big tractor-trailer.

MRS. ROSE: I never want it that big, to be honest.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

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

The following finding of fact was cited:

1. Customary home occupation.
6. Application of Geoffery Allan & Associates, 1260 Scottsville Road, Rochester, New

York 14624, property owner: Davpart Rochester LP; for variance to erect a security fence to be 8' high (6' allowed) at property located at 200 Airpark Drive in G.B. zone.

Geoffrey Considine was present to represent at the application.

MR. CONSIDINE: Good evening. Geoffrey Considine with the Design Consultants. We are consulting to the Canadian company that owns the complex. You're familiar with the Scottsville Road property between Elliot Press' old building and the Pat Evan's place to the west. We are also representing Verizon Telecom, who is the tenant soliciting this particular request to the Town Board of Appeals to erect this 8-foot fence. I know this drawing that was submitted is probably a little sketchy, no pun intended. It is difficult to understand. So I did take some pictures and I also brought a site plan with me. I assume everybody on the Board has been to the site and taken a look.

BEVERLY GRIEBEL: I got the site plan. I went back there and saw the Verizon vehicles back there. I assume that is the area you want to fence in?

MR. CONSIDINE: Actually, no, ma'am. I will show you what this is, if I can just direct the Board's attention. This is just a view -- not too many people in the audience. There is a view from the end of the Verizon building here (indicating) looking towards Scottsville Road, so it is very unobtrusive. You can't see it from Scottsville Road.

This is the back of the building (indicating) with the garage doors indicated on the plan.

The fence would actually go along the top of this fence, and then it would actually come out, according to the drawing -- we are going about 6 feet in from the back of the building before we start the fence. So that would be even less view from any possible angle. The only people that can see this is, I believe, 300. If you will -- I will just reference the map. I apologize for the -- I can bring it closer if you would like.

PETER WIDENER: We have one.

MR. CONSIDINE: Seeing we don't have to show to much of the audience here. Just to orient you, Scottsville Road is here (indicating). The 200 building is really the 400 building. It is just semantics. The tax parcel says 200 because there are several buildings within this parcel here (indicating). There are three newer buildings. This would be the 200 building, 300 -- excuse me, 200 building, 300 building and 400 building (indicating). This is where Sal's Birdland is (indicating). This is Verizon (indicating). The area we are looking to erect the fence is right here (indicating) basically at the end of the building, between the loading dock and about 6 foot in for the building. The -- approximately 6 foot in from the building, so Madam Chairwoman, your comment with the trucks, right now they're parked along this parking striped area (indicating) adjacent to the landscaped area.

Actually what the -- where they would all relocate is within this fence area. We are proposing two gates as per the print. One sliding gate on basically the northeast side of the parcel and one here (indicating) on the west side, or northwest side, I guess it would be. But that wouldn't -- but that would provide egress for the vehicles to get in and out, but it would also allow for plowing. We are projecting two sliding gates on the parcel.

One of the reasons for this request is because for Verizon to renew there -- which, of course, the Davpart Rochester was more than glad to maintain their occupancy rate, which has sunk -- quite frankly, they need security. They store some very expensive equipment in some of these vans and a 6-foot fence just doesn't allow the level of security that they require to renew their lease. That is the reason for this request.

One other comment I might make that affects the Board, because we are all aware of impinging views and all of that. In building -- which we call 300 here, which is the one immediately perpendicular in the back side -- of course the river is down in here (indicating). The first five suites in here, which is about to here (indicating) is Quest Communications, which

is basically an unoccupied building. It is a switching point for their northeast sector, so there is no humans basically in this building. So any visual impact is going to be negligible.

BEVERLY GRIEBEL: No objection to the view out the front windows.

MR. CONSIDINE: That's correct. I don't think the electrons, the conversations that occur around the northeast will be too concerned about a fence up there.

Would be a chain link fence. As much as they would like to have barbed wire, we know it is not allowed. So anyway, that is pretty much the reasoning for the request for the 8-foot fence.

BEVERLY GRIEBEL: Right now they're just sitting out in the open.

MR. CONSIDINE: Yes, ma'am, they are.

BEVERLY GRIEBEL: And so -- it is so far from Scottsville Road and gets deserted back there.

MR. CONSIDINE: It does. We have security lighting on the building, but that is not much of a deterrent.

BEVERLY GRIEBEL: Not when there is nobody around there at night.

MR. CONSIDINE: We have a great relationship with the Sheriff's Department down the street and they have been wonderful about patrolling the property. I think you will find the people on Scottsville Road that now have purchased this property are more than interested in putting some money into it. There is striping. They're upgrading landscaping this year. My offices are in that building. I have been there for four years and my cohort. So they want to maintain the property, maintain the look of the parcel, and, you know, certainly it is a function of tenancy. They would hate to lose Verizon. They have been there over five years. We were involved in helping them out initially when Ron DiChario owned it. So it is important for Verizon to have this level of security.

BEVERLY GRIEBEL: They have other office people that work there and they need to store the trucks there overnight.

MR. CONSIDINE: Yes, ma'am, on the weekends.

RICHARD PERRY: You're a Canadian company?

MR. CONSIDINE: We represent a Canadian company out of Toronto.

RICHARD PERRY: How do we know? You're talking foreign owned company and security, I think we need Congressional hearings on this
(Laughter.)

MR. CONSIDINE: We might.

RICHARD PERRY: Could be UAE?

MR. CONSIDINE: They might be bought out, Mr. Perry. Maybe there is a codicil in the code that says we have to have that reviewed every five years. Only kidding.

DAN MELVILLE: Are they allowed to store those vehicles outside?

BEVERLY GRIEBEL: They're not landscape vehicles or paving vehicles.

MR. BRINKWART: There is a security camera outside. Is it functioning? Have you had any hits on that?

MR. CONSIDINE: I can't answer that. I'm not sure if it is a dummy or not. I would say this: It would not be monitored. It would probably be a taped situation. So they don't remote that to anywhere. I do know that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY

MR. GINOVSKY: Where do you put the snow in the wintertime?

MR. CONSIDINE: Yes. There is plenty of area to put the snow. I would say to the Board this will not affect the landscape area. The fence will go on the inside of the landscape area, toward the Verizon building.

BEVERLY GRIEBEL: This did go to the Monroe County Planning Department for airport review and your fence will not interfere with the airplanes.

RICHARD PERRY: That's a relief.

BEVERLY GRIEBEL: Anything within a certain footage, miles of the airport has to go for airport review.

MR. CONSIDINE: I was a pilot in the military. I retired as a Cobra pilot at Scottsville Road. I was over there for 11 years, so believe me, I know the dynamics of airport reviews.

PETER WIDENER: The Dunkin Donut substation right up the road.

MR. CONSIDINE: It helps us. They drive through.

RICHARD PERRY: They have to have a place to eat their donuts in private.

(Laughter.)

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

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

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Fence needed for safety and security of the vans and equipment therein.

Note: A zoning permit is required for the fence before it is erected.

The meeting ended at 8:32 p.m.