

CHILI PLANNING BOARD  
April 14, 2009

A meeting of the Chili Planning Board was held on April 14, 2009 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson James Martin.

PRESENT: George Brinkwart, Karen Cox, John Hellaby, Dario Marchioni, John Nowicki, Jim Powers and Chairperson James Martin.

ALSO PRESENT: Brad Grover, Traffic Safety Committee Representative; Ken Hurley, Town Engineering Representative; Chris Karelus, Building Department Manager; Keith O'Toole, Assistant Counsel for the Town; Pat Tindale, Conservation Board Representative; Paul Wanzenried, Architectural Review Committee Representative.

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

JAMES MARTIN: I also want to recognize Paul Bloser with us tonight from the Zoning Board of Appeals.

I will make a few adjustments to the published agenda that you may have copies of. Essentially we'll be moving ahead tonight with the first Public Hearing. We'll then move into the third Public Hearing for Tiffany Transportation. The next item on the agenda will be the informal hearing of Titan Rock. We will then move into the applications for Daniel Boon and the last item on the agenda tonight will be the hearing of the Michael Kolozvary application. So that will be the order of activity tonight.

PUBLIC HEARINGS:

1. Application of Thomas Puglia, owner; 10 Lawnsbury Drive, Rochester, New York 14624 for special use permit to convert garage to an in-law apartment at property located at 10 Lawnsbury Drive in R-1-15 zone.

Guy Puglia was present to represent the application.

MR. GUY PUGLIA: Guy Puglia.

JAMES MARTIN: Do you have any comments or presentation at this time?

MR. GUY PUGLIA: No.

JAMES MARTIN: There has been a couple of questions posed to me by a few of the Board members tonight, that before we get into any issues, concerns on part of the Board. Chris (Karelus), would you comment on the relevance of the sketch that we have been given and exactly what the Building Department would accept in the way of a sketch plan for this design?

CHRIS KARELUS: Yes. Thomas Puglia had actually built and constructed the improvements you see before you in the sketch plan. So what our department does is assuming an in-law apartment approval is granted by the Board, we actually do an as-built inspection. So we go backwards through an inspection process to try to get the permits in place and the legal occupancy on the space.

So what they presented to the Board was in sketch is what actually has been constructed. Our department is kind of flexible when it comes to these permitted activities. We tend to give them a little bit more leeway. If these plans do come forward and there is no construction done, we tend to ask for more detail in nature, but in this case we're doing more of an as-built construction.

So as long as the Planning Board sees it fit to allow them the use of the space as an in-law, our Department will work backwards with the applicants to permit the construction so it is complete. The sketch you have would suffice for the plans we have in the process. Again, in that backwards fashion.

JAMES MARTIN: So in a Building Department perspective, whatever inspection you do that is necessary from a permitting process, this sketch will suffice. Is there any kind of monetary value you deal with as far as this particular aspect goes?

CHRIS KARELUS: Yeah. If a project's value is better than \$20,000, we're required to have an architect actually provide us the plans. If the value is less than \$20,000, a sketch plan provided by a homeowner or a contractor on the homeowner's behalf suffices for the Building Department's permits.

JOHN NOWICKI: Who determined the value of this particular project?

CHRIS KARELUS: Um, the owner of the application.

JOHN NOWICKI: What was the value?

CHRIS KARELUS: Um, it's -- it's a little weird with this one, because actually this was a model home, so the garage was a finished space, but there is a question on whether is it conditioned or unconditioned, so now we're going to be permitting it for a conditioned, heated part of the building. So it's -- again, it's something we deal with as kind of an as-built construction inspection. But the value of the construction I believe -- the owners can attest to this. I believe with the cabinets, the kitchen islands, were all of the most recent improvements put in with this project.

JOHN NOWICKI: And the value was still under 20,000?

CHRIS KARELUS: Correct.

JOHN NOWICKI: So he doesn't have to get architectural drawings or an architectural approval, the stamp -- an architect's stamp on the drawings.

CHRIS KARELUS: Certain aspects of the permit they will need an architectural approval but not for the design plans and construction, no.

JOHN NOWICKI: Is he still going to need a set of drawings approved, stamped by a architect?

CHRIS KARELUS: No.

JOHN NOWICKI: Hmm.

That is because of the value?

CHRIS KARELUS: Correct.

JAMES MARTIN: Basically, you will attest that we're under the \$20,000 limit?

MR. GUY PUGLIA: Yes. Yes.

JOHN HELLABY: If I can jump in here real quick. I don't mean to jump in out of turn. The problem I see with this, Chris (Karelus), it shows us what has been done with the garbage but doesn't give us the overall relationship to the rest of the floor space in the house. I don't know what they're calling this in-law apartment. All I'm seeing is a kitchen. I have no idea what this -- this relates to with the respect of the space.

KAREN COX: Can the applicant explain? I'm not familiar with -- all I'm looking at, this is -- was a kitchen. So can you -- can you go through --

MR. GUY PUGLIA: It was a garage and it was made into a kitchen because my mother cannot -- has a hard time going up the stairs.

KAREN COX: It is a split level?

MR. GUY PUGLIA: Yes. And so the garbage was made into a kitchen -- or there was a stove, some counter space, an island, and a refrigerator, and that is it. There is no shower or anything like that.

KAREN COX: So the -- Chris (Karelus), when you say it was living space, is it kind of like the idea of the model at Whispering Winds with what would have been a garage was the sales office? Chris (Karelus).

CHRIS KARELUS: Correct.

KAREN COX: Then the owner kept it as an -- as living space, and this is the same type of situation?

CHRIS KARELUS: Yes.

KAREN COX: I'm just curious why there was --

JIM POWERS: Do you have to go from the garage up to another level?

MR. GUY PUGLIA: No. You walk in and there is -- there is a downstairs living room and a den. That's attached.

JIM POWERS: Same level as the garage?

MR. GUY PUGLIA: Yes.

JOHN NOWICKI: Where is this, upstairs (indicating)?

MR. GUY PUGLIA: No, that is downstairs.

JOHN NOWICKI: Where is the bedroom? Where does she sleep in?

MR. GUY PUGLIA: She sleeps in a chair in the family room. She doesn't go up the stairs.

JOHN NOWICKI: The bathroom is where?

MR. GUY PUGLIA: The bathroom is right next to the family room, in the hallway.

JOHN NOWICKI: In the existing house?

MR. GUY PUGLIA: In the existing house.

JIM POWERS: Is there another level above that level where there is a kitchen.

MR. GUY PUGLIA: Yes. There is a kitchen, three-bedrooms and two bathrooms on that second existing floor.

KAREN COX: So if the downstairs doesn't have a separate bedroom, why is it considered an apartment? I mean is that -- does the downstairs have a separate bedroom?

MR. GUY PUGLIA: No.

GEORGE BRINKWART: Is there a separate entrance to this area?

MR. GUY PUGLIA: For the downstairs, yes.

GEORGE BRINKWART: For the in-law apartment, is there an entrance from the outside to this area, separate from the house?

MR. GUY PUGLIA: Yes. There is one going up the stairs to get into the second floor.

JOHN NOWICKI: Does she occupy the second floor?

MR. GUY PUGLIA: She hasn't in about 20 years.

JIM POWERS: She is not using the kitchen now, is she?

MR. GUY PUGLIA: Upstairs? Downstairs? Um, yeah.

JIM POWERS: Is there a drain in front of those doors at ground level outside?

MR. GUY PUGLIA: Yes.

JIM POWERS: There is. That driveway has quite a pitch. Has there ever been a water problem in the flooring there?

MR. GUY PUGLIA: There was when we first moved in in the early '70s, but my father put in a special drain and -- and since then, it's -- we don't get flooded. Every time it used to rain, there were floods.

JIM POWERS: There is not much --

MR. GUY PUGLIA: Not any more.

JIM POWERS: From the driveway up to the floor level, there is not much?

MR. GUY PUGLIA: No, no.

KAREN COX: Do you mind if I ask why you didn't get a building permit?

MR. GUY PUGLIA: Um, it was done in the '80s.

KAREN COX: The kitchen, you mean?

MR. GUY PUGLIA: Yes. In the late '80s.

KAREN COX: What?

GEORGE BRINKWART: All this stuff you sketched out was done in the '80s?

MR. GUY PUGLIA: Uh-huh.

KAREN COX: Why is this coming in front of us now, if you don't mind me asking?

JOHN NOWICKI: What is the intentions of the project?

CHRIS KARELUS: It is being listed as in-law apartment, and I think the purchase and sale agreement has the understanding that they're buying an in-law apartment.

MR. GUY PUGLIA: The house is for sale and there is a buyer.

KAREN COX: That would be good to know.

JAMES MARTIN: So there is a real estate issue involved. This house is for sale. You're selling this house?

MR. GUY PUGLIA: Yes. The house is for sale. Whether it can be called an in-law apartment, that's --

KAREN COX: Well, it is essentially a studio apartment.

JAMES MARTIN: You have a kitchen in what was a garage, all right. And access to the house for sleeping, if that is necessary, but there is no sleeping facilities, no bathroom in the garage?

MR. GUY PUGLIA: No. No.

KAREN COX: There is a bathroom on that floor, though?

JAMES MARTIN: On that floor, yes, in the main house.

JOHN NOWICKI: That is for the whole house?

MR. GUY PUGLIA: No. There is -- what do they call it, a half bath. Just the toilet and sink. Powder room. Upstairs there is a shower and a bathtub.

JAMES MARTIN: I'm a little confused. So the bathroom on the first floor that you mentioned, is that a full bath or half bath?

MR. GUY PUGLIA: It's a half bath.

It's just a toilet and sink.

JOHN NOWICKI: No shower?

MR. GUY PUGLIA: No.

JOHN NOWICKI: In other words, if she wants to take a shower --

MR. GUY PUGLIA: She goes upstairs, which she does --

JOHN NOWICKI: For a senior citizen to go up the stairs to take a shower and a bath?

MR. GUY PUGLIA: Uh-huh.

JOHN NOWICKI: Hmm.

JAMES MARTIN: Now you're selling the house?

MR. GUY PUGLIA: Yes.

JAMES MARTIN: She is not going to be living there any more when the house is sold?

MR. GUY PUGLIA: No. It is sale pending.

GEORGE BRINKWART: I guess I'm still confused a little bit. Is this set up so that the bathroom, bedroom and the kitchen can be separated from the other bathroom, kitchen and the sleeping area? Or is it all integrated?

MR. GUY PUGLIA: It --

GEORGE BRINKWART: I guess I'm having a hard time getting my head around the apartment.

MR. GUY PUGLIA: Picture, there is the garage (indicating). You come through the doorway, okay? Then there is a stairway upstairs, split level. If you stayed on that bottom floor, there is a hallway, you walk in, there is a den. Then to the left is a family room. And then the bathroom is right a half -- I guess they call it a half bath.

DARIO MARCHIONI: So you only have to go up six steps, right, to go to the second floor?

MR. GUY PUGLIA: Um, I think how many steps -- there is two sets of steps.

DARIO MARCHIONI: Not like a full set of stairs to go up to the second floor? How many stairs are there?

MR. THOMAS PUGLIA: There is a total of eight steps. You go up one, there is a landing and then you go up another set of steps up.

MR. GUY PUGLIA: That is my father, Tom Puglia.

JAMES MARTIN: Chris (Karelus) I'm wrestling with this because usually when we have an in-law apartment application, we have kitchen, bath, some sort of living area per se that are all

inter -- you know, they're all part of one unit, one block. And this is essentially a kitchen in a garage that is attached to a main house where the rest of the living facilities are.

I'm just a little puzzled as to what we're actually trying to approve here. We're trying to approve the fact that they put a kitchen in the garage without permits, okay, but they didn't put a bath in. They didn't put a -- living facilities into that particular area. So, you know, I'm just -- again, I'm a little puzzled what we're really trying to approve here. Maybe you or Keith (O'Toole) can enlighten us, because I'm puzzled.

KEITH O'TOOLE: Based on the limited information provided, it appears like we don't have an in-law apartment. An apartment requires a place to sleep, it requires a bath, it requires a kitchen. Those things have to all be in a separate, distinct unit. That doesn't exist here.

What we really have is a house that has another kitchen. That's what it appears to be. Which may not be a problem, but it doesn't make it an apartment.

JOHN NOWICKI: No.

JAMES MARTIN: So who interpreted this to you as an in-law arrangement?

MR. GUY PUGLIA: Um, I don't know.

MR. THOMAS PUGLIA: The first Inspector that came down, um, I forget his -- I forget his name now. He considered it an in-law, and I told him, I says my wife is -- I put this in because my wife, she can only go up the stairs in the morning, to take her shower. Once she comes down, that's it. She is downstairs for good. And at night, she sleeps on a barcalounger because she can't lay flat in a bed. And the only bathroom we have down there is the powder room.

KAREN COX: So you said there is a den and a family room down on that floor, but that would be used by the rest of the family, right?

MR. GUY PUGLIA: Correct.

KAREN COX: Is there a living room area on the upper level?

MR. GUY PUGLIA: There is a living room and a dining room.

KAREN COX: And the bedroom is on the upper level, and down on the lower level, there is a den that could function as a bedroom?

MR. GUY PUGLIA: Could.

KAREN COX: And a family room. A kitchen and a powder room. With no way -- no bathing facilities, essentially.

MR. GUY PUGLIA: No.

KAREN COX: So it's sort of an in-law apartment --

JOHN NOWICKI: No, it is not.

KAREN COX: But there is nowhere for somebody to take a shower.

JAMES MARTIN: I just don't see this as an in-law apartment.

MR. GUY PUGLIA: Well, we didn't either, but --

JAMES MARTIN: You have a house with two kitchens.

JOHN NOWICKI: That is exactly what you have.

KAREN COX: Depending on the house that is there, it could function as an in-law, but legally --

JOHN NOWICKI: Again, you have to file documents with the County of Monroe to justify this as an in-law apartment. There are certain standards that you have to meet to make this an in-law apartment, and these standards haven't been met, in my opinion. In my opinion, this is not an in-law apartment. It is just an extra kitchen.

JIM POWERS: Is this house listed for sale?

MR. GUY PUGLIA: It is sale pending. What happened was somebody from the Town came and said that we need a permit and stuff, because it's --

JIM POWERS: What is -- what does the listing read as?

CHRIS KARELUS: In-law apartment.

MR. GUY PUGLIA: In-law apartment.

KAREN COX: How did this end up getting here to us if it is not really considered an in-law apartment?

KEITH O'TOOLE: It sounds like if they had been advertising it as an in-law apartment, that may have triggered the code enforcement.

MR. THOMAS PUGLIA: Excuse me. That is -- we listed it as possible, the realtor.

JAMES MARTIN: So they said possible in-law apartment. They didn't understand the definition of in-law apartment, obviously.

KAREN COX: Well, the definition is probably, you know, relative to a real estate agent.

JOHN NOWICKI: No. There is a definition. There are guidelines for an in-law apartment.

JAMES MARTIN: There are guidelines, and this doesn't meet them. I mean Mr. O'Toole, what do we do? Just basically indicate that we waive any requirement to approve this? I mean I --

KEITH O'TOOLE: Based on the information which we now have on the record, it would appear to me that the Board is not in a position to grant the permit.

JAMES MARTIN: Right.

KEITH O'TOOLE: At least in terms of having two units of housing in that house.

JAMES MARTIN: The rationale being it does not meet the definition of an in-law apartment?

KEITH O'TOOLE: That's correct. So if someone were to market that area as a separate unit of housing, legal unit of housing, they wouldn't be permitted to do so, at least not legally.

DARIO MARCHIONI: I have a question. What do you do with the kitchen in the garage?

JAMES MARTIN: Is there anything illegal about having two kitchens in a house?

KEITH O'TOOLE: Nothing wrong with that.

KAREN COX: I would say as long as it meets the Building Inspector's approval, and everything is -- was done correctly, it's a second kitchen.

JOHN NOWICKI: It still has to meet building codes.

CHRIS KARELUS: Right.

JOHN NOWICKI: And the fire codes. But it is a house. It is not an in-law apartment.

MR. GUY PUGLIA: So would the house be able to sell as -- is that what you're saying?

JAMES MARTIN: Pardon?

MR. GUY PUGLIA: The house will be able to sell, as is?

JOHN HELLABY: As long as you have your permit issue squared away on the kitchen area. I would think whoever buys it has the opportunity to turn it into an in-law apartment with some additional work, but that would be further down the road and they would have to reapproach the Board.

CHRIS KARELUS: You just have to make that clear to the buyer there is no approval for an in-law apartment on the property. I think their understanding is they're buying in with that right on the property.

JOHN NOWICKI: Without this Board's approval they won't get the County approval.

CHRIS KARELUS: The use is not transferable when you sell the property. Just make that sure -- I guess in some way, shape or form, Chairman will cover what tonight's meeting entailed and we'll make sure you get that copy, and the Town will -- make sure the buyer's attorney gets that, too.

JAMES MARTIN: Well, I'm going to open it up for public comment at this time.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

WILLIAM WASICSKO

MR. WASICSKO. I'm the purchaser of the house he speaks of. We have no intention of using it as an apartment. What appealed to us was the flexibility of the house. It's basically used for entertainment value, so when we looked at the listing, it was not to look as a rental property or to split the house up. It's for family use, complete just being able to use a possible downstairs kitchen or upstairs. So we have -- we're fine with -- we know when we came in for this, it was just a second kitchen.

JAMES MARTIN: Okay. Thank you very much.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Yes. Good evening. I see -- I see a number of problems here. It was listed as a -- it's a single-family dwelling area. You have got a -- all of a sudden maybe an in-law apartment, extra kitchen, fine, if you want to do sauce or whatever in your kitchen.

But what seems to get to me is since 1980. Didn't we have any plumbing permits or codes or something being done here in the Town of Chili? And that's the -- first of all, was it inspected? Is it legal? Is it vented? There is a number of issues there.

The second part is if it is sold as a single-family, it should stay as a single-family. Not as a possible use for another room. And it's disheartening to hear what some young woman, you know, lady here has to stay in the garage in a lounge chair. That's unacceptable.

I don't know what the Town has on its code for sure, but single-family means single-family. And the needs -- the Town needs to monitor this. I really don't believe this should even be entertained as an in-law apartment, one big garage area. I'm sorry. I personally would not go for it.

Thank you.

James Martin made a motion to close the Public Hearing portion of this application, and John Nowicki seconded the motion. All Board members were in favor of the motion.

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

JAMES MARTIN: Mr. O'Toole, listen to what I have written and see if you agree. Based on information provided at this hearing, it has been determined that the application does not meet the requirements for an in-law apartment. Therefore no action is required.

KEITH O'TOOLE: I would say permit denied.

JAMES MARTIN: Therefore, the permit is denied. Okay.

James Martin reviewed the proposed decision with the Board.

JAMES MARTIN: As far as SEQR determination, we don't need any.

DECISION: Unanimously denied by a vote of 7 yes with the following finding of fact:

1. Based on information presented at this hearing, it has been determined that the plan submitted does not meet the criteria for an in-law apartment. Therefore, no special use permit is required.

3. Application of Tiffany Transportation Services, 1436 Scottsville Road, Rochester, New York 14624, property owner: 1436 Management Inc.; for renewal of special use permit to allow motor vehicle repairs at property located at 1430, 1434 & 1436 Scottsville Road in G.B. zone.

Patrick Evans was present to represent the application.

MR. EVANS: Good evening.

JAMES MARTIN: Good evening.

MR. EVANS: My name is Patrick Evans. I'm here for the application, renewal of the permit and what else do you need?

JAMES MARTIN: Well, Mr. Evans, um, two inspections were conducted on your property on 4/7 and 4/13 to review past conditions of approval. I have one, two, three, four, five, six, seven, eight items that were still not in compliance with previous conditions imposed by this Board. It's going to be my recommendation to the Board that we make a motion to table this application for 60 days to give you time to address all of these issues, get them cleaned up.

MR. EVANS: Okay.

JAMES MARTIN: At some such time reinspection will occur, and hopefully everything will be taken care of, because in a subsequent activity by the Town of Chili will not be as -- probably appealing to you. Okay? Do you understand that?

MR. EVANS: Yes. I'm not aware of what it is you're talking about.

JAMES MARTIN: Well, you will be getting a letter on this as to what all those conditions are. There were vehicles parked on the site that were not authorized. Buses were found stored. There was storage of equipment, et cetera, et cetera, alongside the building. You had trailers and boats and things on adjacent property. You know, you will get a list of all of these things that were found to be not in compliance. I mean every time you come in here, we go through this. I don't understand why you don't get things under control over there. It's getting a little bit frustrating for this Board to have to deal with this over and over and over again and things don't get done. You got 60 days.

I make a motion right now to table this for 60 days. You can reappear before this Board in June, and hopefully at that point in time reinspection will have resumed all of the issues that are pending. At this time I make a motion this be table, this particular application.

JOHN NOWICKI: Second.

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

**DECISION:** Unanimously tabled by a vote of 7 yes to table until the June 9, 2009 meeting based on the following findings:

1. The Building Department conducted inspections of the property on two occasions (April 7 and April 13, 2009) to ascertain compliance with previous conditions imposed by this Board. Numerous non-compliance issues were found:
  - A. 11-12 vehicles are being parked adjacent to the north side of the building where no sales areas were indicated on the approved site plan. Previous plan approvals indicated sales areas were not to deviate from the approved plans.
  - B. A bus was found stored behind the one- story masonry building on the eastern side of the property.
  - C. A tractor trailer was found stored against the south side of the metal building. Three trucks, a boat and two trailers were found stored offsite on neighboring properties along the south fence areas.
  - D. Two full sized buses and one passenger van were being stored offsite on the adjacent west "Jet Diner" parcel.
  - E. The parking areas have not been repaved with asphalt.
  - F. Waste oil storage tank, plow blades, generator trailer and 10-12 foot metal storage tank were found in the south parking areas. Prior conditions stated no outdoor storage of materials or equipment was permitted on the property.
  - G. (No G indicated on decision letter.)
  - H. Landscaping has not been installed along the length of Scottsville Road as previously conditioned.

- I. Outstanding building permit items have not been addressed. There was a building permit that was issued on January 9, 2006 by Dennis Scibetta, Building Inspector that was not properly closed out. The Building Department will be working with the owner to close out this permit.

The Planning Board, by motion and vote gave the applicant 60 days from the date of the April 14, 2009 hearing date to come into compliance. The Building Department shall conduct a re-inspection prior to the June 9th Planning Board meeting.

INFORMAL:

1. Application of Titan Rock, LLC, owner; 20 Ambush Lane, Churchville, New York 14428 for final site plan approval to erect a two-story 23,714 sq. ft. retail/office building at property located at 4348 & 4354 Buffalo Road in G.B. zone.

Patrick Laber was present to represent the application.

MR. LABER: Pat Laber from Schultz Associates representing Titan Rock.

Since we were here last, um, we have gone through and completed a series of items that we had on the preliminary approval conditions.

We have been to the Zoning Board of Appeals and we got the two variances that were necessary for the parking. We have petitioned the Town Board to add 4354 Buffalo Road to the Consolidated Drainage District, and I believe it's on for its first meeting to call the Public Hearing tomorrow night.

Landscape plan has been revised and resubmitted so Conservation Board, and we got the approved plans back tonight.

The building elevations have been represented to the Architectural Review Committee and I believe they sent their findings to this Board, and it's my understanding that they're pretty much detailed in nature.

Lighting plan, we confirmed that the house shields were in place on the north side of the site. I believe that was a comment that was added on as one of the conditions. They were on there before, but the new lighting plan that is updated to match the minor changes on the site plan also shows them.

I have spoken with the Town Engineer and also with the Superintendent of Public Works regarding their comments, and I believe we're at a point right now where we're down to detail items that aren't going to change the site layout. There may be some small changes, changes from lawn to bio retention, but the site plan the way you see it right now isn't going to change. I'm pretty confident on that right now.

DOT, we have gotten back -- we had gotten back an initial review from them back in December for the access, and they have gone through the -- or the -- the traffic study. They have -- they have concurred that that is the access point, and that's the way it should be configured, one access point, three lanes.

They do have all of the current information for the drainage. I know one of the issues before was one of our storm events was slightly over what the preexisting condition rate was and with the changes we have made to the plans and to the storm system, we now have a reduction for all storm events. So that information is in the hands of the DOT, and we don't think that there should be a problem with them approving that, with the connection to their storm system, now that everything is where it should be rate wise.

Other than that, there is really no other changes.

JAMES MARTIN: I am just reviewing the decision letter from the last meeting.

ZBA approval?

MR. LABER: Yes.

JAMES MARTIN: Completed?

MR. LABER: Yes.

JAMES MARTIN: Okay. So the only outstanding issues then would be some permitting approvals?

MR. LABER: Right.

JOHN NOWICKI: The architectural details, have they been connected?

JAMES MARTIN: Yes. I was at the Architectural Review Committee. Paul (Wanzenried), you can comment on that.

JOHN NOWICKI: Have they been corrected?

JAMES MARTIN: Based on the input at that meeting, I believe you came to a conclusion that given the changes, that you were okay with the building?

PAUL Wanzenried: Providing that the plans come back with those changes that you now hold, then they have our recommendation.

JAMES MARTIN: They have the recommendations that were detailed. I believe the architect that night indicated that they could meet your recommendations; is that correct?

PAUL Wanzenried: Yes.

JAMES MARTIN: So the assumption is then that on when the final plans come back, Mr. Karelus, I expect that you will be looking at the final plans against the recommendations of

the Architectural Review Committee to be sure what they recommended and what was agreed to will be met?

CHRIS KARELUS: I will meet with Paul (Wanzenried). Paul (Wanzenried) and I can review them and get them back to their clients when they're finished with the details.

JAMES MARTIN: Thank you.

JIM POWERS: They have done their homework well.

MR. LABER: Thank you.

KAREN COX: I agree with Jim (Martin).

JOHN NOWICKI: Just one. Ken (Hurley), are you satisfied based on your letter?

KEN HURLEY: No. We have some outstanding issues. They're more towards storm water compliance, so that Dave Lindsay, who is the Town representative signing off on the MS4, so he can sign off on that. We're trying to iron those out. We're actually -- sometime this week we're setting up a meeting to meet with Mr. Laber.

JOHN NOWICKI: Is it something you feel comfortable that can be worked out?

KEN HURLEY: Yes. There shouldn't be any changes. We're down to the point where we have to come up with about three hundreds of an acre foot of storage, which is a couple 1,000 square foot of storage. They can make it up one way or another. It just might increase some grass area and biofiltration issues but it won't change the site layout, if they don't want it to.

JOHN NOWICKI: So that will be a condition then. That is all I have. I just wanted to make sure you were satisfied.

GEORGE BRINKWART: Have you resubmitted your comments to DOT? Your revised plans?

MR. LABER: Yes.

GEORGE BRINKWART: But you haven't actually got the permits yet?

MR. LABER: No. They -- they actually plan on taking a look at the plans this week.

GEORGE BRINKWART: Do you happen to remember or have a chance to take a look at that section I asked you to look at?

MR. LABER: Yes.

GEORGE BRINKWART: The last meeting?

MR. LABER: Uh-huh.

GEORGE BRINKWART: I guess my question is why are you here if you don't have the permit in hand like the Town asked you to?

MR. LABER: We typically do not have, especially, New York State DOT permits prior to Planning Board approval, for any Town.

GEORGE BRINKWART: I'm aware that it does take a while to issue it, but unfortunately our code does say that to get final approval, you need permits in hand. It is just my opinion, but that code was probably written to look out for the best interests of the Town. So that is all I have, Jim (Martin).

JAMES MARTIN: Thank you, George.

DARIO MARCHIONI: Thank you for your cooperation.

MR. LABER: Thank you. I'm not sure we can even get DOT permits without a final approval.

KAREN COX: I don't recall we did that with Walgreens or other -- you know, like the -- the -- Walgreens didn't have Perm 33 in hand when we approved it. I understand your wording of -- or your interpretation of the code, but I -- we haven't -- I haven't had proof that Walgreens in that area -- and Walgreens on Chili Ave. had their permit from the State. We just made it -- or they noted it on their -- on the DRC comment.

GEORGE BRINKWART: I believe you're correct, Karen (Cox), and I think that was wrong.

KAREN COX: Okay.

JAMES MARTIN: Well, I'll condition this that no building permit shall be issued until all pertinent permits are in place and approved by Building Department Manager and Superintendent of Public Works.

MR. LABER: Right. I think that was the condition on the preliminary.

JAMES MARTIN: So it continues. Obviously I will just reemphasize it as a result of this hearing.

CHRIS KARELUS: The only thing I bring to the Board's attention, since there is going to be multiple users on the site, they show one sign for the site and we have the opportunity to restrict it so there is no more than one free-standing sign. I just asked that be placed as a condition, that one sign be a comprehensive sign for the whole site so we're not finding two or three as these kind of lessees occupy the spaces.

I would also ask that you consider that the sign itself have the building elements incorporated into it, the brick, the masonry, whatever they can do to draw what is on the building into that sign. When we permit it in our office, we'll make sure it has the detail to it. That's one thing that the plan lacks, is that Comprehensive Plan -- or the comprehensive sign detail.

JAMES MARTIN: Okay.

JOHN NOWICKI: Chris (Karelus), you had also another concern -- just to make it a condition, that the light shields, you have a note here --

JAMES MARTIN: We picked that up.

JOHN NOWICKI: Has that been picked up?

JAMES MARTIN: At preliminary.

CHRIS KARELUS: They actually added it onto the plans at the last revision.

JAMES MARTIN: That was picked up. Building Department Manager -- light shields may be added on the north side.

JOHN NOWICKI: Thank you. That is all.

JAMES MARTIN: Pat (Tindale), you're okay with the revised plan?

PAT TINDALE: Yes.

JAMES MARTIN: There is no Public Hearing on this one, so there will be no public comment.

James Martin reviewed the proposed conditions with the Board.

DECISION: Approved by a vote of 6 yes to 1 no (George Brinkwart) with the following conditions:

1. Completion of all pending issues with the Town Engineer and Commissioner of Public Works regarding drainage control.
2. No building permits shall be issued until all pertinent permits are in place and approved by the Building Department Manager and Commissioner of Public Works.
3. No more than one freestanding sign shall be permitted for the site and will be constructed of the same materials as the main building.
4. All previous conditions remain in effect.

James Martin indicated the next items to be heard were Applications 4 and 5. He indicated the Board would take a brief recess before hearing those applications.

There was a recess in the meeting.

4. Application of Daniel Boon, 20 Berna Lane, Rochester, New York 14624, property owner: Jarvee Associates; for special use permit to allow a residential/commercial landscaping and snowplowing business, commercial roll-off service and residential refuse collection business at property located at 3520-A Union Street in G.I. zone.
5. Application of Daniel Boon, 20 Berna Lane, Rochester, New York 14624, property owner: Jarvee Associates; for preliminary site plan approval for a change of use of property to allow a residential/commercial landscaping and snowplowing business, commercial roll-off service and residential refuse collection business at property located at 3520-A Union Street in G.I. zone.

Kip (Finley) Finley and Daniel Boon were present to represent the applications.

MR. FINLEY: All right. Good evening, everyone. I'm Kip Finley, with Avery Engineering. We're having some technical difficulty, so I will try to describe things as well as I have them in the pictures I was going to use for the props here.

We have with me tonight are our clients. We have Dan Boon, in the brown blazer, and his sons David (Boon) and Matt (Boon), and then we also have Steve Vasile, the owner of the property, or who represents Jarvee Associates.

So if we get to the Public Hearing part with the questions, we have them here for our use. The Boons are residents of Chili. They currently operate their landscape, plowing and waste hauling business out of a facility in Ogden on Turner Drive.

They want to move the facility here because they are renting in Ogden. They have been there a number of years. They have a good reputation, but their lease is up and they needed a new home. What better place than to come into their own home of Chili.

The facility that we're talking about for anybody that is here that isn't aware of it, Union Street, north of Paul Road and north of the railroad tracks, if you look off to the east, there is a old yellow warehouse building, actually three buildings that look a little dilapidated. It used to be the Rochester Telephone in the '70s and most recently Frontier Telephone. It was their dispatch yard.

They had in the range of about 60 employees and 80 some trucks plus all their spools of wire and all their storage on that facility. It's been vacant a couple of years, and now the Boons would like to purchase that property and move into it.

To update on the status for people that haven't been following this, we have put in the application in February, and we came to the Planning Board meeting in March. Although we had some difficulties getting the sign up and posted on the correct day, we were a day late, so we didn't have the Public Hearing at that time. It looks like from the number of people in the room, everybody saw the sign this time, and so at this meeting we're hoping for some good questions we can answer, give people the facts and hopefully come to a resolution on this.

Project has been before the Conservation Board. It's been reviewed by the Fire Marshal. The Design Review Committee has looked into it, and we have gone through two reviews with the Town Engineer. So we have all of the technical details pretty much wrapped up for this.

We're looking for the site plan approval at this point.

It's also a special use approval because the use that we're proposing is slightly different than what is permitted in the code. One of the things I was going to show is I brought the code tonight. I think it's important just for reference for the public not to read the code book, but the General Industrial District that this is in which goes from the Riga Town line -- showing the props -- basically the yellow area, go from the Riga Town line, almost over to King Road and then it is surrounded by Light Industrial area.

In the General Industry District, the purpose of that is to provide for the establishment of heavier industrial uses, essential to the development of a balanced economic base in an industrial environment and to regulate such industrial development so it not be detrimental or hazardous to the surrounding community and citizens. I think that is probably why a lot of the people are here tonight, to make sure that we follow the whole rule, not just part of the rule.

Under the permitted uses that are in here, a public utility buildings and yards, storage yards is permitted, and that is what was there for 38 years.

Then for conditional uses, it would be things that are of a similar character, but not specifically listed. So the applicant and myself and a lot of people do believe that the facility that Boon has is really so similar, that it should be a very simple change in use.

In the past meeting, we did hear some of the public. I read a lot of letters that came in, and then I have seen -- if you're following the news today that is here, we did have some mention on Channel 10. We have also -- Lonsberry gave us some good comments on it.

The facility that was there basically -- if anybody remembers Frontier stored trucks. They had their materials there. Boon & Sons is very similar. There's -- people I believe think that this is a proposal for a transfer station like what used to be on Scottsville Road by -- I think where Paul Road comes in, over by the river. It was pretty disgusting. I know the restaurant next door went out of business shortly after, and we need to make clear that that is not what this proposal is.

The Boon & Sons -- we'll just run through these -- does landscape business, taking care of different commercial accounts, residential accounts, has mulch that they need to store on site, so at this time of the year, you see all of the shopping plazas, office plazas are all getting their mulch freshened up. It is a pretty vigorous business for about five weeks or so and then it tapers off because they will just be maintaining through the season.

In the wintertime they have a plowing business. They do keep the plow trucks here so that if there is a storm, the employees come here, pick up their truck and then go out and do their accounts.

The landscape business is pretty much 9 to 5 weekdays, possibly Saturdays, if there has been a rainy week or they need to catch up.

The plowing business thankfully is 24/7. If a storm happens on Sunday night, they get the trucks out Sunday night. They don't really have any other activities at night or the weekends because during the week they make sure they have their salt, they make sure that their trucks are all ready to go, and so that business, although 24/7, it's not really that noticeably 24/7 unless there is a storm.

I think a lot of people have the concern over the part of the business that's the roll-off container part of the business. You probably have seen them around. Boon & Sons has the big red roll-off containers for construction debris. So when your roof is torn off, when somebody remodels your house and tears out your window, your kitchen, things like that or office buildings, they throw the studs and drywall and roofing in these containers. They take it to the landfill. They dump it, and then they go to the next site.

There are times of the year, like in the winter where they will need to store these. There is not a lot of roof tear-offs in the winter. There is not a lot of the remodeling where they're needed so they have to have a place to store these. So in the summer the goal is to have none in the yard because while they're in the yard they're not making money. In the winter there could be about 60 stored in the yard.

They're clean. About the most I have seen in any of them, in any of the pictures or from what I have seen being in the business, there could be a little piece of drywall, a couple of shingles, things like that. Honestly, most of it doesn't make it back to the yard. If a paint can gets thrown in there and it spills, the paint is dry in the dumpster before it ever gets back to the yard. So basically that's a clean operation.

They also have -- you have seen garbage trucks with Boon & Sons on them. And those are all of the brand new trucks that have the latest technology for keeping that ooze from dripping. If you have ever gone out to get your cans and you have the ooze all on the road. I -- I know I have been at places growing up that have been ugly with that.

When the Boon & Sons -- they take the trucks on their route. They go dump them out. The new ones clean out very well, and then they just park them overnight until they go out to do their next rounds the next day.

So if you're picturing -- some people I know on the Board, I think, and some of the people in the audience have probably gone to Turner Drive in Ogden and looked at the existing facility. I have pictures here.

Actually, if anybody has been on the internet today and checked out the Channel 10 website, there was a link to Boon's website. If you go to Boon's website, I have pictures here that show it is really a very clean -- they have had pictures of the site, the roll-offs, pictures of the trucks. It is really a very clean operation.

So I wanted to make that part perfectly clear, because that should alleviate any concerns

that this is a disgusting, stinky place.

Even if it was, it is the correct zoning for that kind of a use.

Now let me just recap. There is probably -- we have engineering comments that are -- we can go through those. Some of the latest ones, we're pretty much down into where there is only ten comments left, but some of the big ones, like drainage, there was people expressed in past letters to the Town that drainage might be a problem. They're afraid of contamination of the grassy swales that lead over -- up to a wetland up north, towards North Chili.

We have since -- we had originally the last time here had a slotted curve around the area where the roll-offs would be stored to catch any kind of chunks of anything, solids or debris. We have since added details to the drawing to retrofit the catch basins with a type of filter that takes out, if there was even, suspended solids, lead, nitrates and oil and grease. So what we're going to do is we found a product that they can slip in the catch basins with a changeable filter. They're not very expensive. It is like \$40 to change a filter, so it is very easy -- the filter for my air -- air filter for my car costs \$40. They can go and switch these out regularly and maintain them.

Another thing that was big was the views from the property. Now, in this case, we have views and we have buffers. There are two issues at hand.

On that drawing, the north -- I don't want to leave the microphones here, so I am glad I color-coded these. The project drawing is to the north. The big pink area is the container storage area. The smaller pink area is the mulch area by the green row of trees, and then the buildings are the dark gray.

The views from Union Street, those trees are there for purely visual screening. The zoning is the same, between the pieces of property. So there is really no technical requirement by code for screening, but from the neighbor's point of view, comments we got from the Planning Board, and just looking back from Union Street, it makes sense.

We took that to the Conservation Board, and they agreed that that made sense. We have looked at fences, tall fences that would probably be blown over because of the prevailing winds. And we have since modified the plan from our last meeting to alternate the species of trees because that was a comment. So there is a dense evergreen hedge that will be there that will block views from Union Street and from the neighbor.

The other issue is on the south, facing the railroad.

On that particular side, the boundary between the railroad and the site is also the boundary between the industrial zoning on the north and residential zoning on the south. The new code that we're working with now for this year says for that type of situation, there should be a 100-foot buffer between the industrial use and the residential use. That's intended to be a nice, heavy, dense, vegetative buffer so that people adjacent, next to an industrial site can't see it.

In this particular case, our site existed for 40 years. We also have only about 60 feet of land between the buildings and the fence at the property line. If we were to put in a 100-foot buffer new, we would have to tear down two buildings to put the buffer in.

That's where we need to go to the Zoning Board of Appeals later in the month to talk to them about that and request -- we have requested a variance to allow the buildings to stay and waive the full 100 feet of buffer.

The CSX Railroad is our first residential neighbor. They're in the zoning. There is nothing residential about trains.

Next -- that is 100 feet wide. So we have 100 feet of buffer that is a railroad.

We have another long corridor that is an RG&E land next to that that I don't recall, but I think it's like 50 feet, something in that neighborhood.

Then we have a huge parcel that is the Chili Fire Department that is south of that. The homes that are on Paul Road, which people would like to have buffered, the closest back lot line to this property is 250 feet, and that's at the east end, because Paul Road skews a little bit to the southwest, northeast. And then -- I'm just looking for the dimension, but I think it is 650 feet -- 600 feet from -- if you look at the pink, the big pink area, that lower left hand southwest corner of the property, it is 600 feet to the back lot lines of the houses, the residential -- truly residential property on Paul Road.

So the intent of the buffer is effectively being met by 250 to 600 feet of railroad, utility lines and woods.

Ironically, we took pictures from Paul Road to the site to show how dense it was in the winter that you can barely see the buildings, and then letters came in from the public of almost the same pictures to say look, you can see a piece of building, so we can be affected. I thought it was kind of ironic you can use a picture to tell two different stories, but that will be our discussion at the Zoning Board of Appeals, that we have effectively just by sake of the property have met a good buffer, and it would be a hardship to the property owner to tear down buildings to build a buffer.

Another topic was the sewer system, sewer connection for the property. Right now it's on a septic system. There is public sewer on Union Street. I did check myself personally that a gravity sewer connection could be made from this building to Union Street and it does just miss the culvert invert. It would need to have some encasement, extend the culvert to keep it from freezing. But doing that costs about 25 or \$26,000, give or take. We have a price for that.

The septic system is working. I personally stuck my head in the tank. We had it pumped. I inspected the floor, the walls. Checked for bleed-out, checked some record plans that we had and today we got a letter from the Health Department saying they're okay with leaving that system in place, but that if there is any failure, it's not going to be fixed, it's going to be hooked up to the sewer. The applicant agrees that that is perfectly logical.

There is another -- there were questions about fuel tanks. If you can see on the right-hand side where my stamp or the professional seal is, there are three pink squares. In order to have fuel for the loader that is on site for their trucks, there is going to be three above-ground storage tanks. They're about this tall (indicating). They look a little bigger than the propane, the big propane tanks you would see at a house. They're encased in what they call a bank or a containment area. And Townsend Oil is their current provider. They drain those when the rain comes down and goes into the tank. It has to be checked for any spills of oil. It can be drained out if the water is clean. If there is any oil, it has to be captured and taken away and properly disposed of. This is the safest means of taking care of fuel storage on site. They have done away with old tanks. That was the bad way to do it. This site doesn't have any old tanks. That has all been taken care of. So environmentally from the fuel perspective, we're clean.

The mulch bunker in front, those are made of a modular concrete block system. They look like huge Legos. They're about 2 feet by 2 feet by 4 feet. That bunker will be about 8 feet tall, if (indicating) -- if I can reach 8 foot tall. The mulch pile we'll agree to limit to only 12 feet tall. The evergreen trees we're planting in front of it grow to much more than 12 feet tall.

The far building on the right that is closest to the east property line, we have that noted now as a future demolition. They would like to do some structural evaluation of it, but I think in the end it probably will come down. In our schedule of events that we have presented to the Planning Board, we have time frames for those so that the decision will be made within -- I don't even know if I have it in front of me, a certain number of years that decision will be made.

They currently will use them for some salt storage and outdoor covered storage. In the future when that building is gone, they would get these pre-fabricated salt storage bins that have a fabric canopy over it to keep the salt dry and those are shown as two pink squares on the middle building.

I think generally all of our engineering issues are taken care of. It is really just I think tonight hearing from the public and addressing comments or concerns that they have, I just wanted to make sure that we all understood that we're looking at the same project. It is basically a storage yard. With that, I would entertain questions.

JAMES MARTIN: You're not going to get off scot-free from the Board. You know that, Kip (Finley).

MR. FINLEY: No. I have been fretting this all day. Go. Have it. Have at it.

JAMES MARTIN: Okay. I got a couple of issues. During site inspection that I did very recently on the -- you know, the septic itself, okay -- I used to have a septic system Union Street and whenever I had the tank pumped, I always had to open up two man holes to have the baffles inspected to be sure that they were functioning properly and they weren't deteriorating. I saw no evidence that the two end man holes had been opened up for baffle inspection. How do you know that the baffles are functioning correctly in that tank?

MR. FINLEY: It's kind of disgusting, but I will tell you. The tanks -- the top of the tank is down about two feet, so --

JAMES MARTIN: I saw.

MR. FINLEY: We didn't excavate to that. We also got permission from the Health Department not to dig up the distribution box because it's about 3 or 4 feet down. We would do more damage by excavating.

What we did, we had Mr. Rooter empty the tank so it was clean and visible to see everything inside, and then I stuck my head down in there, while they turned the water back on and was not physically able to see the baffles, but I could see it running, coming down and listening and having done this for 20 some years, I could tell that the baffles clear. It's operating correctly. Then when the tank was filled up, we filled it -- all that day so it wouldn't float. Then I could also check at the out -- discharge end that it was flowing out properly and into the leech lines. So I did submit a letter to the Town and to the Health Department certifying that I believe it's operating as it was intended.

JAMES MARTIN: Okay. I mean I saw the letter that you submitted. I was just curious as to how that evaluation had been conducted.

MR. FINLEY: I will pretty much get in any tank.

JAMES MARTIN: What is the frequency of changing the filter on the filtration system for the catch basins?

MR. FINLEY: For the catch basins? In this case the manufacturer is kind of vague. They say it should be at least once a year. Given the situation that we have here, I think in the supplemental information that I had to you is that it should be checked monthly, cleaned out monthly, as far as pulling it out, washing it off, getting any debris off and cleaning everything out. And then they have -- it's basically like a tractor oil filter where there is a recharge -- or a changeable media inside, and I believe I said every six months or quarterly. It's in your information, but I don't have it here. The media should actually be changed, because it's not effective after a few months for things like the oil and the lead, so we do have some suggested maintenance in there for that. But definitely monthly they have to be checked.

JAMES MARTIN: Okay. The one catch basin is sunk about that far (indicating) below grade. Is that going to be repaired, replaced? What is going to happen with that catch basin?

MR. FINLEY: The current drawings note that they should repair and retrofit both catch basins to accept the new filters and grates.

JAMES MARTIN: Okay. I'm assuming the large depression on the north side of the main building close to where the septic tank is, there is a fairly large depression in the ground there. Talking to Mr. Karelus earlier, was that where they removed some underground storage tanks for

fuel? What was in there that caused that huge depression to occur?

MR. FINLEY: A couple of things were done on site. That particular one, um -- and all of this is either -- things that Frontier needed to do to properly vacate the property, as far as fuel tanks. As far as the one you're asking about, there used to be an oil water separator. At a previous time the building was built with floor drains. They went to an oil water separator that then cut over and discharged to the septic system. That became illegal to have the floor drains like that and going into the septic, so they filled the floor drains with concrete and they removed the oil water separator and that's -- the backfill has since settled.

JAMES MARTIN: Okay. Because they put some pretty rough fill in there. There were chunks of concrete on the surface and a couple of other things. My assumption is if this proposal goes anywhere, that will be filled in and graded over.

MR. FINLEY: That is the beauty of selling the property to a landscaper. It will be in much better shape. I didn't mention that they have a budget of \$150 to replace windows, doors, repaint the building in an earth tone color instead of school bus yellow. They will also be fixing the roof, sealing the parking lot, striping, getting rid of the weeds and then redoing their lawns, landscaping, putting in the row of trees and then starting to maintain down the driveway out to the road.

JAMES MARTIN: I have a concern about the proposed tree sight shielding that -- along the west side, all right, between the Amish Outlet and the proposed location. You know, granted the trees are eventually going to grow. There is no question about that, but in the meantime there is going to be some pretty large spaces in between those trees. You're dealing with a -- with a issue there, and it is right at the edge of the drainage swale. There is not a lot of room to put things in there without obviously impeding into the drainage swale itself.

And I haven't had a chance to run this by the Conservation Board, but it seems like there are other plantings that could go in between those trees that would perhaps grow up to fill in those spaces, waiting for those trees to eventually become a screening, all right, for the property itself, and, um, I think, again, it's something that should be evaluated, all right, by the applicant and by the Conservation Board and see if there is something that could be additional visual screening along that edge of the property until those trees begin to actually take hold and grow to their 12 or 14 foot potential height, okay, which is going to be several years down the road.

And so that is an issue that I have with the proposal for the shielding along there.

There has also been a comment that, um, certainly, you know, the chain-link fence that is over there, some sections of it are not in great repair at this point in time. They're going to need to be fixed. There is no question about that, as part of that \$150,000 budget. And, um, not that it's, um, aesthetically pleasing or has any sort of permanency to it, but you do have the ability to interweave vinyl strips in a chain link fence to obviously yield additional screening. That is something that I think should be considered, because I still think that it's a highly visible location from Union Street, which is one of the main access roads into the Town of Chili. Everything we can do to improve that situation, I think, is merited at that point in time.

MR. FINLEY: Could I have a second to give our perspective on that?

JAMES MARTIN: Certainly.

MR. FINLEY: In this particular case, the zoning on both sides of the property line is the same, Industrial. Generally like on the north side and the east side we're not putting up any screening because they're all neighbors with a similar kind of uses.

The neighbor to the west is outdoor storage. They're -- what they store as a shed looks nicer probably than a -- some of the things we would store on the site. What we did do is for a project like this, the Town's requirement for landscaping is one percent of the project cost. So we had \$1500 to work with. We have bumped that up to almost six percent of the project cost to put in 6 foot tall -- I think there are 22 evergreen trees to do that, as a gesture to block between the neighbors and from Union Street. I'm actually more concerned of the view from Union Street as the motoring public goes by.

So in that case, we have gone above and beyond the code to make an attempt for screening, and a 6 foot tree gets up to about 14 feet in about five or six years, six years.

So from our perspective, we have gone the extra mile and we can talk about things like putting slats in or other things to fill in, but they're all -- all of the fill-in shrubs would be at the same low level as the trees. So I -- we can discuss it, but we think we have done a pretty good job so far.

JAMES MARTIN: Well, okay. You know, at this point, I want to acknowledge that, you know, we have received -- this is for the record. We have received several petitions, obviously in opposition to this project.

We have received several independent letters in opposition to the project. In one of the letters that I am in receipt of, and I'm sure is going to be commented on later, is from the adjoining property, an individual who brings perspective customers around the back of their building, all right, to show them things that they have for sale, and I just think an overall aesthetically site -- granted it is two different owners, okay, but an overall aesthetically pleasing site is going to be much more conducive, obviously, I think to satisfying that individual and I think also satisfying our need to be sure that we are screening -- I'm not saying it is a messy operation. Don't get me wrong. I'm not saying that. But screening something that is, you know, maybe not as aesthetically pleasing as something else could be right in that particular property.

MR. FINLEY: I think beauty is all relative.

JAMES MARTIN: I know you're getting antsy over there, but I'm just relating to you some concerns.

MR. BOON: I want to comment on the trees. We put them in the way we were told by the grower to put them in.

JAMES MARTIN: Stand up, please.

MR. BOON: Dan Boon. I just want -- the landscaper's thing, we put them in the way that the grower -- we went over with the Conservation Board. If you put them in any closer, you will choke them until they start growing. That is why we did that. I would put them right together if you want, but they will not live.

JAMES MARTIN: I'm familiar with that.

MR. BOON: That is why we did that. We're trying to put them in so hopefully they will survive for us.

JAMES MARTIN: Okay. Let's see. I believe in your schedule of events that was submitted, all right, to us, and you can come up to the podium now -- please stay there, Kip (Finley).

You know, you had had activities to be completed prior to start of operation. There was quite a laundry list, 14 of these things. You know, roof repair. New energy thermal -- I'm sorry. Energy-efficient windows. Replace three deteriorated overhead garage doors. Main building to be cleaned and paint exterior in an earth tone color. Main building completely cleaned and repaint interior as needed.

Cold storage building, and that's the middle building between the main building and the one on the far east, remove deteriorated features, completely enclose the building with metal siding, curtain walls and install approximately five new overhead garage doors. Siding will be installed appropriately to meet the existing asphalt floor.

It is proposed to remain. Open storage building, eastern building. You were your talking about cleaning and painting that one, but now you're talking about doing a structural evaluation and perhaps tearing that thing down, and then you have got down here under Item B, open storage building, eastern one, evaluate structural integrity and proposed uses for the building, make a decision needed to demolish or rehabilitate the building, and that's a two-year time frame according to the plan you submitted.

Okay. Parking lots, remove weeds, crack fill, seal coast and stripe all existing parking lot. Some of that parking lot, as you know, is in just bad shape over there.

Shared driveway, patch large potholes, landscape, install new decorative landscape plantings per the site plan. Restore all of the existing lawn areas which obviously are, you know -- they're going to have to be torn out and reseeded.

MR. DANIEL BOON: Yep.

JAMES MARTIN: Install new buffer planting, 6 feet tall, White Spruce, and I know you will alternate Norway and White with the revised site plan.

MR. BOON: Yep.

JAMES MARTIN: Drainage. Install slotted curbing or wheel stops, and that has been added to your plan, in addition to the filtration system for the catch basins.

And you have addressed the sewage disposal at this point in time. You have Monroe County Health Department approval to operate the existing septic system.

There was also an issue about perhaps an easement along the north side of the property for potential future --

MR. BOON: Being done. It will be done when we close.

JAMES MARTIN: All right.

MR. FINLEY: There is actually two easements that we have now written up for this. I don't know if you brought up the other one before, but on the drawing, the yellow line across the top is a 10 foot sewer easement that we'll run the whole length of the property, just for planning, for future, there is land to the east. So we have also changed the plan to just show a suggested future location of sewer connection, versus have that --

JAMES MARTIN: There is another one that has been suggested by the Building Department, you know, that I think you had should give consideration to. Actually, I think it should be done and that would be a cross-access easement to that property.

MR. FINLEY: We have taken the 60 feet -- it's -- it's dashed. The 60 feet band that is the flag continued all of the way to the east property line now as an access and utility easement for the property to the east.

JAMES MARTIN: All right.

MR. FINLEY: Those are written up and they will be filed.

JAMES MARTIN: Okay. Obviously subject to approval by the Assistant Town Counsel if this were to move forward.

There were a lot of comments from the Building Department, and I kind of want to go down through there and just be sure -- Chris (Karelus), you keep me honest on this.

MR. FINLEY: Are these ones that I know, or are new?

JAMES MARTIN: You probably aren't going to know all of these.

MR. FINLEY: Okay.

JAMES MARTIN: Okay. The first one we have taken care of. You do have the MCHD approval for the septic system, and their letter certainly states if there is a failure, you connect. Okay.

The 60 foot wide cross access utility easement, all right, it's being shown on the plan. And -- okay. Utility easements and that will be shown on the plan. Certainly that will be filed with the deed.

Okay. All right. Certainly the -- the height of the storage -- the mulch storage, um -- it has

been recommended they not exceed 10 feet. You had already indicated 12 feet in your dissertation. I'm going to let the Board discuss that a little bit further as to where we want to take that at this point in time.

MR. FINLEY: As far as whichever number we pick, I do have a note on the drawings now that describes the bunker and the pile heights, so there is a place on the drawing.

JAMES MARTIN: All right. We'll come up with a number on that.

Okay. Obviously we have an issue, we have a situation. Code changed the -- 100 foot buffer is now required on the south side of the property. You're going to go to the Zoning Board of Appeals to discuss that issue with them.

MR. FINLEY: Our application is submitted.

JAMES MARTIN: Your application is submitted.

If there is failure, all right, to get that variance, and I'm not going to say which way, you know, the Board -- the Zoning Board is going to go on that, um, certainly that would entail some significant issues, all right, as far as creating that -- that additional buffer, and I'm not sure what that is going to mean. But we would need to have all of the appropriate approvals, Conservation Board and everything involved in it, all right, at that time, were that to happen. I want you to understand that, okay. It's not -- you're not home-free on that issue at this point.

Certainly, you know, the signage meets code at this point in time.

As far as the lighting goes, you need to shield any lighting that is on the south side of the property that is abutting the residential to be sure that there is no light spillage off the property that would be going over onto the residential neighborhood.

Certainly you're going to need permits for the interior work, but you're well aware of that.

Another one here that I will touch on, and these will be picked up in a decision letter, if this were to go forward tonight, that you, the owner, new owner would agree to recommend any nuisance issues, whether by reorganization of storage areas on the site, application of odor-reducing agents or site relocation of nuisance-creating items, and that would run with the life of the project. So if anything comes up that is a nuisance, it has got to be fixed.

That brings me to one other issue. Again, it's something that is a little hypothetical now because we're not sure where this is all going, but if that far eastern building were to be torn down, would that free up space back there for roll-off storage and your mulch storage?

MR. BOON: Um, mulch maybe would be moved back there. The roll-off storage, there wouldn't be enough room back there. That's our intentions at this point, to take the building down to give us a little more space in the back to try to, you know, help the neighborhood so they feel more comfortable we can put things back there, out of sight, and more of the heavy equipment and whatnot so we have room to get stuff out of the way.

JAMES MARTIN: Okay. Thank you for your answer.

MR. FINLEY: Is that the end of that list?

JAMES MARTIN: Pardon?

MR. FINLEY: Is that the end of that list of things?

JAMES MARTIN: That is the end of my list for now, I guess.

MR. FINLEY: On the lighting, I just want to make it clear that there is site lighting there that works that we were going to leave up. The building lighting is all deteriorated, not functioning, and that we'll replace, and we have submitted a cut sheet for that. Those are shielded, down-cast wall packs.

JAMES MARTIN: Yes. I understand, but I didn't see a cut sheet on your actual, you know, overall lighting plan.

MR. FINLEY: We're not changing it.

JAMES MARTIN: You're not changing it, but however, is there spillage -- I mean that lighting was put up how many years ago?

MR. BOON: There is a question there. I have a couple -- I think the lighting, some of it comes in, it belongs to RG&E. There are a couple pole lamps in there that I'm trying to understand right now. But I believe they must have brought power in and just paid a monthly fee for them. They run the perimeter and face back into the lot. They're just -- they're street lamps.

JAMES MARTIN: Well --

MR. FINLEY: They can't be retrofitted with shields. So --

MR. BOON: They're not real bright.

JAMES MARTIN: Understand where I'm headed. We don't want any light spillage going off that property. Okay? So whatever you got to do, do it.

I have one other question. On the south side, there is a little shed with kind of a, you know, fenced-in area.

MR. BOON: It's all coming out. They must have had a propane tank there at one time or something. They had some kind of 500-gallon, and they -- that is why they had the tank there. I think they had scaling. They must have charged tanks. I don't know if they had propane-driven vehicles or what they had, but that is what it looks like to me. It is -- at some time they had that there.

That whole center is coming out. That shed, all of the -- them poles, all of that stuff is coming out of there.

JAMES MARTIN: All right. Thank you. I'm done.

JIM POWERS: He has covered the waterfront.

I was glad to see the letter from the health -- the Monroe County on the septic system.

On the -- if -- if it were to fail and you were to look into the sanitary system out there, how deep would you have to go with that line?

MR. FINLEY: The depth would vary. Out at the street, the sewer is 9 1/2 foot deep, and it comes out off our building about 2 feet deep. So it -- so it would vary. About a one percent slope from the sewer to the building.

JIM POWERS: And the proposed easement that you're asking for is how -- how wide?

MR. FINLEY: It's a 10 foot easement, and we have 10 feet from the water main to the property line. So effectively we have 20 feet to install that sewer. We needed the easement to be able to keep the sewer at least 10 feet from the water main. So 9 foot trenching is not a problem within a 20 foot space.

JIM POWERS: What if it were 15 foot deep, what would you do? Easement wise.

MR. FINLEY: I still probably wouldn't change it because they have trench boxes to accommodate that.

JIM POWERS: If it were -- if you had to go 15 feet deep to hook into the main line, how wide an easement would you request?

MR. FINLEY: I would still make the easement ten, because we still have our property to work with. The easement is just a little extra breathing space to be able to install it, but the sewer is surveyed. It is 9 1/2 feet deep.

JIM POWERS: Does OSHA require that you -- if you go 15, 10, 20 feet deep, that you widen the easement?

MR. FINLEY: Not the easement. Your shoring needs to be OSHA compliant. Even at 9 feet, we're over the 4 feet, so we're going to need to have a drag box and shoring for at least half the length of that sewer, just because we're over 4 feet. We would have the option of laying the slopes back, but it would be an enormous width, so we would use a drag box.

JIM POWERS: On the -- on the tree question that Jim (Martin) brought up, who recommended the -- the White Spruce?

MR. FINLEY: The White Spruce was originally from the applicant. They work with their tree suppliers and asked what they thought would be a good type of tree for that soil, next to a ditch, that location and that space.

MR. BOON: Considered to be a wet area, so to put something in there that will live in a wet area.

JIM POWERS: The more, the taller they grow, the more gaunt they get. It's not a good spreading tree that will help screen your neighbors to the west of you.

What kind of trees are you going to put in there?

MR. FINLEY: Well, right now the plans showed to alternate Norway Spruce and White Spruce. I mean this --

JIM POWERS: Are you going to still set them at 15 on center?

MR. FINLEY: I think that is what we have.

MR. BOON: That's what recommended.

MR. FINLEY: We did go to the Conservation Board with this to have them look at it, and I think we got comments from both the Town Engineer and Conservation Board to alternate species just because if one dies out, the other probably would survive.

And we talked about different ways to try to handle that buffer, but given the fact there is a ditch there, we only really have a fairly narrow, flat area to plant on. So that was the -- we actually probably spent a good half hour or more at the Conservation Board to discuss that. That was our solution that got their magic stamp as being a good solution for that area.

JIM POWERS: The reason I ask is if you could possibly offset, rather than straight lining, to offset them and possibly, in that manner, move them a little closer.

MR. FINLEY: We did talk about it, but we only have about 7 feet of flat and then it drops right off to the ditch, so we don't have room to --

JIM POWERS: Manipulate.

MR. FINLEY: -- to do anything there. If we did, we would have to be taking out fence and pavement and building areas to put them in.

JIM POWERS: When I was a kid, we had a little over 80 acres out in Canadice, and we bought saplings from the State and reforested that whole 80 acres. We had Douglas Fir, White Pine, Colorado Blue, large, you name it, we have it up on the farm. Norway Spruce is fine, but I -- but I'm not crazy about White Pine.

KAREN COX: Spruce.

JIM POWERS: Anyhow. Just a thought.

On the mulch area, I was glad to see that you might consider moving that mulch set up back to the rear -- rear ends of the property. I think the 12 feet, I think, you're asking for is pretty darn high. I don't know how fast or how rapidly you would empty out those bins with the mulch, but that -- but that is quite -- that is a pretty good height.

MR. BOON: Just to put it in perspective, Mr. Powers, it would be lower than the truck height. 12 feet. It would be lower than the truck height. So...

MR. FINLEY: I was just looking for a perspective in this room. If the doors are -- commercial doors are 7 feet. They're 7, 8, 9 -- this ceiling is 10 probably.

MR. BOON: The easiest way to picture it, it would be -- you know, the same or less than most truck heights. Vehicle heights.

JIM POWERS: When you change the oil on your vehicles, your trucks and whatnot, I understand you're going to store it to burn, to heat?

MR. BOON: Yes. We have -- we do it now. We have done it for many years, now. In fact, we will take people in the neighborhood, if they -- instead of dumping it down the sewer, they can bring it to us and we'll take care of it. But we -- we run it through an EPA recognized

oil burner and turn it into BTUs. Burns clean. You can stand there and stare at it all day and you never know it is on.

JIM POWERS: How do you store it in the summer time?

MR. BOON: We have a couple tanks, keep it inside. We store it inside the building in tanks that are vented and put in -- which the Fire Marshal will have to -- just like we do now.

JIM POWERS: On the --

MR. BOON: Again, it is used motor oil. Transmission oil, rear end oil. We can burn all of that. We can burn everything but antifreeze.

JIM POWERS: Another concern I have, Jim (Martin), is for the above-ground fuel tanks in the back there, those three of them.

MR. BOON: Yes, sir.

JIM POWERS: That Townsend, I guess, would handle.

MR. BOON: Townsend does all of the maintenance and takes care of them.

JIM POWERS: Is there any way of assuring the Town that Townsend will maintain those tanks properly? Because it is not tied in with this overall permit that we'll be granting, I don't think. Just a thought. I don't know.

MR. BOON: Well, I have to show --

JIM POWERS: We have a letter --

MR. BOON: I have to show -- Townsend comes in, and I don't know if Kip (Finley) explained it well, but they have to come in and maintain the dikes, too. Over time, water, rainwater, snow, whatever happens gets water built up in the dikes. They come in and they draw it all. They take it and put it in a tank and they take it away and process it, which is what they have to do. Part of the agreement I have with them. They maintain them. If I have a nozzle that goes bad, they come and replace it. You know, they maintain the fuel tanks for me, in every shape, fashion, whatever has to be done to them. Every year or so they come by and they paint them if they need to be painted. They inspect them. You know, they -- and they have to be labeled properly.

JOHN HELLABY: If I recall correctly, isn't there a yearly permit that the Fire Marshal --

MR. BOON: I'm sure the Fire Marshal will have to permit it anyway.

JOHN HELLABY: I'm almost sure there is.

CHRIS KARELUS: I didn't hear the question.

JOHN HELLABY: There is a yearly permit and inspection by the Fire Marshal on those above ground tanks --

CHRIS KARELUS: Yes.

JOHN HELLABY: -- if I remember right.

MR. BOON: We'll have emergency shut-off on them. It's all to code, what they will require me to do. Just like we have now.

CHRIS KARELUS: So the Board understands, that is a permit for the use of it. It is not a permit for the maintenance of that. So that is a permit, having it on site and having it meet the code, and be operable. The permit doesn't require that maintenance of that, the holding -- the water wells be checked. Like Mr. Powers was alluding to, they can provide a maintenance schedule to the Town. It's an opportunity to look into.

MR. FINLEY: I mean that is possible that we could have the service agreement or something supplied. Basically, if -- if they let the water out of the dike and don't follow the procedures, it's a DEC violation. So I don't know how you would want to handle it, but there is penalties for them doing the wrong thing.

KAREN COX: Well, you kind of touched on my curiosity about the waste oil burning operation. I'm not as familiar with that as I wish I was. Is there any way you can provide information to the Board about the model, the burner you will use?

MR. BOON: It's called a clean burn, the manufacturer. The unit we have is a 280,000 BTU unit, that sits up -- ours is a slung-from-the-ceiling-type unit. Um, just like an oil furnace. Operates exactly like an oil furnace.

In today's world, I mean there is a lot of them around, now. I mean there is a lot of shops. There is a lot of municipalities using them. It's -- it serves two purposes. It helps to, you know, put that oil back into something -- they turn it into clean, very efficient, high efficient, clean burning and it offers BTUs. It helps us to heat our buildings.

But they are, you know -- they're very well built and very well -- they're just no different than -- new coal and a lot of companies go around and take the waste oil. They come and get it from your facility and they turn around and try to sell it to people. They go back and screen it to get anything out of it and they turn it around selling it for heating oil.

KAREN COX: You said it was EPA certified.

MR. BOON: EPA approved. It's a high efficient -- again, it's no different than standing outside looking at your home furnace. You will not see anything.

KAREN COX: What do you do? Do you filter the oil before it goes --

MR. BOON: Yes. There is a filter system on it and stuff, and a little bit of maintenance involved in it that we do. But it's -- but they work well. They work really well.

KAREN COX: I would be interested in some information about it.

MR. FINLEY: I made a note for that.

KAREN COX: This -- I'm sure we touched on this at a previous meeting, so forgive me if I'm repeating myself.

The -- you know, I understand you're going for the variance on the buffer that is required on the south side. Is there any thought given to continuing the landscaping along the south

property line?

MR. FINLEY: Yes. When we were in the early planning phases of the project, we did look into that. The -- the problem with it is that the viewpoint that people want to be screened is actually a higher elevation and a distance away. So a row of evergreen trees isn't really going to be all that effective. You need much taller trees because they're up on a hill, looking down on it.

So looking from our side back to try to see houses and looking from Paul Road down, the dense woods are much taller than that, so we -- we gave up on trying to do that, because we spend money to put in trees that would just never be effective.

Also, the railroad embankment is there, too, so that it effectively is providing a berm with trees on it.

MR. BOON: That embankment is pretty high, standing there at the ground, looking at it.

KAREN COX: The tan color would be -- that you're talking about painting the buildings would be similar to the color. Trees that are -- were in some of the pictures that we saw.

MR. FINLEY: At least it is more of an earth tone. You can see yellow through just about any trees.

KAREN COX: Yes. I understand that. That's all I have for now, Jim (Martin).

JOHN HELLABY: Just to expand a little bit further on that, Kip (Finley). You made the statement when you said you were looking for the variance on that buffer, that you would want them to waive the full 100-foot buffer. I guess, and I'm not trying to distort words.

Are you looking for them to say okay, you don't need a buffer at all, or are you talking about something less than 100 foot?

MR. FINLEY: I guess that's what I am saying. Like answering Karen (Cox), there is really not much we can build that would be effective or any more effective than what is already naturally there. So yeah, we would just be asking that we waive the buffer requirement because there is nothing we can really do that is very effective.

JOHN HELLABY: Again, as Karen (Cox) stated, I apologize because I am sure we have gone over some of these questions, but just to clear it up in my mind at this moment, hours of operation, I know your trucks are on the road extremely early, six-day-week operation I assume, and what time do you start?

MR. BOON: 6 o'clock in the morning.

JOHN HELLABY: When the trucks leave the yard.

MR. BOON: They get there at six. I like to think they're leaving shortly after that, but...

MR. FINLEY: To what at night?

JOHN HELLABY: The statement was made on one of the earlier meetings, and I do realize it is not a 24-hour operation; however, the statement was made mechanical work and repairs are done after hours.

MR. BOON: We have -- I'll just tell you what we do now. I have a -- one mechanic that comes in. He is in on what we call the second shift. He works from 3 to 11 o'clock. 11:30 he leaves. By 11 o'clock at night he is done. He leaves -- he basically is there to PM trucks. If there is a write-up for a truck, you know, because of -- our DOT laws are so strict today, we have to obviously have time to repair them at night. He will come in if there is a light out. Does minor repair. He is basically there to grease and service. We keep up with the service end of them because we can't service them when they're running down the highway all day, either. Adjust brakes, all of that stuff.

Generally brake jobs or something that has to be done we do them during the day. We deadline the truck and put another truck out there to do that truck, and the day guys will do that work.

JOHN HELLABY: Is it a correct statement to say all of these repairs are done inside?

MR. BOON: Inside the building, yes.

JOHN HELLABY: Lighting. We talked about the shielding, and you made the statement that you believe some of the light fixtures on the site were RG&E lights. Is there a way to turn these off after hours, or is it your intentions to leave them on 24 hours a day?

MR. BOON: Well, I have to find out exactly. I don't know what arrangement Frontier had. Again, I don't want to burn a lot of lights out there, because we don't need a lot of lighting out there at night. I just need a couple of them for security reasons. So there won't be a lot of lights burning. We'll have them around the building. They will be just so -- if an officer or somebody goes down there, they can just see around the building and have one or two out in the yard that will just eliminate it enough so you can see if somebody is there out there, I guess, for safety reasons.

JOHN HELLABY: The statement was made it is not a transfer type station, and I realize that. And I appreciate it.

Are there occasions, and if so, how often does it occur that these trucks return back to your facility with trash in them?

MR. BOON: If -- if a garbage truck or refuse truck breaks down and has a problem on the road, we would bring it home.

Now, we're kind of limited sometimes on a holiday week, the transfer station, everybody closes at 2 o'clock on a Saturday. If we have to make up a day because there was a holiday, 4th of July or something, we still have to do five days. So generally that will be a Saturday -- on a holiday week will be a regular week for us; the following, they have to make up that date.

So we may have to bring something home because it doesn't make it to the transfer station in time. A lot of times we'll have them go dump prior, and then if they have to pick up ten more houses and bring it home with them, we have to do that.

That would be the only few times a year, if that had to happen. Other than that, I mean -- a roll-off truck with a roof on it, transfer station, everybody is closed at 5 o'clock in the afternoon, he has to bring it home. He just leaves it sit on the truck overnight and takes it out in the morning, 6 o'clock, 5:30, he leaves. He is gone. He goes back out to the landfill.

JOHN HELLABY: The catch basin filter maintenance, um, Jim (Martin), touched on briefly about checking monthly. I notice in their paperwork that you have submitted from REM, however, states that they suggest that an O and M service provider actually maintains these filters. Is that your intent?

MR. FINLEY: We're purchasing them from California. We don't really have access to their maintenance.

JOHN HELLABY: They make it sound like they have these maintenance groups all over.

MR. FINLEY: I --

JOHN HELLABY: Something to look at. My only concern is, yeah, they will work fine for the first six months until somebody forgets that they're even there and five years from now, the problem develops. All right? I'm just trying to understand how you're going to guarantee this routine maintenance gets done.

MR. FINLEY: Basically the way I designed them is to be an annoyance to him if they're not maintained. We have them in low spots that are surrounded with tree plantings, sods and bunkers so if he doesn't maintain them --

JOHN HELLABY: You know as well as I do, once they become a problem, they don't work, they overflow and then everybody is scrambling and you have a bad situation.

MR. FINLEY: But we found a product where it is only \$40 to change the filter.

JOHN HELLABY: Then make sure they're changed every year.

Did we ever ascertain if there were any underground fuel tanks on this site?

MR. BOON: Yes, they were. They were taken out. It's got all of the...

JAMES MARTIN: We have a statement from DEC that that requirement has been met.

MR. BOON: We're just finishing it up now, and I will give to Chris (Karelus). Your questions with the oil separator and all of that, that was done. When Frontier left, Marcor did it all. It was documented. There were holes punched and everything, the soils were tested.

JAMES MARTIN: Were there remedial actions that had to occur?

MR. BOON: On the the fuel tanks there were. Nothing else. Everything else was clean.

MR. FINLEY: When you asked about the depression, that is where the oil separator --

MR. BOON: That is where the separator was.

MR. FINLEY: The gravel patch inside the fence were the fuel tanks. It is actually a very clean site. Ugly, but clean.

JOHN HELLABY: According to your site drawing where your proposed salt storage is, you know, you're talking about making an engineered evaluation to tearing that third building down. How are you going to access your proposed salt storage, because the way I look at that, it looks very limited to try to get motors or anything around.

MR. BOON: If we take the building out, it won't be.

JOHN HELLABY: What happens if the building doesn't come down right way?

MR. BOON: We will use that building to put the salt in. But to stand here and tell you right now, I'm pretty sure the building will be down probably be before we go in there.

MR. FINLEY: There is actually two phases there. As long as the building is standing, it will be used at the north end for salt storage. When they decide the building has to come down, the building will come down, the salt bunkers would go in as shown in on the plan and there wouldn't be a building there.

JOHN HELLABY: I guess I still ask the question, because it seems between the back of that building and the back property line, I mean you can't put these canopy structures up there --

MR. BOON: No, we are not going to put them there until the building is down.

JOHN HELLABY: Oh, okay.

MR. BOON: Phase 1 will be take the building down. Them are petty simple to build. They all have to be done at the same time because we have to have salt storage.

JOHN HELLABY: Mulch storage you talked about during the summer months, I assume, is when the most of it is there.

MR. BOON: Yes.

JOHN HELLABY: Minimal stock piles during the winter months?

MR. BOON: Yes. We would like to say it is all gone.

JOHN HELLABY: Free-standing sign to be lit or unlit?

MR. BOON: Unlit.

JOHN HELLABY: I guess that's it. The only other comment I do have is I have taken the opportunity to look on the internet, because of all of the facilities that are there today, and there was a couple of pages out there where people can review and comment on Rochester businesses. I found it striking that there were no comments for Boon, when a numerous amount of the other providers had pretty negative responses against -- about personnel and their operations and things. So in my mind, it sort of tells me if there are no comments, you must be doing something right.

MR. FINLEY: It should probably be noted for the record that I think either the Town of Ogden Supervisor or someone from the Town of Ogden where they are now sent a letter to the Town of Chili endorsing them as a business and wishing they weren't leaving.

KAREN COX: I guess I will throw this out. I called the Town of Ogden Building Department this week just to -- to talk to them about the operations in Ogden to see if they had

had any complaints over the years from neighboring properties on noise, pollutants, dirt, you know, rodents, any nuisance complaints and what I was told is that there -- the few -- the handful that had occurred had been addressed, and it was usually trucks leaving a little too early. And that they -- the Town of Ogden felt that Boon & Sons was a good neighbor.

MR. FINLEY: In that situation, they actually have to drive through a neighborhood to leave, so at 6:00 a.m., it probably -- that's what that was.

MR. BOON: In my defense, we had two refuse companies on the same street. We don't start that early. They start a lot earlier than we do.

KAREN COX: But in general, the Building Department did not have anything negative to say about your operation.

MR. FINLEY: That's good. I'm glad you checked.

JAMES MARTIN: And the endorsement that you're referring to was a personal phone call from Tom Watt, who, I believe, is the Supervisor of the Village of Spencerport or something, and clearly, you know, endorsed your operation and your business ethics. So it was a very complimentary telephone call.

JOHN NOWICKI: Just a couple of areas. Would you address the situation of the road coming into the property, the --

An audience member indicated they could not hear.

JOHN NOWICKI: The question is, if you could address the usage of that road that you're going to share with the Amish people out front, I guess? Are there agreements going to be worked out as far as maintaining and repairing it, and if so --

MR. BOON: I haven't approached the Amish, but, yes, there is an agreement that we both have to agree on. I'm going to -- we'll make the road so it stays intact right now, but yes, there is an agreement that has to be honored by both parties.

JOHN NOWICKI: Can we ask for that as part of the package that was presented, as this moves forward, to have that agreement?

KEITH O'TOOLE: We can.

MR. FINLEY: I believe there is actually a shared driveway agreement in the deed that divvies up who is responsible for how much of the road.

MR. BOON: That's filed now with the deed.

JOHN NOWICKI: That should be part of the record.

The other area, have you had any opportunity to discuss or bring out air quality in regards to an operation like this? Is there anything that you can comment on about air quality?

MR. FINLEY: Basically we didn't put in a lot of effort into researching it or documenting it because it is really not a topic. On that particular site, it's all paved, for the -- for -- 80 percent paved. A lot of times the worst air quality contamination is if you have a gravel site, where you have the trucks driving around in the summer and there is just a dust bowl flying all over the place. In this case we have a paved sight.

We don't have any operations on the site, like painting or anything that would give off any kind of fumes.

Um, the oil furnace for that is really not much different than an oil boiler for a home --

MR. BOON: You will never know it is there.

MR. FINLEY: So we didn't give much thought to it, because there really isn't a topic. The most dust that can even be imagined on the site would be when they dump a load of mulch, the few minutes where it floats in the air and it settles down. So, no, we didn't go any further, because there is really nothing happening at the site.

JOHN NOWICKI: I know there has been a lot of items discussed here, and you have covered a lot of ground here. I think you have presented a really good presentation. Thank you.

GEORGE BRINKWART: Thank you. Covered a lot of ground, and I am probably going to rehash a couple of things, but just bear with me.

I think John (Nowicki) just touched on something important, too, and -- and you did, as well. The pavement and how you're going to resurface that and seal that.

Do you have any plans or -- I guess how are you going to keep it clean? Do you have like a broom or --

MR. BOON: We have our own sweeper, but we don't -- we don't generate a lot of -- you know, the trucks are clean coming in and out of there. There is no mud or -- there is nothing. By the time they get home -- if one of them trucks was on a job site somewhere and come off, obviously, we all know how the laws are today. We just can't drag mud out in the street any ways anywhere. But they come home, they're clean. There is no mud dripping off them or anything else.

So it is just, you know -- it's -- we don't have an issue with that.

But yes, I mean we do clean the park if there is something. If there is a build-up. You know, we clean it.

GEORGE BRINKWART: The other question I have is in regards to landscaping, and I guess my question to you is, are you prepared to possibly put in some more landscaping if -- if we think there might be a need for some additional buffering and screening? And I -- I know I have looked at the topography, and it's not very favorable to doing a berm and those kinds of things, but I guess I would ask you if the need arises, to present us with some maybe creative ideas in how to improve the screening.

MR. BOON: Well, I don't know what we can do. We're talking about the back entrance,

the south side. I -- we can put 100 foot trees in there. You would still see into the complex. You know, there are trees there.

GEORGE BRINKWART: Good point.

MR. BOON: Well, I don't know what we could do.

GEORGE BRINKWART: I guess I don't either. But that may -- that may be a tipping point for you to at least volunteer to put in some more screening.

MR. FINLEY: Well, at this point we do have five times the required amount of landscaping, so I guess I would want to strategically know whatever is asked for is effective or worth going the extra mile to do it.

GEORGE BRINKWART: Understood. Thank you.

DARIO MARCHIONI: I just want -- I said approximately 6 o'clock in the morning you start up the trucks for servicing. How many trucks would start up at that particular time?

MR. BOON: There would probably be a half a dozen that leave at that time in the morning.

DARIO MARCHIONI: Um --

MR. BOON: It varies. Half a dozen.

DARIO MARCHIONI: I'm just curious. How far can you hear those trucks running when they're starting up?

MR. BOON: Probably, I don't know. You can hear them on Union Street right there when they drive by. They're not, you know -- they're all --

DARIO MARCHIONI: The point is, if I live 200 feet away in a house, can I hear these trucks start up at 6 o'clock in the morning? Has there been any --

MR. BOON: I don't know how to answer you. It depends. I don't -- how far can you hear the train coming when it comes, too. It is just that -- you know, it's a loaded question, Dario (Marchioni). I don't know how to answer it. If I'm sitting up there with the windows all open, you may be able to hear it in the background, yeah. I'm not going to say you can't.

MR. FINLEY: In this case the prevailing winds go from west to east. So it's not going to be that -- that noisy.

DARIO MARCHIONI: But is there -- any test been done, noise test for -- that you guys, engineering, that?

MR. FINLEY: No. Any citizen on the Paul Road could have a couple diesel pickup trucks or another diesel truck and start it up in the neighborhood. There is --

DARIO MARCHIONI: This is six days a week, every day at 6 o'clock. I mean day in and day after. I mean just -- that's okay. If you don't want to answer the question, that's fine. I'm all set.

MR. FINLEY: There would be no way that a diesel truck starting up will be anywhere close to the decibels that any of the traffic on 490 or Union Street or the railroad generates. It's not an issue.

DARIO MARCHIONI: Not an issue. Okay. All set.

KEITH O'TOOLE: A couple of things. You made reference to sewer easement. Whose sewer easement is that going to be?

MR. FINLEY: The sewer easement, the 10 foot strip is going to be granted from Jarvee who owns the property to the north, to benefit 32 -- or 3520A Union Street for Boon.

KEITH O'TOOLE: So it will be a private easement and will not involve the Town or the County?

MR. FINLEY: Correct.

KEITH O'TOOLE: I guess the question I would have is if the Board is comfortable with that, or do you want to reserve an easement for future access for whatever reason? Something to consider.

With regard to the landscaping, as Ms. Cox indicated, there certainly seems to be room to continue the tree line along the southern boundary, hugging the fence.

Certainly, continuing along that boundary, perhaps halfway across the site, towards the east.

Mr. Finley indicates that that wouldn't serve any function, but based on what I have seen in the record, I don't see any information to support that other than the distance involved between the subdivision to the south and the site.

And if the separation is 250 feet and the lot widths are 100 feet wide, that basically asks the question, can you see your neighbor's house three doors down, and I think you probably could.

I view these applications as something of a preview for Zoning Board, and it would certainly be helpful if Mr. Finley were to submit perhaps some photography and a cross-section that shows the height distances between the site and the subdivision to the south. I do know that even where evergreens don't provide suitable buffering, we can make the long-term view and put in some deciduous trees which eventually would at least knock off some of the view of the site.

I also know that the Town has required significant landscaping around cell tower sites, even with the knowledge that you couldn't possibly landscape an entire cell tower and block it from view. Basically we'll take the view that we'll hide what we can hide and take that as a blessing and move on.

Nothing further.

MR. FINLEY: Could I respond to that? Just so people know, we did take pictures between houses from Paul Road to the site to show even during the winter, you can barely see the facility.

KEITH O'TOOLE: Then I guess I haven't seen those. So perhaps you can share them with

the rest of the class, Mr. Finley.

And while we're on the topic, I don't mean to be difficult here, I had discussed sometime ago a letter from the applicant's attorney regarding the zoning of the property, and I have yet to see that letter and one of the findings the Board is required to make because of their argument is that this use is similar in fact to the utility use which they indicate it is. That would be helpful to have such a copy.

Thank you.

MR. BOON: The Board all got it. It was sent to you, Mr. O'Toole.

KEITH O'TOOLE: It has not been.

MR. FINLEY: That was in our February submittal. I mean I have seen it. It does exist.

KAREN COX: I probably have a copy of it.

MR. BOON: I got one.

JAMES MARTIN: I believe I got one.

JOHN NOWICKI: I got it right here.

MR. FINLEY: Those are the pictures, but then also the letter that came from their attorney discussing the similarity in the uses, that was from, I think, February.

KAREN COX: I just had it.

MR. FINLEY: It's around.

KAREN COX: I was just reading it. Okay. Burke & Burke --

MR. BOON: Yes.

KAREN COX: -- Attorneys, dated February 5th. It went to the Town of Chili Planning Board, attention Keith O'Toole. Maybe that is why you didn't get --

JOHN NOWICKI: It went to his office?

JAMES MARTIN: While you're reading that, Chris (Karelus), comments, in addition to what I have covered?

CHRIS KARELUS: Since this is a public hearing, last meeting it wasn't reviewed, but Development Review Committee comments from the County have come back on the project. The comments that were received were -- basically cookie cutter time comments.

I will read them for the Board so we can have them on the record. If the intent is for the map for the project to be filed in the County Clerk's Office, monumentation should be checked with the County DOT survey office, was one of the items.

Highway work permit is required for all proposed work within the State route right-of-way of 259 including utilities, grading (inaudible) or sidewalk work of which I don't believe anything is planned with the project.

The project was not sent to the following agencies because it did not meet their review criteria, and that was from the State's Department of Environmental Conservation.

And no response was received on the report from County Health.

I guess Chairman had touched on the comments I had written back to the Board. The question was brought up about the underground storage tanks. That question was -- was proposed back to the applicants. They provided the Building Department a Phase 2 study that showed all remedial work was done, with those tanks being removed. I understand from the applicants they're also requesting copies of the Phase 1 report they're having done now, an environmental report for potential purchase and sale contract.

I think the point the attorney brought up was a good point, that the Town, having any interest in that 60 foot cross access or utility easement that is planned on the north line, I would ask if this Board moves forward with anything on the project, they ask that be conditioned on the Superintendent of Public Works' review. I will work with Dave Lindsay to find out his interest in that.

Also was made mention about the EPA, waste oil burner. Could you elaborate on that a little bit more? Is that a licensed piece of equipment? How is that checked with regards to the emissions from that?

MR. BOON: It's -- they're bought. I mean I bought it from a company that makes them. I mean there is a ton of them in service. I mean municipality garages all over Monroe County and all over -- it's -- there is no other documentation. It is no different than buying a furnace. It has been approved, you know, high-efficient unit.

CHRIS KARELUS: Could you copy the Town in on the manufacturer's specifications?

MR. BOON: Yes. I will give that stuff -- it comes from Clean Burn. They're manufactured, I believe, in the Southerntier, but yes, I will give you all of the information on it.

CHRIS KARELUS: The reason being we had an adjacent owner, a complaint come to the Town via a letter regarding emissions that come from the site, that are associated with the project.

So I think for the Board's information, we should get that information and understand that part of their operation.

And with respect to the lights, I understand that not the site lighting on the site was intended to be changed over, but all of the wall packs would get changed over. I would like a condition on it that those be cut-off fixtures. The public that's adjacent to the site, the spill of the site can allow the cast of the light, but the perception to the adjacent residents is that light will be farther and very subdued with cut-offs.

If we can make that a restriction, I think we can do justice to the neighbors in keeping that amount of potential nuisance from the site to keep that under control.

CHRIS KARELUS: I think Chairman covered the other issues I had. Thank you.

JAMES MARTIN: Thank you.

KEN HURLEY: My comments have been addressed.

PAT TINDALE: I was going to say, we're more than willing to meet with you folks, again, but we went over this, as you well know.

As the pictures show, the visibility from the railroad looking back on the complex, in the middle of winter, you can't even see it. And he has put way over the amount that is required into it, then.

Welcome the suggestions. We looked this over at length. If anybody has any idea, forward them to. Like what you were saying about the evergreens and that.

JAMES MARTIN: Before we open up the public discussion on this, I would just like to touch on a couple of things. Every application that comes before this Board, you know, there are real problems and there are perceived problems. You know, real problems are documented by technical data. Other issues that are brought to our attention or the Town Engineer, those types of reviews that take place, you know, it is this Board's responsibility to deal with real problems that are associated with projects that come before us for review.

Then there are perceived problems, all right, that also come up in any type of review process like this that some may have some substance to them, and others really have no substance because they're not substantiated by any technical information, scientific data. So, you know, I just want you to understand that, you know, when the Board looks at an application, we have to deal with the real problems that are well documented by technical information that is presented to us, and the perceived problems, if there are something we can do to mitigate because they may be applicable, we do our best to do that.

So I just want you to understand that, from the standpoint of -- what this Board has to do on applications that come before us.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GRAY GARDNER, 1362 Paul Road

MR. GARDNER: My name is Gray Gardner, 1362 Paul Road. My home is directly behind this proposed facility.

Um, I'm here tonight to voice my concerns. I'm sure you have heard plenty from me over the past two months and I ask you put up with me for just a bit longer.

I disapprove of the application for both preliminary site approval and special use permit.

I have been a resident in the Town of Chili for over 40 years and employed for over 30. I have been involved in the snow and ice operations 24/7 again for over 30 years. I'm responsible for the public works portion of the work force, including packers, brush chippers, loaders and all off-road related drainage issues, both in and out of the Drainage District.

I have been responsible for cleaning all of the drainage, both north and south of the Boon property.

So I know a little bit about what is going on, and I won't be so easily fooled by Mr. Finley's bag of sugar-coated half-truths.

I have seen a lot of good things happen in the Town over the years. Some bad: Spector, Terry Tree, Union Processing. I think this application is another bad thing for Chili.

I know in Town there has better -- better suited for such a business. International Boulevard, Trade Court, either one of these would be ideal for this kind of business.

Um, you know, again, we're putting this back up to 25 homes, just -- not too far away. That being said, a number of things that I wish to address. I hope you all got my petitions. There were additional signatures signed I left for you people today. Totalled over 150.

Um, I don't know the Boon family. May be a fine man. I can't dispute that at all. I will say this. He has made no attempts whatsoever to any of the residents on the street that I'm aware of to discuss any of our concerns, so I guess I got to assume this is the kind of neighbor we could expect.

For clarification, first, I don't know how all this works, but I have a question. In Mr. Karelus' statement to the Board, he indicated that by code a special use permit becomes permanent once the building permit is issued for the project and I don't know what that means.

JAMES MARTIN: Essentially what that means is that if the Board were to deem it appropriate to vote in favor of a special use permit, um, for this type of operation, for any type of operation, that once all of the proper paperwork is in place and the building permit has been issued, um, that the special use permit would then become permanent and not subject to additional review unless, and I quote, unless, there are significant number of future issues, complaints, et cetera, that occur that might incur the necessity of this Board to bring that applicant back before us to review the conditions that were imposed during the original process and to insure that those conditions are met. If there are issues that need to be remedied, those types of things can occur.

But we can't say that, you know, you have got two years and then bring them back again, unless there are special considerations that would be given to it.

All right? Did that answer your question?

MR. GARDNER: So if you approved the special use permit and 30 days from now he put a permit in to change the buildings in some way, then that permit is no longer valid?

JAMES MARTIN: If they were significant modifications to the original approval, they would have to come back before the Board, that's correct. But no, on a special use permit, you're not quite right.

In other words, once the building permit is issued by the Building Department for the modifications to the building or whatever it is, then the special use permit becomes a permanent fixture associated with that project.

MR. GARDNER: Okay. So next, then, I guess I would like to cite a couple of the Town codes here that I believe to be relevant.

Chapter 500-21 of the Town Code, Section A, Purpose, and I will read that, I guess. "The purpose of this district is to provide for the establishment of heavier industries, industrial use essential to the development of the balanced economic base and industrial environment and to regulate such industrial development so that it will not be detrimental or hazardous to the surrounding communities and the citizens thereof."

And second, Section 500-32(B), "In order to grant any special permit use, the Planning Board or Zoning Board shall find the establishment, maintenance or operation of the use applied for will not under the circumstances of the particular case be detrimental to the health, safety, or general welfare of persons residing or working in a neighborhood or such purpose, use or to be detrimental or injurious to property and improvements in the neighborhood or for the general welfare of the Town."

That being said, I think, um, you know, these -- these are issues, you know, that such a business so close to our homes could indeed be hazardous and detrimental to our health. Poor air quality, fumes, dust, odors and other atmospheric pollutants could be deadly for my son who is on life support and living 24 hours a day, 7 days a week on a ventilator. I'm not talking empty dumpsters or empty trucks, but gasoline and diesel fumes, the exhaust, burning waste oil emissions and other atmospheric pollutants associated with such a large business.

I have spoken with people from the DEC, the Health Department and support of my letters from my son's doctors, this is a real risk and could be a threat to his life. These are valid concerns my son and I have, and not blown out of proportion as the present Supervisor, Mr. Dunning, has indicated.

I would like to think each one of you would be standing here in my shoes if this was your child or grandchildren at risk. It's beyond terrifying. I think a Phase 1 EAF full-blown positive declaration is in order and should be done before this application moves any further.

I would next move to ask about the present building itself and is it at all possible that there is lead paint or asbestos in or on any of those three buildings?

Am I going to get answers to any of these questions, or will I hear them at the end? Again, I don't know how this works.

JAMES MARTIN: I don't know the answer to your question.

MR. GARDNER: Okay. Fine.

So then I would assume the Health Department hasn't been involved in anything like that.

So then I would further cite Chapter 352, the noise ordinance, 351-1, Purpose, and I will read that for you.

I will not read that for you.

Basically, the -- the Town intends to prohibit all disturbing, excessive or offenses noises in order to preserve, protect and promote the public health, safety and welfare and the peace, quiet, comfort and repose of the inhabitants of the Town and visitors thereto.

These chapters can be construed liberally but not intended to be construed so as to discourage the enjoyment of residents of normal reasonable usual activities.

Well, Boon operating 24/7 just a few 100 feet away from our homes would clearly violate the code.

At what time could we expect peace and quiet and comfort? We're not entitled to this?

The engineer would have us believe that the Boon operation doesn't start each morning until 6:00 a.m., but I have seen these trucks on the road before 6:00 a.m.

So time to warm these vehicles up, get them ready to go, checked over, I would think it's going to be before 6 o'clock.

Also, mechanic work until 11:30 at night. I can't see it being a quiet operation. And trucks hauling salt in and out of a facility is far more than a few guys coming and going with pickup trucks.

I would move to cite Chapter 500-41, Special Requirements. This states that "Any project with only one access road shall have an alternate clear access way available for the use of emergency vehicles."

So my question is, what happens if there is an explosion or a fire? Homes just a few 100 feet away with prevailing winds could be gone in no time. So where would this road be and who owns the access way?

I will move to cite Chapter 500-60, Accessory Use. This chapter says that there are dumpster fees for dumpster permits. I guess I would ask what are these fees, how are they collected and are they for each and every dumpster?

Under Section E(1)a, "Dumpsters and recycling units shall be fully enclosed by an opaque fence or wall which shall be no lower than one foot above the top of the dumpsters or recycling units."

Are these codes really guidelines for Engineering and Building Department to decide or to be enforced as written?

And it also states in that same section, E, Number 3, "All companies and businesses that store, supply, rent, lease, sell or service dumpsters and recycler units in the Town of Chili shall comply with these regulations."

So at this time I would like to take the time to comment on some of Mr. Finley's comments

to the Board implying that our concerns are typical, unexpected and just ask how many refuse companies he has been involved in putting next to homes just a few 100 feet away. The closest home to Mr. Boon's present location is 1500 feet away.

I believe my lot is the one that is 250 feet away.

He indicates that the area between my home and the proposed Boon property is being 70 foot of dense wood and 150 foot of brush.

As you all have pictures that I sent, there is an aerial photo showing that a lot of that area, nothing grows. It is a -- topsoil has been stripped. There hasn't been anything growing there in the last 20 years.

So -- and something that hasn't been pointed out, but each and every year, CSX Railroad comes down through there and they kill everything on both sides of the tracks, back to their ballast lines. Every year they spray and they kill all vegetation.

In addition to that, the Town drainage crew comes through periodically and cleans the drainage ditches, and that requires the crews to clear a path 30, 40 feet in width to do their work.

So on top of those two issues, the property owned by the Fire Department could be sold tomorrow, next week, next year. Somebody could come in and clear that lot out totally, and then where is that natural buffer that everybody seems to think is going to be there forever. It's gone. And nobody will be able to say anything about it after that. These things need to be addressed prior to.

I have also spoken with representatives from the Mill Seat Land Fill, Monroe County Transfer Station, and they do not provide wash-out bays for their customers.

I have read this in Mr. Finley's notes to the Building Department, to the Board, that this kind of thing is taking place. I mean they're coming back empty, but they're not coming back clean.

So then my next question would be, where are they getting cleaned? And I -- I would assume there is some sort of area designated on the site that the trucks will get periodically washed, maintained. Where -- where is that going to be? Where is that wash water going to go?

I mean it's -- it's a lot of uncertainties here that I didn't get answers to tonight from -- from what I have heard so far.

And I believe it's the Board's duty to protect our homes and residents of Chili, so if I fail to convince you how bad this is for our family and neighbors, then I would implore you to insist on many stiff conditions of use. Hours of operation, oil separator system, grease interceptor and sewer connection, and I would also add that I spoke with a Erin Sharkey from the DEC, and she tells me that Mr. Boon would be required to have a permit to dispose of waste water in addition to storm water. And I have heard no talk of that.

I have also been told that wash water, waste water cannot be put through a septic system. It either has to go into a separate tank for disposal, if that gets pumped out at a later date, or directly into the sewer. So I think we're hearing a lot of half-right ideas, because we're not fully understanding them and following, you know, the code or the laws to the limits.

Storm water management, should be addressed. The -- the map shows this line of trees that looks really nice, but I mean that is right on top of, I do believe, a drainage easement, and I don't know how the drainage crews would be able to keep that area clean, working around a row of trees.

So I think the 100 foot fully landscaped buffer adjacent to the residential district per code is something that needs to be addressed. I mean why wouldn't the Town -- why wouldn't Mr. Boon want to take every precaution to see his business succeed and cut down on any potential complaints?

So the dumpster areas should be fully enclosed by an opaque fence, according to code, and all work prior to or having any equipment moved to the site, um, should be done ahead of time, and not scheduled over a series of events throughout the year or even several years.

And I would also ask that you have all MSDS sheets for chemicals to be stored on site.

Lastly, I wish to address a statement made by Mr. Karelus directing all the vehicles to the most remote location of the property to the northeast side, and I think that would just move these vehicles even closer to our homes.

I believe Mr. Karelus has done a fine job in helping Boon & Sons move through this process quickly, and -- and delaying documentations that I have called for or requests for copies of zoning maps I have never received. And I think Mr. Karelus' actions and statements of Mr. Boons' intention to grow in Town and be a welcome thing to hear sounds more than a little biased. His opinion, I think, is inappropriate, bordering on unethical. After all, it will be him to wield the heavy hand when it comes to enforcing Town codes and violations. If the Town is not to enforce and follow the codes, then what happens to its purpose?

I'm finished. Thank you.

JAMES MARTIN: Thank you for your comments.

DANIEL SULLIVAN, 1372 Paul Road

MR. SULLIVAN: Good evening. Town Board, I'm my name is Daniel Sullivan. I live at 1372 Paul Road.

I have just a few comments to make. The way he said that they would bring back the different trucks back to the facilities, if they break down on the holiday weekend, um, I would hate to have one of them trucks break down 4th of July Weekend, having these trucks parked down there, on a hot weekend for the 4th of July to have one of these parked in the yard, especially the way the wind comes in.

We have enough problems with the crusher yard over there, with getting a lot of the fumes and smells from the oils and -- well, from the crusher, there is quite a problem over there. I believe you guys are quite aware of the problems we have with that over there.

Um, with concerns with the noise, they mentioned the CSX trains coming through there and the expressway. We have been having a problem with the expressway also. I'm not sure if they're concerned with that, with the lo-jacking coming in from there. That is a problem we have been trying to address for years also. But with the added noise coming in from these diesel trucks, that's not going to help our situation. It's just going to add to our situation.

There is a lot of problems that we endure over there on our little island on Paul Road. It just seems that -- a lot of more hardships that we're going to have there for ourselves.

And the drainage issue is another thing. It has been brought up. I'm sure it is going to be brought up again with other people talking about it. But with no place for the sludge and sewer stuff to go through, I'm sure they will be power washing their vehicles right on the lot. This stuff will just sit there, and you know, swelter right in the sun.

But I'm sure with all of the pictures you people have seen, if anybody decides to just take a walk, or drive your vehicles down there on Paul Road, seeing with your eyes is a lot better than seeing with your -- with the pictures, because you can -- you can walk down the street, you can see this facility. The trees right now are not full of leaves, you know. You can look right through, and you can see the facility. If they had vehicles over there driving up and down, you would be able to hear these vehicles with your ears. It's closer than it looks. If you look on a map, or if you look from a sky map, it's a lot closer than it looks from the road.

If you're driving from Paul Road, down to the Amish store, and down the road, it seems like a far distance. But once you drive up Paul Road, and the way everything circles around there, um, you can see a -- it a lot differently. Seeing is believing. Not looking at a picture, um, or hearing somebody say that there is a big buffer here and, oh, well, you know, we got tree lines and you got the CSX railroad tracks. This property is right there. You can hear everything.

If you take a couple of Town trucks and drive around in that certain area, a couple of diesel vehicles, you would be able to hear it yourselves. I don't believe Mr. Boon or anybody else that has anything to do with that property would want that in their backyards. You know, there is plenty of other areas.

Mr. Boon, you know, lives in Chili. His business is welcome in Chili. We want all of the businesses we can, but there are other areas here in the Town of Chili that is more suitable for a facility like this. There is a lot of property on Archer Road. There is a lot of property down near the airport which could house a facility like this.

It is not meant to be in somebody's backyard where they're going to be able to smell this stuff or they're going to hear all of this. It's not the right area.

Thank you for hearing me, and I hope you really consider all of the facts and maybe even take a drive down through there yourselves and take a drive down through Paul Road and take a look at this area. Take a walk down in our backyards and actually see what this is -- looks like, for yourselves, instead of what is on a piece of paper.

Thank you very much.

JAMES MARTIN: Thank you for your comments.

EDWARD VAN DE WATER, Union Street

MR. VAN DE WATER: Hi. I got a couple of pictures that I would like to pass --

JAMES MARTIN: Name, please.

MR. VAN DE WATER: My name is Edward Van De Water. I -- I own the Amish Outlet and adjacent residential property at 3530 to 3536 Union Street. Both of these properties border the proposed garbage collection facility, and I want to state -- I prepared these comments, and some of these things have been brought up, but I just need to read it as it comes.

JAMES MARTIN: I just go back. It is not a garbage collection facility. I wish to correct that statement.

MR. VAN DE WATER: Okay. Refuse collection facility?

JAMES MARTIN: No. It is not even a refuse collection facility. It is a truck storage lot. Okay?

MR. VAN DE WATER: They don't have anything to do with garbage?

JAMES MARTIN: Please, just go ahead with your statement.

MR. VAN DE WATER: Thank you.

For the record, I wish to state that I was willing to work with Mr. Boon and the Town to see if we could make this proposal work without negatively impacting my properties and business.

I have since found that Mr. Boon has not been willing to make any accommodations regarding the location of roll-offs, screening and buffering and improvements to the road which are my top concerns.

Since no one wants to be located near garbage trucks and dumpsters, and this use is not explicitly permitted in a General Industrial Zone, I could see no overriding reason for this proposal to have gone this far.

I realize Boon & Sons provide a service to the community. I realize Mr. Boon may be a hard-working, self-made kind of guy. There even may be some improvements made to the property, but when compared to all of the negatives this business would create for the Town and immediate community, there should be no question this proposal should not move forward.

The Town has invested generously in this area. We have gas, electric, a well-maintained

State road and sanitary sewer system.

We will be jeopardizing the value of all of these if we allow a garbage disposal business with over 30 vehicles and 70 dumpsters on this site.

The 2010 Master Plan rightly shows commercial General Business along both sides of Union Street in this area. With Union Processing, and Boon & Sons located here, clean, attractive businesses will stay away.

If the applicant's operation existed in 1998 at this site, I would sure have never purchased the land my business is on today.

Town Code 539(2) states -- A, states, "During preliminary site plan procedure, a special report showing compatibility with, among others, the Town Comprehensive Plan."

I see no mention of the plan. That is because Town Code 521E(2) also states in so many words, "where permitted use in a GI District is located adjacent to any other district, a fully landscaped buffer 100 feet in width must be provided along the full length of the adjacency."

Where is the 100-foot buffer in this application? If you see my picture, 5 foot high trees planted 15 feet apart in a ditch will not buffer anything.

Businesses will stay away because you know there will be noise. You know there will be rodents. You know there will be fumes and odor. You know there will be much more truck traffic with garbage flying out of these trucks.

And worst of all, this is an unsightly business with 60 to 70 dumpsters and 30 or so trucks. The Town considers dumpsters so unsightly they require every business and organization that has one to get a permit and enclose it. How can we allow all of these dumpsters and garbage trucks to be left in the open for all to see without properly enclosing or buffering the entire site?

This is what the Board made Spector do, and that is what the Board should do here.

I ask what are Mr. Boon's plans to quiet the noise? What is Mr. Boon's plans to control rodents? What is Mr. Boon's plans to eliminate fumes and odors?

What is Mr. Boon's plans to control blowing garbage? What are Mr. Boon's plans to insulate his site from all current and future neighbors and traffic?

I ask these questions because none are addressed in Mr. Boon's proposal. We are supposed to just believe Mr. Boon when he says these problems do not exist with his operation.

Well, these problems do exist, and need to be addressed in a meaningful way.

During the January 13th informal meeting regarding this proposal, Board members themselves had these same concerns. For example, Mr. Martin mentioned an 8 to 10-foot fence or buffer to shield visibility of roll-offs and other equipment along the west property line so that there would be no negative impact on my business. I appreciate that.

Mr. Boon proposes to plant 5 foot tall trees 15 feet apart in a ditch. This does not come close to sufficient or acceptable. As I stated earlier, there should be a 100 foot wide buffer with trees and shrubs as code 500-21-E states.

Mr. Martin mentioned the access road, and the bad condition that it was in. Mr. Boon does not address this problem at all. He wants to wait three to five years before assessing the road. I read that in the -- in his application yesterday.

His trucks will destroy what is left of the road this year. When I asked Mr. Boon what he had planned to improve the road, he threatened to charge me 42 percent of any costs. He said his lawyers told him this.

This statement he made to me convinced me beyond any doubt that this proposal would indeed be detrimental to my business. And I need to, one, convince the Planning Board to deny this application, or at least implore the Board to put significant conditions on this proposal that would protect my business now and in the future.

One condition should be in place that he put a 100 foot wide buffer as stated earlier.

Another condition that should be put in place is there be an agreement between the applicant, current owner and myself to upgrade the access road before any approval of this application. This condition would insure the road gets properly repaired without Town involvement.

Other concerns by the Board on January 13th, where Mr. Powers asked if the trucks were cleaned out before they came back. Mr. Boon said yes, sir, they're cleaned out. I would like to know if they're really cleaned out, like pressure-washed or just dumped? I'm pretty sure they're just dumped and all of the smell and the residue will end up in our neighborhood.

Mr. Boon mentioned the on-site parking in sad need of repair -- or Mr. Powers, I'm sorry, mentioned the on-site parking in sad need of repair. How is this dealt with?

Mr. Hellaby asked for a complete list of vehicles and equipment that will be stored there today or five or six years down the road. Where is this list? How is this dealt with? Mr. Hellaby mentioned the visual impact, the smell, drainage issues, have these been properly addressed? I don't think so.

Mr. Nowicki also had many issues saying in the end, this was complicated and going to be a process that was going to take a little time.

Mr. Brinkwart rightly brought up the condition of the road and parking lot. Mr. Marchioni seemed to have trouble believing Suburban's garbage -- Suburban's garbage -- disposal's garbage smelled but Mr. Boon's garbage doesn't.

He also mentioned the problems the Board had with Spector.

Mr. O'Toole mentioned aggressive landscaping to shield the site, particularly roll-off dumpsters. He also mentioned the poor condition of the road. How the proposal would impact other properties and the problems with Spector and environmental issues such as SEQR?

I again request the Board make a positive SEQR declaration. This will be necessary for

future court challenges which may, indeed, occur.

Lastly, Mr. Karelus stated, and I quote, "I'm troubled with this site. Currently, it is on septic. Currently, it's a very undersized septic system. If I were to go to design standards and try to look at that for a use of this nature."

Yes, this system is antiquated by today's design standards and has been used for over 20 years by a business with hundreds of employees. It -- it has polluted the land enough by now. The Town has spent hundreds of thousands of dollars, if not millions of dollars, recently to install sanitary sewers all along Union Street.

Now, I read Mr. Boon wants to renege on his promise to sewer the project because it will cost, according to him, \$25,000.

There will be no -- there should be no question that Mr. Boon should hook up to sewers immediately. This is now available to his business. It's the best, non-polluting way to dispose of human waste and would link the whole eastern portion of the existing GI zone.

In summary, the neighbors get no buffering. There is no sewer hook-up. No repairs to the road. And in return, the Town and the local community get an unsightly and growing refuse collection facility, complete with a combined 2100 lineal feet of dumpsters and 35 to 40 trucks and equipment. All Mr. Boon has to do is put windows in his new building and begin operations.

Boy, it sure wasn't easy for me to start that way.

In the beginning of my presentation, I related how Mr. Boon did not wish to make any accommodations for me or my business. In the end, I think members of the Board should now realize Mr. Boon does not wish to accommodate their wishes, either.

Does the Board have any questions for me?

JAMES MARTIN: You reference a 100-foot buffer between his property and your property.

MR. VAN DE WATER: Yes.

JAMES MARTIN: This is contiguous zoning there, so it is not a requirement.

MR. VAN DE WATER: If you read the master plan --

JAMES MARTIN: That is a future land use proposal, and it has nothing to do -- so I just wanted to clarify that issue, okay?

MR. VAN DE WATER: Okay.

JAMES MARTIN: Thank you. I don't have any questions.

Anybody have any questions?

NORM REYNOLDS, 1366 Paul Road

MR. REYNOLDS: My name is Norm Reynolds. We live at 1366 Paul Road. I just have a couple of points.

One, a little bit of history on the -- we have lived on our property since 1971, and we -- when we moved in, the property that the Fire Department owns had just been stripped and topsoil had been stockpiled back along the tracks there. So what Gray (Gardner) had to say about never knowing how long that will be there, it is a valid point.

I would like to touch one thing on -- on the oil drainage. Um, I have been in the equipment business for 30 some years and still work part-time in the business. And I was a manager at what is currently Five Star Equipment back when that business started. And in our first expansion that we put into the current building there, we were required by the Town to put an oil separator system in because of working on equipment.

I -- we also when we put another major expansion on, we did put in a used oil burner system like Mr. Boon is talking about, and he is absolutely right, it's very efficient. It, however, in the shops doesn't eliminate the spillage of oil from machines or hydraulic oil or transmission oil from normal repairs and even worse, the abnormal repairs.

I -- I feel that the oil separator system that was in that building was there for a purpose. It is probably mandated by the Town of Chili, because Frontier, or Rochester Telephone at the time, was doing repairs on their vehicles in there.

Why it was taken out or covered up, you know, who knows? But I just feel where equipment is being repaired, in my experience with dealerships and managing fleets for a couple of contractors, it is just mandated that you can't -- yeah, you can dump it from the pan and into the storage facility, but it doesn't get it all. You eventually got to clean it, and where does it go? So that's all I got to say. Thank you.

JAMES MARTIN: Thank you.

DOLORES WEBB, 277 Gillett Road

MS. WEBB: Dolores Webb, 277 Gillett Road in Spencerport. Since Boon has started -- I know I'm not going to be popular, but we have always considered them a good neighbor. They have always maintained the property that they rent -- they don't own -- very, very well.

Nobody seems to want a new business, you know, especially if you're not familiar with them. We have taken walks back there with our grandchildren. There has never been any odors coming from their property. Their property itself has always been well maintained. Um, I don't feel that there is any pollution, myself, to my grandchildren or myself, or my family.

And I guess that's just about all I wanted to say. Um, just that they have always been a really good neighbor to us.

Thank you.

JAMES MARTIN: Thank you.

HELEN CAPTINE (phonetic), Davis Road

MS. CAPTINE: Hi. Name is Helen Captine. I live on Davis Road and I have a few questions and concerns I want to ask.

Um, a lot has been addressed. But could you tell me what type of pesticides are going to be stored here? Because there is going to be some type of pesticides.

JAMES MARTIN: I will reserve that for comment, all right? You can answer that question later? Okay?

We'll answer that question later.

MS. CAPTINE: Then with -- how many trucks do they have that will be say carrying a dumpster with asbestos? You know, um, say they pick up Point A, they have to have a permit for this. So they have the truck, and it has to get to Point C. But that permit says that they only have to get it -- it doesn't give them a time they have to get it there. So they can take this, they can store it on Union Street, which I realize it has to be wrapped, you know, but how long are they going to keep that stored? How often is that going to happen? So that --

JAMES MARTIN: You can answer that question later. Okay. Go ahead.

MS. CAPTINE: Um, the -- the quanza huts, okay, what they're talking about, these, um, big cement blocks that are going to be put and then they will look like a -- like a cheap tent over, okay, that is what I believe I understood that they're going to be doing, something like to -- to cover the salt and the mulch; am I correct on that?

JAMES MARTIN: Not totally. There is a proposal down the road sometime, there may be salt storage bins constructed on the property that would have basically a hard shell cover over the top. It wouldn't be a tent. The mulch bins will have no cover on the top.

MS. CAPTINE: Okay. Do they, or are they prepared, or are they going to purchase any property to the far back within the future?

JAMES MARTIN: I believe the answer to that is no. No.

MS. CAPTINE: Okay. Rodent control. Because no matter what, everybody knows that any type of bin that is stored, and there is going to be times there will be bins stored. So any type of time there is a bin that is stored, you will get a rat that is going to go in there, okay? And I looked to our properties, because I believe this business is going to affect our properties and rodents that will be wandering around. Even if they come off of -- of another property. Because if you take and you store, and -- let's see. A kitchen doesn't get torn apart or -- they don't get done in a night. So they will be stored at somebody's house for maybe a week, two weeks, three weeks, and they're going to be transferred. They are going to be sitting on this lot. Because if I understand, there is a possibility of 66 bins that could be stored? Bright red bins. So they're going to be carrying rodents from one area to another area, and we're going to have a problem here. So that does need to be addressed.

The other thing I was wondering about, you have -- will there be a permit for the pesticides? And oh, snowplowing. Because during the winter months they will be snowplowing. That is going to be something that snow falls can be 1, 2 o'clock in the morning. During the winter, what type of hours are going to take place for their plowing business and for salting?

JAMES MARTIN: They answered that question earlier.

MS. CAPTINE: I'm sorry. I didn't hear it. Would you mind telling me again?

JAMES MARTIN: Their snow blowing business will be as needed. If it is 2 o'clock in the morning and they have to plow, they will go plow at 2 o'clock in the morning. That's the nature of the business.

MS. CAPTINE: Okay. Thank you. Those are my questions.

JAMES MARTIN: Thank you.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Good evening, again.

First of all, I would like to thank Mr. Boon for considering Chili as being his residence of business and living here.

But, on the same token, um, the Rochester Telephone property, that was -- it has been empty for 10, 12 years. With the septic system, um, the other gentleman that said he inspected it and as such, and sticking his head in the -- in the sewer, I don't buy it all. It is total...

Town went through considerable money to put sewers over Union Street. It's there for a reason. For a business or whomever that lives over there, their businesses, to tie in. It's a sewer district. It needs to be hooked up. Not wait until after you have an accident. If it's oil, or whatever the case may be that you're going through, because you forgot to change a filter, or you had a contractor from California, quote, oh, I didn't have time to get here to change a filter as a baffle, that's unacceptable.

The next part is down that roadway, um, that's shot. Point blank, I don't care how much fill you will put in there, it's shot. It needs to be done over. Not one business. You got two of them there. I don't care if it is 40 percent for one guy and 60 for the other.

That's a private road and it needs to be done, and you're going to want to expand, hopefully, on the other side of the roadway, towards the north. I'm quite sure Mr. Vasile wants to sell the rest of that land, too. By bringing it also up, where the fuel storage is, that is nice. What is on the other side there? You got ponds over there. What happens when you have fuel in it? Does it leak or water or someone forgets to clean a clean-out there? It's going to go into the pond.

It's bad enough that you have the scrapper over there polluting that whole section in the back. And yeah, you do have rats over there. And I have said it a number of times. And then

you will intensify it? They live under dumpsters. They don't live on the top of them. They look for homes.

Yeah, you do have problems, and it needs to be addressed. And that's the truth. The roadway, yes, the sewers, yes. The other fiasco that is next door, it should be addressed. It should never have gone in the way it has been running.

So with all that, and then these neighbors next door living a few 100 foot from the property, having the same problems, and the young man back here, he has his health. He has to be cared for extra hard. There is a lot to this. And yes, I would like to see Mr. Boon move there, but on the same token, there are other considerations and other people. And we have to address it. We have one shot in the environment, to do it right and -- and if the cost of doing business is quite high, sometimes you got to bite the bullet. And I do hope Mr. Boon does move in and he takes care of this. But these are issues that we need to address to make our Town flourish.

Thank you very much.

JAMES MARTIN: Thank you.

KATHY REYNOLDS, 1366 Paul Road

MS. REYNOLDS: Kathy Reynolds, 1366 Paul Road. I have a couple of questions. Um, I heard Mr. Boon say that he would have probably six garbage trucks starting up in the morning, at 6 o'clock. Is that how many garbage trucks you have? Six garbage trucks?

JAMES MARTIN: You can answer that question now. Go ahead.

MR. BOON: Yes.

MS. REYNOLDS: You don't have more than six.

MR. BOON: Very roughly six refuse trucks. The roll-off trucks. But we don't -- we don't have all six refuse trucks out at 6 o'clock in the morning.

MS. REYNOLDS: You said you have a pile of mulch you will be storing there. Do you also have a pile of topsoil?

MR. BOON: Will there actually be different colors of mulch?

MS. REYNOLDS: Do you have topsoil also?

MR. BOON: Yes, we will.

MS. REYNOLDS: Will that be in a walled area, covered up so it won't blow around?

MR. BOON: Yes. You got to keep it dry. We just have minimal on site we use for our own jobs. We keep it dry, keep it undercover.

MS. REYNOLDS: And your trucks, do they have to sit in idle for a while before --

MR. BOON: No.

MS. REYNOLDS: Um, will you be having loaders driving around in your lot, loading the mulch and things onto the truck and do they have the signal where they go "beep, beep, beep" when they back up?

MR. BOON: Yes.

MS. REYNOLDS: Will that be done most of the day?

MR. BOON: Not -- it isn't run very often. Again, maybe out of an eight-hour day, the loader may run -- if it was an hour, it would be a lot.

MS. REYNOLDS: Okay. Well, I know I have heard several people refer to the noise that we already have in our neighborhood because of the train and the expressway, but I would like to say when we moved there 35 years ago, those were there, and we had the decision to make then, is this all right? Do we want to still buy this house with the railroad and the expressway there? And yes, we decided we like it here, and that's fine, we'll put up with that. But, we don't have a choice with the garbage business on the other side of the railroad tracks. And we also objected before Union Processing went in, and let the Town now how we felt about that. It didn't do us any good. It's there. Thank you.

JAMES MARTIN: Thank you.

PAUL WEBB, 277 Gillett Road

MR. WEBB: Paul Webb, 277 Gillett Road, Spencerport, right across from where they got their refuse. There is two of them there, as you were told. I have been there over 45 years and walked my kids when they were small, our grand kids on their bikes and the neighbors up that road. Even when there was only one there, never saw any of that. We never saw rats, and I don't know what they do, but they're clean. The bins are clean.

And then Boon came in, it was the same way. We would go back and walk through there, and look around and see what they got. The kids like to look at the vehicles. Did the same with the other things. The neighbor across the street, flying kites down through there. And no problems. No rats. Never seen a rat in 49 years since I have lived out there.

JAMES MARTIN: Thank you.

MR. GRAY GARDNER: Do you have a mike he can use?

JON GARDNER, 1362 Paul Road

JON GARDNER: I'm Jon Gardner, and I live at 1362 Paul Road. I'm 25 years old and suffer with Duchenne Muscular Dystrophy. I have lived in Chili my entire life. I have a few things I'd like to say about this subject at hand.

I have lived on Paul Road for many years and my house would be directly behind this facility which is way too close for comfort, and I will tell you why.

I'm on a ventilator and I cannot breathe without it. The quality of air that I breathe through it is very important to my health, my well being and quality of life. I'm terrified what this facility

may put into the air and how it will negatively affect my already fragile health.

There may be those who say there isn't a risk of harmful things being put into the air. I personally do not believe anyone can make this guarantee, and I cannot afford to take such a risk when it comes to my life.

If we find after this facility is in place that my health declines due to it or has a very negative effect on my well being, I will be told to live with it. Maybe it won't be said verbally to me, but I know that would be the attitude.

My already shortened life could be shortened even more by the effect of this facility could very well cause for me. I do not support this application, and I urge you to take my words very seriously. I take part in my right to vote and I'm contributing to this community, so I request that you do whatever you can to stop this from happening because I believe my life in this Town is more important than this facility.

Thank you.

JAMES MARTIN: Thank you for your comment.

Seeing none, I move we close the Public Hearing at this time.

JOHN NOWICKI: Second.

The Board was unanimously in favor of the motion.

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

JAMES MARTIN: Kip (Finley), would you care to comment on some of the issues that were brought up during the Public Hearing portion?

MR. FINLEY: Sure. I took some notes as we went through this, and remind me if I'm missing out on something.

I will go start with Mr. Gardner. I kept them in order. Um, for him and for others here, and for the Board, I wanted to just reiterate that the facility was used for a trucking dispatch facility for about 38 years, until two years ago. I had twice as many trucks, twice as many employees and operated 24/7 when it was the telephone company.

So we're coming in with an application that looks slightly different. We do have roll-off containers stored on site, versus spools of -- huge spools of wire. We have trucks that are the same size, same type of engine, same kind of emissions that the telephone company would have had, but we have half as many. So it appears that the people are thinking of this as a new application for a new facility on a green field. We're proposing something that is less of an impact for air, noise, all of the things they have mentioned, on a facility that otherwise is going to deteriorate, because being in an industrial district, the types of things that are permitted there are all things that are not so pretty. They do make noise, and it's just going to be a factor of that that's what will go in there, whether we go in, or not.

One thing, what Erin at DEC said would be true if there was any process water leaving -- or being made, generated at the site, they would need a DEC permit, they would need a SPDES permit for that. We don't have any processes. The only discharge from our site is the septic system. It's less than 1,000 gallons per day. It is more like 250 gallons a day. That doesn't require a permit.

Our storm water, we are not disturbing an acre. We don't cross any threshold that requires us to do anything, but to be prudent, we are putting in a primary filtration. We're putting in the secondary filtration for chemicals, not because we have to by law, but it -- but it makes sense, it's the right thing to do.

The -- another one, as far as floor drains, that was one. If you have floor drains, an oil water separator is definitely necessary. In a shop in this case, they have gone a step better and completely filled the floor drains. There are no drains. If oil spills when you're changing oil and you're transferring, you put the clean-up material on it, you barrel it and it goes to a landfill. Totally eliminates any pollution to the environment at that site, because it is all contained.

I need help with this one. The landscape business does use pesticides. You can say what they are.

MR. BOON: My son, Matt Boon.

MR. MATTHEW BOON: I'm Matt Boon. We -- as far as the pesticides of our business go, the only pesticides that we store on site are your household Round-Up. The same kind of Round-Up you can buy at Home Depot, any places like that for strictly weed control. We are -- there was a question about licensing and stuff for that. We are permitted by the DEC to store and apply those pesticides.

To clarify, we do not do lawn treatments. We don't spread fertilizers or do any kind of lawn, tree, shrub types of applications. All we treat are weeds within mulch beds, curb lines, stuff like that that you would apply Round-Up to.

As far as how much we store on site, we buy it in a concentrated container. It's 2 1/2 gallons, and in the summer months, we might have two of those containers on the site at any given time in a designated DEC labeled storage cabinet that is clearly labeled pesticide storage and those 2 1/2-gallon jugs are within that cabinet. If we use one jug completely, we buy a second one just to have it in stock and on hand. That is all that we store on site. We don't have any tank vehicles or anything like that. We apply it with backpack, um, applicator, and we mix it on site. So we have a truck that has about a 50-gallon water tank in it, clean water when we arrive to the site that we're going to service. The water goes in the backpack with the concentrate. It's applied right there on the site. If there is any left in the backpack at the end of

the day, that is inside the cabinet with the -- the Round-Up concentrate.

That pretty much sums up the whole pesticide part of our business.

MR. FINLEY: Trucks with asbestos. Um, I know that there are chain of custody requirements for that, and Dan (Boon) should probably explain how often you do with that, and I know they're not stored on site. Dan (Boon)?

MR. DANIEL BOON: My son David Boon

MR. DAVID BOON: Um, as far as asbestos goes, the friable type of asbestos we don't currently haul any of it. The DEC requires a sift-proof sealed container to haul asbestos. It has to be -- when it is abated, it has to be bagged. I can't remember the specifications to the mill of the bag it needs to be, but it has to be bagged by the people who are processing it. It needs to be put in an enclosed container. Typically what is usually used is a sealed receiver box that would be typically used for a compactor installation. That is typically what haulers use, because it's a completely sealed unit.

I have actually asked this question with the DEC. You cannot use a tarped, open top container such as what we have. Not even a solid tarp. It's not considered sift proof to them. It has to be a solid lid. So because of that requirement right there, we do not haul any friable asbestos. None of that is ever brought back.

If we ever did get into that, we do possess a DEC 8A permit. Currently, I don't have any facilities or asbestos listed on that permit, but if we were to ever get into that business, we would have to purchase those containers, and that material is not allowed to be brought back to a facility. It is -- it has to be scheduled with the landfill. The landfill pre-digs the hole, and it is brought in at a specified time. It is not something we can transport to our yard and leave overnight. It is very heavily regulated, and correctly so, anybody transporting it has to be possess -- for this region an 8A waste transport permit from the DEC.

MR. FINLEY: Okay. Next on the list was rodents. Um, I have been doing a lot of industrial work. Pretty much any industrial site that I ever go to, Chili, Gates, anywhere, all have rodent control as a precaution. Dan (Boon) was telling me in this particular case, and what the one citizen had mentioned is that the rodents could be coming to the site in the dumpster, but you got to remember the dumpsters are 99.99 percent emptied before they come. The occasional one, if a truck breaks down, if it by chance had a rat in it, on the day it broke down and it got stored on the site, we're talking a very random chance that that could happen.

MR. BOON: I think I understood the way they -- I think she misunderstand that we're going to have 60 loaded containers sitting there. You know, I mean, it's not what it is going to be, so. They will be empty containers.

MR. FINLEY: I did hear reference many times to Spector. I mean that is probably before -- that is the transfer station that used to be on Scottsville Road, I guess?

JAMES MARTIN: Yes.

MR. FINLEY: I think there is still the confusion there that this somehow -- there is trash coming back to this site. So I -- so I just want to make sure that that is clear.

With the snowplowing and worrying about equipment and noise at night, the bigger equipment is the type of equipment you would see at Marketplace Mall or other places where when it snows, they put it on the contracted property and leave it there.

The police that they have on this site are pickup trucks that will come do your driveway at your home. So yes, at night, if it snows at 2 o'clock and you have to go to work at 5 or 6, you want your driveway plowed, that is part of the business. But, again, no better place to put it than in an industrial district so that it's with other things that are potentially noisy.

As far as the diesel fumes and that, in the past for Frontier, they had their trucks running probably to warm them up. In this case, our site plan shows that we're putting in block heaters, a row of block heaters so they can go out, start the truck up and within a minute or so, leave the site. They do have to leave it run for 15, 20 minutes to get them going, because I know they -- the first five or ten minutes of a cold engine, diesel engine really stinks. We're not going to have that situation.

MR. BOON: I don't want to say this, and I don't want to keep saying this. We're never going to generate enough fumes. They make more when the train goes by, the fuel it's putting out of it when it goes by, we'll never generate that much diesel smoke.

MR. FINLEY: I think that was all of the things I had circled to answer, unless there are other ones I forgot.

MR. BOON: Somebody mentioned about the building asbestos, we had the building checked. The building is all right. There is no asbestos in the building. That is part of my purchase, you know, I got to make sure what I'm buying, so...

JAMES MARTIN: Obviously.

KAREN COX: What about -- there was also a question about paint.

MR. FINLEY: Well, given the age of the building from 1970, probably there is lead paint in there. The -- the amount of remodeling that is being done here is basically repainting.

MR. BOON: We're going to repaint the inside and outside of the building.

KAREN COX: So you will --

MR. FINLEY: We won't sand blast off the walls and door jambs to get lead. If we did, we would have to get a permission to do that, so -- is no different than repainting a big house. There's -- probably is lead in the paint and it will be covered up.

JOHN HELLABY: I got one other small point of clarification. You say that there is no oil separator and that the waste water, there is none. But the question was brought up, how do you wash these trucks? How do you wash your cars, your trucks? There must be some type of

operation going on there to take care of that. Or is there a facility that I'm not aware of?

MR. BOON: We can get it -- we can -- you know, we virtually -- the day-to-day to wash, no. Number 1, there is nothing coming back. The refuse truck to date, I welcome anybody to go watch. When we dump it and it goes out, it is virtually clean.

I mean it's -- and again, there is -- the other end of this is there is rubber seals on all of these trucks, and Chili doesn't do it yet. I brought it up to the Town. They probably will now, because it's a revenue, but most towns that we work in, Gates, um, Greece, I mean anybody -- they inspect our trucks once a year. They put a sticker on them, they have to pass. They check the seals and everything on them to make sure there is no leakage. You know.

JOHN HELLABY: What about the outside? Somebody must be washing them.

MR. BOON: DeCarlos washes trucks and -- I won't say nobody isn't rinsing off with a garden hose if you got a dirty windshield or something. We're not washing the whole fleet every other day or doing any of that, no.

MR. FINLEY: So there a service for that?

JOHN HELLABY: It's all done off site?

MR. BOON: You know, we dump it -- we dump it -- yeah, we can go down the street to DeCarlos and wash the trucks, run them through the truck wash. They have a massive truck wash down there. So we dump at the blue building there on Emerson Street. We can run them through DeCarlos and wash them. We do a lot of work with DeCarlos.

JAMES MARTIN: Again, you're not power-washing anything on site?

MR. BOON: (Nodded negatively.)

JAMES MARTIN: I'm trying to recall. There was a statement made at some point in time that when you dump a load of residential garbage in a landfill, you -- you essentially said that once you evacuate that from the back of the truck, your truck is pretty clean.

MR. BOON: Juice, everything is gone.

JAMES MARTIN: All right. So there is no wash station per se that --

MR. BOON: There is nothing to wash. That is why they don't do it. I mean the landfill -- I don't even know now -- is High Acres even washing the tires when you go out of there?

MR. DAVID BOON: Certain days.

MR. BOON: They take the mud off the outside of the trucks. The inside of the trucks are clean.

Again, I invite anybody if they want to see it. It's -- it's -- they empty right out. They're clean. And the hopper, when it goes up, everything is disposed of in the landfill, or transfer station. A lot of our refuse goes to the transfer station over at Emerson Street and taken to the landfill. Most of the time our trucks don't go to the landfill. It is easier for us to go in there. It's clean, neat, we stay right on concrete.

MR. FINLEY: The statement brought up, it took me a minute to recall where it came from, but I think it was actually in something I wrote, either in a letter or a part of the documentation, and from what I understood, is if you do dump a load and it still has a lot left, something gets hung up, you can pull off to the side and sweep it out or clean it out.

MR. BOON: In the refuse truck there is a big pusher blade in the way. That's what happens. When you open the tailgate up, the hopper down below, that dumps. The hopper -- all the juice -- that pusher blade ejects that whole load. It ejects every piece of it.

When it goes out, you can shake it, bring it back, go out again if you want, but it virtually empties the truck. The truck comes back down. The seals, back sealed on the hopper, which is the back side of it.

It's virtually -- it has -- again, we have to comply with DEC rules and everything. We can't run up and down the road -- there are plugs in them. They're inspected. They're looked at all of the time. C & D containers, the roll-off containers, there is no leakage because you can't put anything in them that runs out of them. There is different rules for them. We're talking municipal waste to C & D.

MR. FINLEY: The only other thing I recalled was the driveway and the condition of the road. That came up quite a few times. The way I understand it, there is actually a shared driveway agreement in the deeds for the property that designate percentages of responsibility for maintenance based on the length of the driveway. 42 percent of the length of the driveway is the responsibility of the Amish Outlet owner, and the remaining percent is the owner of -- it's either the -- the lot that we're on or us and the property to the east. The driveway could be repaired at any time. It's a private driveway. I think it's a matter of cost that some group needs -- that is in the shared driveway agreement needs to get together and agree to the extent of renovation and what it will cost. That's what was represented to me.

JAMES MARTIN: Chris (Karelus), if you can, you may know the answer to this. There is reference in here to Monroe County Water Authority's installing a trunk water main through the property. There is work started over on King Road at 490.

I saw the Water Authority over there, beginning the trench, towards the west. Is that the start of some activity, or is that just some incidental thing going on over there?

CHRIS KARELUS: I'm not aware of -- I'm not aware. I know the Water Authority had water main work on Westside Drive this year. That's all I'm aware of. Nothing else has been brought to the Building Department's attentions.

JAMES MARTIN: I'm just curious if anybody knew what was going on over there, because there was a fairly extensive operation under way. You know, right at the bridge, over 490, on King Road. All right.

Okay. Other questions or issues?

DARIO MARCHIONI: Yes. Just --

JAMES MARTIN: Go ahead.

DARIO MARCHIONI: After all is said and done, the way I look at this, or with the whole presentations, all we're really going to get here is a row of trees on the west side here. Basically that's the whole change, and paint the building. I mean, you know, the road, all those other issues, for some reason or another, we're not going to get them. That is my only comment.

JAMES MARTIN: Well, clearly, you know, you're not going to want the wear and tear on your trucks going through those potholes on that road. Those have to be fixed.

MR. BOON: We'll look at it and do what we can do right now and then, again, we have to, I guess, sit down with the other parties and see what we can do to improve it better than that, so.

JAMES MARTIN: As I said earlier, almost at the beginning of my presentation, I'm really hoping that you can look at some better visual shielding along the west side of that property. I know the south side is somewhat problematical because of the elevation differences, et cetera, but I really would like to see something additional done there.

JOHN NOWICKI: Can I ask a question? The Conservation Board, you have looked at these drawings for the landscaping?

PAT TINDALE: Yes.

JOHN NOWICKI: Are you satisfied with these? Do you like these?

PAT TINDALE: Tell me what else you can do differently.

JOHN NOWICKI: 15 foot apart on these trees? Does that make sense?

PAT TINDALE: They grow to be 25, 30 foot wide. They're going to be crowded at 15 foot apart.

JOHN NOWICKI: I don't know.

Multiple side conversations occurred.

KEITH O'TOOLE: I hate to rain on this parade, but it seems to me that the obvious solution on that boundary line is to require at minimum a board-on-board fence just like we required at many other commercial sites that have recently been developed in this Town. And I know no one wants to cut the check for that, but those trees tend to be cone-shaped, wide at the bottom and very narrow at the top, which is why you can see them. And you will be able to see through them for many years. I can't imagine people are going to want to see roll-offs as they drive down Union Street, and I realize this is an industrial park, but I also realize the Town has gone to great pains to screen industrial development in this community so we can have both the benefit of those commercial tax revenues while not negatively impacting the rest of the community.

Thank you.

CHRIS KARELUS: Another point I would like to make, Chairman Martin, Mr. Gardner brought up a good point. The initial -- in looking at the plan now, the initial map that was submitted with the dumpster ordinance, does require that he have fencing along the dumpster roll-offs. I think the original plan you brought back did show that area enclosed. I think it was swapped out for the plantings. But the code does require, as Mr. Gardner pointed out, that that area be enclosed with the fencing. I know the initial plan did that have that. So we would have to look at the options there.

JOHN NOWICKI: I think that's what we got to do.

MR. FINLEY: That is true. With the first time we did do fence. Then there was talk about making the fence taller because of the mulch. And it was getting to the point of 8 and 10 feet tall fence, which would be -- more hideous to look at than a row of evergreens. At least the evergreens grow. That is how we came away from fence and went to something that looks better. I mean --

JAMES MARTIN: I mean what is the height of your roll-offs?

MR. BOON: Six -- the 40s can be 8 feet. We have a few 40 -- 40 yarders we call them, but most everything else is -- is 4, 5, and 6-foot, right?

DAVID CROSS: 4, 6 and 8.

MR. BOON: 4, 6 and 8.

JAMES MARTIN: If in the internal storage area where your roll-offs are going to be, all right, could that area be, you know, fenced so that it basically shields that --

MR. BOON: You want us to fence and not the trees then? We're working on limited --

JAMES MARTIN: No, no. No, no. I'm not asking you to substitute. I'm -- I'm not talking about a fence along the whole west side of the property. I'm talking internal to where your roll-offs are stored, that pink area.

MR. BOON: Somebody mentioned if we put -- we put the strips in the fence -- the existing fence that is there, that -- that fence that borders that property is in excellent shape.

DARIO MARCHIONI: You know what I mean? You don't want to give us what we want.

MR. BOON: Dario (Marchioni), I'm working on limited room. Where do you want me to put the fence? I got a fence and I got a drainage ditch.

JAMES MARTIN: I understand that issue. I mean there is certainly, you know, the -- that issue. The drainage swale is right there and there is hardly any room to work with. But you do have a chain link fence that goes all along the top of that drainage swale, correct?

MR. BOON: Yes. It -- it encloses the whole property.

JAMES MARTIN: Any rational reason why you couldn't put that fence on the inside of

that chain link fence and keep it away --

MR. BOON: It would have to go in the pavement. It is paved right to the fence.

MR. FINLEY: Do you have to -- the rule that says you put the good side of the fence out facing the neighbor?

JAMES MARTIN: You know, I'm just -- I'm not trying to make life difficult. I'm just not happy, all right, with that provision of the plan right now the way it stands.

PAT TINDALE: Jim (Martin), excuse me for interrupting. We did look at the fence. That was one of the options. We decided the reason -- the reason we said no to the fence, it will get the prevailing westerly winds unless it is open like a picket fence, that you will see through, but board-on-board, basket weave, any of those will go right down. Even the new plastic ones at Walgreens, you saw that go down. That is even more sheltered than this.

JOHN NOWICKI: She is right.

PAT TINDALE: That is just one of the things. We did consider this. We went over and over this. It sounds like we didn't, but we did.

JAMES MARTIN: I understand, Pat (Tindale). Thank you.

MR. BOON: These trees going in there, they won't be 5, they will be 6, 7 foot, starting out, too. They will -- is that what they're going to be, 6, 7-footers?

MR. FINLEY: They have to be 6 by code. They're 6 by code.

MR. BOON: But they will be taller, maybe.

JAMES MARTIN: I just go to the rest of the Board. That is just my opinion.

JOHN HELLABY: Is there actually a drainage easement that runs along that line, and how do these trees relate to that? Because I don't see it actually spelled out on there.

MR. FINLEY: That is something I looked at today that was brought up. There was supposed to be one when the site plan was done on the parcel to the west, and I didn't have a chance to ask Bob Avery, our surveyor, today why it wasn't on the plan.

Some of the easements, like the access easement and all of that was on there, so I'm not sure if it wasn't recorded or just wasn't found, so we do have to put that in. But the Town, I believe, required an easement on that ditch. But as far as the cleaning the ditch, the trees are at the top and over the crest, so the ditch itself can be maintained without hurting the trees.

DARIO MARCHIONI: How do you know that, though? I -- I mean you make these statements, this can be done, but there is no fact behind it.

MR. FINLEY: Dario (Marchioni), there is 30 years of being a civil engineer behind it.

DARIO MARCHIONI: But the person that maintains those says it can't be done.

MR. BOON: Maintain the ditch? Nobody maintains that ditch, Dario (Marchioni). The Town has never been in that ditch.

MR. FINLEY: It's possible, if you have got 30 or 40 feet wide of a ditch, you can maintain that.

MR. BOON: It's quite a large ditch. It is quite wide, but it is mostly water, you know -- it's wet. There is a space on the other side of that chain-link fence, but it's -- I don't know. I don't think it's 5, 6 feet, maybe at the tops, 5 foot.

GEORGE BRINKWART: I think it's perfectly clear that we need -- that Board wants some more buffering, and I like what Jim Powers suggested, about staggering those. If it means cutting out, 3, 4, 5 feet of that existing asphalt, I mean I think that might be something you want to look at.

MR. BOON: We have to move the fence and everything in.

GEORGE BRINKWART: Then move the fence. I mean -- isn't it clear that this seems to be a pretty important issue.

MR. FINLEY: It's a clear topic, but then you need to realize you're asking us to put screening between two like businesses in general industry where there is no code requirement for it, and we're doing five times what the code requires already. If you're going to ask us to do ten times what the code asks for to buffer between the same zoning, then you're asking us a lot. It's not like, oh, we'll just spend another \$7,000 because George (Brinkwart) wants it.

GEORGE BRINKWART: I think we are asking a lot --

KEITH O'TOOLE: George (Brinkwart), I would like to respond to that comment because I have been listening to it all night.

DARIO MARCHIONI: This is ridiculous.

KEITH O'TOOLE: Since the dawn of time, this Board has had the power and has imposed the conditions of buffering between various properties, no matter what their given zoning is. We have something in our new code that adopts an additional default standard of 100 foot buffer when you're adjoining an Industrial to a Residential. But I don't care if you're adjoining Industrial to Industrial, we have, we will, we have consistently done a requirement of having landscaping buffering, a combination thereof, and it is very typical throughout communities in this State to require fences, landscaping, berms or a combination of all three. So can we, folks, take a stand and tell them what you want? Just my view.

DARIO MARCHIONI: That's what we're trying to do.

KEITH O'TOOLE: I'm not trying to beat up on Mr. Boon here, but I -- at some point I think you have to give him direction. I think their argument is they don't want to spend the money, and if it is a real concern for the Board, at some point you got to simply say we want this, and get it done.

JOHN NOWICKI: I tend to agree with you. We have to sit right now -- as I mentioned before when we first started on this project, there are concerns and issues that will have to be listed and identified and they have to be done and somebody has to spend the money to do them.

Fix the road. Landscape this buffer. I don't care if you have to put trees in, but you got to do it. We have got to get this thing done and over with so it is good for everybody. All areas of concern as far as buffering this property should be looked at, taken care of immediately and done and listed right now so we all know where we're going and he knows what he has to spend.

I would like to see everything in writing, whether it is the easement on the road. I want to make sure we have everything documented, and then our Building Department and our legal counsel here, so we're protected and the people in this Town are protected from this project. There are good things and bad things on this, but right now I think we have to be specific and get it done and tell him what has to be done, according to what this Town wants.

DARIO MARCHIONI: We should add buffering to the back of this property, too, because some day they might clear out all those trees, and there is not enough buffer there. What is the problem with that?

JOHN HELLABY: I agree with John (Nowicki). I'm even skeptical about giving them preliminary in light of all of the questions that are still out there. There is this cross-access agreement, the buffer question, the road repairs, the fence repairs. Um, easements that may or may not be on this drawing. In my eyes, there is still a lot of homework to do here.

JOHN NOWICKI: A lot of homework.

JOHN HELLABY: That needs to be spelled out so that the public is not wondering out there, well, is he going to abide by this five-year plan. Well, it is great he has a five-year plan, but let's firm it up and get some of these unknowns a little bit clearer before we move forward in this thing.

JOHN NOWICKI: I agree. There is a lot spelled out here between Mr. Karelus' department, the minutes of this meeting spell out a lot of detail that has to be part of this project.

JAMES MARTIN: Other comments?

What am I hearing at this point? Is somebody going to make a motion?

JOHN NOWICKI: Well, I would hope somewhere along the line we can take -- we have a lot of documentation right here, right now. In the minutes tonight, that Sandy (Hewlett) is taking, there is a lot of documentation of things that have to be done or put into a -- a resolution that we can present to the applicant, and say here is what we want, period. Okay? Now, you take a look at are you going to accept this or not?

And I think we need probably some time to do that. I don't think we can do that tonight. I don't think we can.

JAMES MARTIN: I think we have come a long way to identify the issues.

JOHN NOWICKI: We have come a long way to identify a lot of issues, but you're not going to put it all down tonight on a piece of paper and say here, take it or leave it. We have to be careful with this one. We have to take some time with this one. There is a lot at stake here.

DARIO MARCHIONI: I agree with you, John (Nowicki). Because the attitude is -- here is what we're going to give you and that's it.

JOHN NOWICKI: Now we have a great applicant with a great engineer. Let's do it. Let's put this thing on the table for now and get it done and spelled out point by point so we have a resolution at the next meeting that we can vote on.

JAMES MARTIN: So I'm hearing that you want to make a motion to table this application?

JOHN NOWICKI: I will make a motion to table, yeah, because I want to see a list of these items that they have to do in order to get an approval on this project.

JOHN HELLABY: I will second it.

JAMES MARTIN: We have a motion on the table -- or before us to table this application. It has been seconded. Therefore, I will ask for a vote at this point in time on the tabling of this application.

JOHN HELLABY: Before I vote, how are we formulating this list? Is this something -- I think between the comments I have written down, the comments from Mr. Karelus, the comments from the Town Engineer --

JOHN HELLABY: Will that responsibility fall on you?

JAMES MARTIN: Yes, it would fall on me.

JOHN NOWICKI: And Chris (Karelus), and Kip (Finley), right? Because you -- we want to make sure we get all of these details listed, so that we're covered. All of the issues are -- they're all recorded. Everything is recorded.

JOHN HELLABY: I just want to make it clear, you know. I don't want to be here a month from now with the same dilemma.

JOHN NOWICKI: No. I want to see a resolution in front of us with everything that has to be done. Landscaping here. Boom here. This easements here. Boom, boom, boom, done, "yes" or "no," vote.

JOHN HELLABY: I will vote yes.

JOHN NOWICKI: I vote yes.

GEORGE BRINKWART: Yes.

DARIO MARCHIONI: I vote yes if it includes a noise study to see how it affects these -- how it affects the residents.

JOHN NOWICKI: Do we have a noise ordinance in this Town? Like anything else in this country, we have to enforce the existing laws. We have got the ordinance on the books.

CHRIS KARELUS: Can I recommend to the Board, um, in past practices with other municipalities, they actually have addendums that are added to long EAFs. I think it would be behoove the Board to request a long EAF be presented to the Board for presentation of the

project. They can also put a noise addendum to that.

JAMES MARTIN: I don't disagree with that statement. We only have a short form in front of you. I will vote yes, also. This application is tabled until the May meeting.

JAMES MARTIN: We'll take about a 5 to 10 minute recess at this point.

DECISION ON APPLICATIONS #4 AND #5: Based on discussion at the April 14th Planning Board meeting, the Board unanimously elected to table this application by a vote of 7 yes to table, pending the resolution of several issues.

Of primary concern are the following:

1. The proposed plan to shield the roll-off storage area was deemed inadequate to meet code specifications as stated in Town of Chili Code requirements, Section 500-60 (E-1, 2, 3).
2. A drainage easement for the swale on the west property line was not shown on the plan due to the engineering firm's inability to locate a reference to the easement.
3. Site lighting specifications and code compliance were not well defined.
4. The applicant will need a variance from the Zoning Board of Appeals for the required 100 foot buffer between the G.I. zone and the residential zone to the south. If this variance is not approved, the applicant will need to meet all code requirements as spelled out in Section 500-21 (E-2).
5. A noise study should be performed for the site operations and data presented to the Board.
6. It is recommended that the applicant prepare a long form Environmental Assessment Form for review by the Board during the project's evaluation.
7. The adequacy of the buffering along the west property line was deemed inadequate. Applicant shall provide alternatives for the Board's consideration.
8. All proposed utility easements should be reviewed by the Commissioner of Public Works for consideration of potential dedication of the Town of Chili.

Secondary considerations are as follows:

1. Provide cut sheet on heating unit for main building.
2. Provide a maintenance agreement for fuel storage tanks.
3. Provide a maintenance agreement for the Triton Geo Trap filters.
4. Provide a copy of shared driveway agreement to the Assistant Town Counsel.

There was a recess in the meeting.

2. Application of Michael Kolozvary, owner; 367 Archer Road, Rochester, New York 14623 for preliminary site plan approval to erect a single-family dwelling at property located at 335 Archer Road in AC, FPO, FW zone.

Brian Sorochty was present to represent the application.

MR. SOROCHTY: Thank you. My name is Brian Sorochty with DDS Engineers here tonight representing --

JAMES MARTIN: Do you have any plans?

MR. SOROCHTY: I absolutely do. There wasn't anybody left in the audience to look at it, but I can put one up.

JAMES MARTIN: Proper procedure.

MR. SOROCHTY: My client's property is 335 Archer Road. This is a 64.8 acre parcel on the south side of Archer Road, about 1200 feet west of Ballantyne Road. What our client is proposing to do is construct a single-family residence on this parcel. It would be serviced by private leech field and private well. The access would be off of an existing driveway. That existing driveway currently services his parent's parcel, which is a five-acre landlocked parcel which is immediately south of this proposed development. So part of our improvements will be to place a permanent easement over the existing driveway to insure access. Um, the western property line is essentially the center line of Black Creek, so as you all know this area, you know,

you have Black Creek and all of the wetlands associated with it.

This is an environmentally sensitive area, so early on it was identified that we need to submit letters of inquiry out to all State and federal agencies. We did that, and I believe in the last letter, the Town Engineer acknowledged, um, the response that we got on that.

There was one endangered species which is the bog turtle, which is known to be in this area, which is right near Black Creek and there were two species of trees. There was a Silver Maple Swamp Ash and Big Shell Bark Hickory, and those are also known to be in the vicinity of the creek. We don't believe either one of those are in the area where our client's property is. He is about almost 1,000 feet away from Black Creek, on the opposite side of the driveway.

Another issue associated with Black Creek, as you all know, is the flood plain. This property is located within the 100-year flood plain of Black Creek, so the leech field had to be designed to be above that. The minimum invert elevation had to be above that 100-year flood plain elevation as well as the finished floor, so we are in compliance with the code on those issues.

Our initial plan, a while back, when we came in with concept, we had a compensatory storage pond shown on this parcel, just on the other side of the driveway, and that was to take care of the fill that was necessary for this site as well as some unauthorized fill that was done on his father's property last summer.

So we filled out -- I worked with Chris (Karelus) to fill out a fill permit for that -- for that initial unauthorized filling, and this project, we were going to prepare or design a compensatory storage facility to compensate for that. In working with the Building Department it was best determined to take those construction costs and put them in the Drainage District so that money could be better used to improve drainage situations.

I have gone through two rounds of comments with the engineer. Um, we can go over those one by one or I -- I mean or we can just turn it back over to the Board and we can go over them as we -- as I hear your comments.

JAMES MARTIN: Anything that is really pertinent that you need to address? That you're not in agreement with the Town Engineer on?

MR. SOROCHTY: No.

JAMES MARTIN: I will ask him to confirm that.

MR. SOROCHTY: That's fine.

JAMES MARTIN: You okay with that statement, Ken (Hurley)?

KEN HURLEY: Uh-huh.

JAMES MARTIN: All right. Okay. Anything else? What is the flood plain elevation there?

MR. SOROCHTY: 525.

JAMES MARTIN: 525. By finished floor, what floor are we talking about? Because I -- we have looked at this a lot of different ways. It doesn't look like you can have a full basement.

MR. SOROCHTY: No. He doesn't intend to.

JAMES MARTIN: Slab construction.

MR. SOROCHTY: It will be out of the ground, but there will be a crawl space underneath.

JAMES MARTIN: A crawl space.

JOHN NOWICKI: You're raising the finished floor how many feet?

MR. SOROCHTY: Okay. 530.

DARIO MARCHIONI: What is 527?

MR. SOROCHTY: 525.

DARIO MARCHIONI: 525.

JOHN NOWICKI: How many feet --

MR. SOROCHTY: I believe the Town Code --

Multiple conversations occurred.

MR. SOROCHTY: Exactly, that is what I was just going to say.

JAMES MARTIN: So the concrete floor above the crawl space will be at 527. Is that what you're saying?

MR. SOROCHTY: 530.

JAMES MARTIN: 530. Okay. All right.

MR. SOROCHTY: There is a garage -- there a garage, a step-down garage which is 527 1/2.

JOHN HELLABY: I don't think there is a true statement any more per the code book. It says within Zones A1 to A30. Excuse me, I believe this is an A6 zone, it is not?

MR. SOROCHTY: That's correct.

JOHN HELLABY: It says if base flood elevation data is available and new construction and substantial improvements shall have the lowest floor, including the basement elevated two or above the base flood level. So 525 is the minimum crawl space. It's only in the A zone it has to be elevated now 3 feet above the highest flood zone. That is the way the code reads.

JAMES MARTIN: So --

MR. SOROCHTY: I guess I'm unclear on the point. I mean we are -- we're 5 feet above --

JOHN HELLABY: In the new code, 277-16, Elevations of Residential Structures, it states in paragraph A, within Zones 1A -- or A1, excuse me, to A30, 8E and AH, and also Zone A, if base flood elevation data is available, new construction and substantial improvements shall have the lowest floor, including the basement, elevated two or above the base flood elevation, so a

minimum is 525 for that crawl space.

MR. SOROCHTY: It's a crawl space. Not habitable area. Just for plumbing.

JAMES MARTIN: It says "basement," though.

JOHN HELLABY: Basement. It distinctly says that. So you need crawl space floor 525 or above.

JAMES MARTIN: Are we interpreting that correctly?

CHRIS KARELUS: I was just discussing it with Mr. Lindsay that it appears that the Local Law we adopted in January has 2 feet above the free board, but the code, when it got written in December, somehow General Code must have misprinted it and left the 2 feet out. It is FEMA's minimum standard 2 feet. I can tell you that. So he is right. It has to be a minimum 2 feet higher than --

JAMES MARTIN: Okay. That's all right. As the design stands, they will meet FEMA's requirement.

CHRIS KARELUS: They meet FEMA's minimum requirement on --

JOHN NOWICKI: 5 feet for finished floor.

CHRIS KARELUS: -- lowest habitable floor.

JAMES MARTIN: There will be crawl space underneath that. That can be at 5 -- the floor that -- all right. The free board will be what, how many feet above that?

MR. SOROCHTY: Yeah. I guess the crawl space, the lowest elevation will be 525. There is nothing under there. It's not habitable.

DARIO MARCHIONI: Will the furnace be in the first floor?

MR. SOROCHTY: Yeah, it would it have to be.

DARIO MARCHIONI: Hot water tank, too.

MR. SOROCHTY: Yes.

JAMES MARTIN: No equipment in the crawl space, just air?

MR. SOROCHTY: Yes. Just plumbing.

JAMES MARTIN: Plumbing, okay. Good pick up. We'll have to get that corrected, Mr. Karelus. Obviously if it is in conflict.

MR. SOROCHTY: Can I just make -- while we were talking here, something came to my mind there, that one issue that the Town Engineer did bring up, um, was that he requested that the limits of the DEC wetlands be delineated, and we also have some fresh water wetlands on site. Those were delineated as of Monday. Yesterday those were delineated. I picked them up. I have 11 by 17s if you want to see them. If not, I can submit them with the final plans unless you want to see them now.

JAMES MARTIN: You had a wetland biologist flag --

MR. SOROCHTY: Yes. Environmental Resources has been out there.

JAMES MARTIN: Okay. All right. This couple of things, comments from the Building Department, um, okay, there is some junk stuff stored on the properties, an old tractor out by the road. There is dead tree trunks. All of that stuff has to be removed, all right?

MR. SOROCHTY: Okay.

JAMES MARTIN: That will be prior to issuing any building permits.

Certainly, as Mr. Karelus has pointed out, flood plain development permits will be needed, okay, to make sure you're well aware of, prior to any construction.

The compensatory money for the earthwork, okay, I'm not sure if there is an amount that has been agreed to yet with the Commissioner of Public Works.

MR. SOROCHTY: Yes, there was.

JAMES MARTIN: There was. Okay.

Certainly, um, it would seem to me that that -- I know, I guess what you're asking for, Chris (Karelus), is a payment be made or letter of credit established for that amount? Prior to issuing any building permits, and that would be subject to Mr. Lindsay's approval?

CHRIS KARELUS: Yes. I don't think a letter of credit is proper. This is in lieu of.

JAMES MARTIN: Okay. So payment.

MR. SOROCHTY: He understands.

JAMES MARTIN: And subject to Mr. Lindsay's approval, Commissioner of Public Works, okay?

Okay. That's all I got.

JIM POWERS: I had a question about compaction. Compaction. How often do you have to have that done on site, with the fill?

MR. SOROCHTY: I guess -- that's a good question. I don't know the answer to that question. Normally compaction in lawn areas is normally done in 6 inch lifts. I'm not sure. It's out of my expertise. I'm not a construction...

JIM POWERS: What portion of the land is this site going to sit on? What percentage?

MR. SOROCHTY: What is our area of disturbance? .766 acres of disturbance.

JIM POWERS: How about the site of the house, the footprint on the house?

MR. SOROCHTY: The footprint on the house is 40 by 60. Relatively smaller house.

JIM POWERS: The reason I ask is because I see you're going to put some fill in here.

MR. SOROCHTY: Yes.

JIM POWERS: And I just wonder how often you compact that fill to make sure it's packed down.

MR. SOROCHTY: Right. I don't --

JIM POWERS: Every 12 inches, every 3 feet.

MR. SOROCHTY: I couldn't answer that question.

JIM POWERS: Okay.

MR. SOROCHTY: The amount of fill around the site is sort of being driven because the leech field, the minimum elevation, the lowest invert could be 555 and everything goes up from there. That is driving the finished floor. That is where the fill around the house is coming from.

KAREN COX: I see there is a well that is planned. Is this area -- a few years back, actually more than a few years back, this area, the houses around here were experiencing water issues, maybe bad tasting water. Does the existing house have a well?

MR. SOROCHTY: It sure does.

KAREN COX: Is the water good?

MR. SOROCHTY: My understanding, yeah. They would like public water, but public water, I think, is up by the driving range on the other side of Ballantyne. I think that's as far as it goes. If it comes any further --

JOHN NOWICKI: Don't have to get Health Department approval on that.

MR. SOROCHTY: For the well, absolutely.

JAMES MARTIN: Yes. Wells have to be tested.

JOHN NOWICKI: Have you got it?

MR. SOROCHTY: We haven't done it yet. They don't do that yet.

JOHN HELLABY: They won't do it until the house is done.

JOHN NOWICKI: Do you have any Health Department review for the sanitary?

MR. SOROCHTY: Yes. It has been approved and basically approved.

KAREN COX: I would assume they would have to drill it and test it.

JAMES MARTIN: There is a set procedure. They drill it. They have to treat it. Test it. If it -- it's not right, they treat it again. I have been through that. I have a well Union Street.

KAREN COX: It is unusual these days. That is all I have.

JOHN NOWICKI: I have something. I'm trying to get caught up here. The letter from the Lu Engineers here, um, has the long EAF form been revised, completed and to your satisfaction? Do we have all that done?

MR. SOROCHTY: I brought it with me. To be honest, I gave to it Ken (Hurley) earlier before the meeting.

DARIO MARCHIONI: I have a copy here.

JOHN NOWICKI: And this property, here, is this going to be -- have to file for flood insurance?

MR. SOROCHTY: I would assume so.

JAMES MARTIN: Mr. Karelus, "yes" or "no" on flood insurance?

CHRIS KARELUS: If the site gets developed, they can go through -- this is the option for the owner. They can go through a LOMO process where the maximum grade level around the home is higher than the flood zone, they can exclude from property from the flood plain and there is a process they can go through with the State. It's -- it is at their disposal. If they do not, it is going to be built within a flood plain, so they will be required to have flood insurance. If they do not go through that LOMO process. It's an after- construction issue, though, for the homeowner to deal with.

DARIO MARCHIONI: Only if you borrow the money from the bank. If you pay cash --

CHRIS KARELUS: Correct.

If they're going to try to get a mortgage for the property, I'm sure there is going to be some type of rider on there for the fact it is being built in a flood plain. But once this is all said and done, this will be sitting on its own island that by law gives them the right to apply for this -- it's called a letter of map amendment, and it will take them out of the flood zone, which doesn't require flood insurance.

JOHN NOWICKI: Is that something the Town should have some record of or copies of?

CHRIS KARELUS: Yes. We have a copy of all of those. We're actually held as part of the processing with the State on that.

JOHN NOWICKI: Has all of the -- again, on the letter from Lu Engineers, have all of the items been -- you say you just got it tonight. Are they all to your satisfaction, Ken (Hurley)?

KEN HURLEY: I just got it. I haven't -- I literally just got it at the beginning of the meeting. I haven't gone over it. If it isn't, they're all relatively minor. Um, as far as what you need tonight, if you're going to vote on it, um, within a couple of minutes I can review and make sure it is all done.

MR. SOROCHTY: They were all pretty minor changes, to be quite honest.

JOHN NOWICKI: I want to know.

JAMES MARTIN: Will it be subject to Town Engineer approval?

JOHN NOWICKI: Number 9, please add the following note to -- all signage shall be installed and maintained -- what signage?

KEN HURLEY: That's in reference -- that was requested by Dave Lindsay in regard to it's a private drive that they put a street sign up. They have been having a lot of problems from the Public Works replacing private signs. So that people know that if they're going to put a sign, stop signs, street signs on the end of their private drive, that that is their responsibility as an owner to maintain it and not the Town.

JOHN NOWICKI: Okay. Is this -- has anybody seen any drawings of this house? Is that a two-story house or one-story house, or what is it?

MR. SOROCHTY: He hasn't had drawings prepared yet.

JOHN NOWICKI: Hmff.

MR. SOROCHTY: He is working on them right now actually. Probably -- my

understanding was he was looking through the prefab kind of home, my understanding. I'm not sure.

JOHN NOWICKI: I don't like the smell of this. I hope that all of the details --

MR. SOROCHTY: Is there something I can help you out with? I'm not -- really not sure why the confusion. I would love to answer some questions in more detail if I can help you.

JOHN NOWICKI: I find it sticking up in the air like that.

MR. SOROCHTY: It's his father's property. His family owned the property for many, many years. It's a good opportunity. His father is essentially giving him the 65 acres. I know it is not a perfect design in most people's minds, but his family has lived there quite a long time.

JOHN NOWICKI: As long as the rules and regulations are followed, and you abide by them and you get them on file, hopefully we will. I'm sure we will, right, Chris (Karelus)?

JOHN HELLABY: There is an approved -- if I can jump in here, he said prefab. There is an approved list of prefab homes that are allowed in this Town, correct?

CHRIS KARELUS: Yes. He is talking about like a modular home. Every plan you bring in you have to meet State's code. I can just leave it simply at that. The only thing that would drive the question on this Board on the size is septic. There has to be a certain bedroom design for the septic. As long as they have met what this house is designed for, any other aspect of the project appears to meet code.

JOHN NOWICKI: Don't we have anything in our code to protect us, for example, you can't build a house for 900 square feet? Is there a minimum square footage that you have to have?

KEITH O'TOOLE: There is.

MR. SOROCHTY: There is.

CHRIS KARELUS: Size wise, yes, minimum. But what you asked about, the type of home?

JOHN NOWICKI: Yeah. I mean could you put a trailer out there? Is that what we want, trailers out there?

MR. SOROCHTY: It is 60 by 40. I will let the attorney comment on that one.

KEITH O'TOOLE: We don't like trailers? Is that what you're telling me?

CHRIS KARELUS: Certain types of homes, when they come through, are not accepted without Planning Board approval. Like HUD listed homes, they are the ones that come through as trailers.

JOHN NOWICKI: I would certainly want to make it a condition, for God's sake, if I'm going to vote on this, whatever the house is going to be, is going to meet code.

JAMES MARTIN: I have it already written down.

JOHN NOWICKI: Thanks God. Finally he kicks me under the table. I have been waiting for that for how many years. All right. Thank you.

GEORGE BRINKWART: Would you please add the floodway boundaries to your map? And did I hear it correctly that you had submitted these plans to the Health Department?

MR. SOROCHTY: Absolutely.

GEORGE BRINKWART: They have already been approved.

MR. SOROCHTY: Yes. Very minor comments. I can read them off if you would like.

GEORGE BRINKWART: You got them. Modified raised system with 12 inch perk.

Who reviewed the plans?

MR. SOROCHTY: For Health Department?

GEORGE BRINKWART: Yeah.

MR. SOROCHTY: Ed Ribson.

GEORGE BRINKWART: Thanks.

JOHN NOWICKI: Have you made application for the Drainage District?

MR. SOROCHTY: For?

JOHN NOWICKI: The Drainage District?

MR. SOROCHTY: Have not. That was -- that application is going into Kathy (Reed).

JOHN NOWICKI: Condition. Drainage district.

MR. SOROCHTY: Absolutely. That -- I'm aware of that. The owner has been away. He haven't been able to get him to sign anything. He travels a lot. That will be submitted tomorrow.

DARIO MARCHIONI: I have no questions. Good luck.

MR. SOROCHTY: Thanks.

JOHN NOWICKI: Utility lines, electric, gas. How is that going to be running?

MR. SOROCHTY: Electric would be underground. There is gas quite a ways away coming from his parents' house, the other direction.

JOHN NOWICKI: On propane?

MR. SOROCHTY: Probably.

JAMES MARTIN: Anything else? I have it pending Town Engineer approval.

KEN HURLEY: The only thing -- just let Mr. Nowicki know that the long form has been revised.

JOHN NOWICKI: It has. Thank you.

PAT TINDALE: You know our comment. Just very unhappy with any building in the flood plain. This one is probably on top of a floodway and then you bring all of the fill in, so build it up so it is out of the flood plain. It has to end somewhere.

JAMES MARTIN: I know.

JOHN NOWICKI: Doesn't make any sense to me.

PAT TINDALE: Just is crazy. Sorry. That's my comment.

JAMES MARTIN: Paul (Wanzenried), it's residential.

We did have a full EAF that has been supplied to us. I want to go through Part 2 with the Board. Impact on land will the proposed action result in any physical change to the project site, small.

JOHN NOWICKI: Not in my opinion.

JAMES MARTIN: Well, I don't think it's major.

JOHN NOWICKI: I don't agree with that.

JAMES MARTIN: Well, they talk about construction on slopes 15 percent or greater. Construction on land, depth of the water table is less than 3 feet. Construction of the paved parking area, 1,000 more vehicles, those are the types of things they cite. All right?

Will there be an effect on any unique and unusual land forms found on the site? This is basically, you know, from the DEC and the Department of State, whatever, that they approved this, right?

MR. SOROCHTY: Yes. They send back -- SHPO doesn't really send you a response. You send them a letter. They say if we don't get back to you in 30 days, you're fine. We send out letters on January 15th. Copied the Town in on those letters and we received nothing back, so.

JAMES MARTIN: But there was something that came back from the New York State Department of Environmental Conservation?

MR. SOROCHTY: Yes. They did a clearing house review. There was -- as I mentioned before, there was a -- there was an endangered species of two trees that are known to be in this area. We don't know for sure if they're on this site or not. The same thing with the bog turtle. It is a species known to be in the area, but...

JAMES MARTIN: Impact on water. Will this proposed action affect any body of water designated as protected?

MR. SOROCHTY: No.

JAMES MARTIN: No.

Will the proposed action affect any non-protected, existing or new body of water? No.

Will the proposed action affect surface or ground water quality and quantity?

MR. SOROCHTY: No.

JAMES MARTIN: Not to any substantial degree.

Will the proposed action alter drainage flow of patterns or surface water runoff? No.

Impact on airway. Will the proposed action affect air quality? No.

Impact on plants and animals. Will the proposed action affect any threatened or endangered species?

No.

Will the proposed action substantially affect any threatened or endangered species?

Impact on agricultural land resources. It is not being ag farmed at this point so there no impact.

Impact on aesthetic resources. SHPO didn't send back anything.

No impact on historic and archeological resources. Again, no response from SHPO.

Impact on open space and recreation, just one house.

Impact on critical environmental areas. Will the proposed action impact exceptional or unique characteristics of the critical environmental area? No. I don't think so.

Impact on transportation. Certainly won't be an impact on energy, nothing to impact on noise and water.

We're going to turn -- we're going to open this up to public comment in just a second.

I just wanted to run through this. Is there -- any likely public controversy related to the project? No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Martin made a motion to close the Public Hearing. John Nowicki seconded the motion. All Board members were in favor of the motion.

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

JAMES MARTIN: Given the review of the full EAF --

JOHN HELLABY: How is it under Item Number 2, presently those buildings and other paved surfaces are a half acre and half of completion (inaudible).1-acre.

MR. SOROCHTY: That was one of the items that we had to fix. It was a typo.

JAMES MARTIN: That was picked up.

JOHN HELLABY: I apologize.

JAMES MARTIN: That's all right. No problem.

As I said before, after reviewing the full EAF, I come to the conclusion to make a negative declaration on this and find this to be -- I make a motion to declare ourselves lead agency as to SEQR based on evidence and information presented at this hearing. We find this to be an unlisted action with no significant environmental impact, and the Board all voted yes with the exception of John Nowicki.

James Martin reviewed the proposed conditions with the Board.

KEITH O'TOOLE: Brian (Sorochty), a common driveway and utility easement?

MR. SOROCHTY: Just access.

KEITH O'TOOLE: Oh, okay. Then I don't need to see it.

James Martin further reviewed the proposed conditions with the Board.

DECISION: Approved by a vote of 6 yes to 1 no (John Nowicki) with the following Conditions:

1. Pending Town Engineer approval.
2. The proposed house shall meet all building code requirements.
3. All required permits shall be in place and approved by the Commissioner of Public Works and the Building Department Manager prior to building permits being issued.
4. Applicant shall apply to the Town Board for inclusion of the property into the Town of Chili Consolidated Drainage District. This can be done through the Town Clerk's Office.
5. The floodway elevations shall be depicted on the site plan.
6. All elevations shall be in compliance with FEMA regulations.

MR. SOROCHTY: Can I request final? Most of these issues, in my mind, are minor in nature, engineering related. I would love --

JAMES MARTIN: We're not going to waive final. I want to make sure these things get done, okay. So you're getting preliminary. Be happy.

The meeting ended at 11:20 p.m.