

CHILI ZONING BOARD OF APPEALS
April 23, 2013

A meeting of the Chili Zoning Board was held on April 23, 2013 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Paul Bloser.

PRESENT: Adam Cummings, Robert Mulcahy, Michael Nyhan, Robert Springer, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Michael Jones, Assistant Town Counsel; Ed Shero, Building & Plumbing Inspector

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

PAUL BLOSER: I will start by going over the signs. I didn't have any problem with any of them. So I will move right into the agenda.

1. Application of Mr. and Mrs. Robert Ambrosio, owner; 37 East Bellaqua Estates Drive, Rochester, New York 14624 for variance to erect a 10 foot by 11.5 foot utility shed to be 45 feet from rear lot line (55 feet required abutting a street) at property located at 37 East Bellaqua Estates Drive in R-1-20 and FPO zone.

MS. AMBROSIO: Debbie Ambrosio, 37 East Bellaqua Estates Drive.

PAUL BLOSER: Your frontage is actually on Scottsville Chili Road?

MS. AMBROSIO: Uh-huh.

PAUL BLOSER: Your backyard is your front yard and your front yard is your backyard.

We have had different applications in here for a similar type thing.

I did see this time we did get the sign up on the Scottsville Road side and also the Bellaqua side, so that was a pain, but the right thing. So I was glad it was properly done.

The shed itself is really minimal. We're just looking at the setback on this. Under 100 square foot, the building permit. Not under 100 square foot. Which size is it? I'm seeing two different --

110. So you will need a permit. Right?

ROBERT SPRINGER: 115 feet.

There was a discussion at the dais.

PAUL BLOSER: So we're just here for the variance.

I saw 8 1/2 by 11. So that is why I -- okay.

MS. AMBROSIO: 10 by 12 is a permit, right? 10 by 11 1/2 is okay.

PAUL BLOSER: Yes. 10 by 11 1/2. 10 by 12 you would need a permit.

MS. AMBROSIO: Okay.

PAUL BLOSER: So you're building it just to keep it under?

MS. AMBROSIO: Uh-huh.

PAUL BLOSER: The only thing I wanted to question on this was, um, what is building material wise? Do you now how it is being done?

MS. AMBROSIO: I know my husband was saying he wants to do a cement floor. He wants to dig it out and put a cement floor. I believe it's going to be wood construction with a roof, but we also have to side it because its in our deed restrictions that the sheds have to be sided.

PAUL BLOSER: To match the house?

MS. AMBROSIO: To match the house.

PAUL BLOSER: The shingles on it should match the house also.

MS. AMBROSIO: We have the shingles. We have the siding. We even have some brick if they're going to push that issue. We don't know that yet.

PAUL BLOSER: We don't, as a rule. Three or four houses down from you, he did because of his -- he volunteered to do that.

MS. AMBROSIO: We have some extra brick, too, so we can, if the owner of the area insists, but we do have the siding and we have the shingles from when we built.

PAUL BLOSER: That would be the only thing I would put on there for condition of approval, is that the materials match the main residence.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and Michael

Nyhan seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

PAUL BLOSER: For conditions of approval, should this vote go through, I'm going to say size of 10 foot by 11.5 under requirement to obtain permit; therefore, not necessary.

Two, building materials to construct shed will be of like materials as main dwelling. I will put parentheses, siding, roofing, windows, doors, trim, et cetera.

Drainage I'm not worried about because of the slope going down to Chili Road. It's a natural there already.

Ed (Shero), is there anything necessary for a pad to be poured?

EDWARD SHERO: No.

PAUL BLOSER: No footer requirements or anything?

EDWARD SHERO: No. There is not.

MS. AMBROSIO: When you say "door," we were thinking about putting a garage door on it. Does it have to match --

PAUL BLOSER: No. If you're putting a man door, you know, if you have white doors on the house, match it with the shed.

MS. AMBROSIO: Okay.

PAUL BLOSER: Okay. We just want like doors. The garage door, if you're doing an overhead door on the thing or swing open, just so the colors are all --

MS. AMBROSIO: Okay.

PAUL BLOSER: -- continuous. Okay.

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

James Wiesner made a motion to approve the application with the following conditions, and Robert Springer seconded the motion. All Board members were in favor of the motion.

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

1. Siding, windows, door, trim, and roof materials shall match the existing structure in color and type.
2. Application stated size of shed would be 10' x 11.5' which is below the size requiring a permit. Therefore, no permit is required for this application.

The following finding of fact was cited:

1. The proposed variance will not have a negative impact on the environment or neighboring properties. This type of addition is consistent with neighboring properties and will only increase the value of this property. This lot, as with neighboring lots, is unique as the back yard where the shed is being placed, is actually considered the front. The request is not substantial.
2. Application of Mr. & Mrs. Wayne Honsberger, owner; 32 Daunton Drive, Rochester, New York 14624 for variance to allow existing 8' x 12' utility shed 32' from side lot line (55' req. abutting a street) at property located at 32 Daunton Drive in R-1-15 zone.

PAUL BLOSER: So we're kind of back to clean up the property. This is what we talked about a couple months ago, I think it was.

MR. HONSBERGER: Yes.

PAUL BLOSER: Or a few months ago. Just to record that. We found that the setback -- this is required for this.

So this is just a formality. The shed is existing. We're just updating the records for the proper location.

Again, your name and address?

MR. HONSBERGER: Wayne Honsberger, 32 Daunton Drive.

MS. HONSBERGER: Kathy Honsberger, 32 Daunton Drive.

PAUL BLOSER: You're not -- nothing is changing. You're just here cleaning up the paperwork, right?

MR. HONSBERGER: Right.

PAUL BLOSER: I really don't have any questions at this point.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: When was this shed built?

MR. HONSBERGER: At least 15 years ago.

MS. HONSBERGER: It wasn't built. It was manufactured and brought in.

MS. BORGUS: All right. The reason I ask is that -- in reading over the paperwork in the Building Department today, it -- I don't know what the wording was exactly, but it sounded almost to me like it was supposed to predate zoning. Did I read that correctly? It was --

PAUL BLOSER: It was before the new zoning went into effect, was my understanding.

MS. BORGUS: That would be what year?

PAUL BLOSER: 15 years ago -- I don't know. 2000 -- let's say 2000?

ED SHERO: What new zoning are you referring to?

PAUL BLOSER: The setback on that lot. Did that change at all?

ED SHERO: No.

PAUL BLOSER: It has always been that.

ED SHERO: I would say for at least 30 years it has.

PAUL BLOSER: Okay.

MS. BORGUS: So we're dealing with a zoning rule that has been in place for 30 years?

PAUL BLOSER: And through code inspection we found that it was --

MS. BORGUS: Right.

But if this shed has only been there 15, how can it --

PAUL BLOSER: Then it can't --

MICHAEL JONES: This is a variance application. It's not a preexisting, nonconforming use, otherwise they wouldn't have need to be here.

MS. BORGUS: I'm only going by the paperwork I read today.

MICHAEL JONES: I understand. I just want to make sure the Board is clear that this is a traditional five-step analysis for an area variance. There is no argument that a variance is not required because of a preexisting, nonconforming use.

MS. BORGUS: I don't have a problem with that. I'm just saying that the paperwork doesn't agree with that theory.

PAUL BLOSER: The way it was written.

MS. BORGUS: The way it was written did not agree with what you're doing. I don't have a problem with what you're doing, but who wrote the paperwork up?

MICHAEL JONES: The applicant would fill out the original application. The applicant may have done that. The Board is still required to go through the variance analysis. So despite the fact the applicant might consider this to be a preexisting, nonconforming use doesn't make it so. Right? Right.

MS. BORGUS: Just so long as we're clear. I like one and one to equal two.

Thank you.

ED SHERO: That rarely happens, though. (Laughter.)

Robert Springer made a motion to close the Public Hearing portion of this application and Michael Nyhan seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

MICHAEL NYHAN: The shed actually sits back farther than the structure -- or --

PAUL BLOSER: Well, it's a corner lot. It's -- because of the layout of the streets and the lot.

MICHAEL NYHAN: Right.

PAUL BLOSER: There's almost no place to put it on the lot without it being interfered someplace.

MICHAEL NYHAN: Okay.

ADAM CUMMINGS: Just for clarification, which line are we looking for on the variance? The one next to Earl Drive there on the northern side?

PAUL BLOSER: Um --

ROBERT SPRINGER: Has to be.

MICHAEL NYHAN: That's the side.

PAUL BLOSER: Yes. Because it's actually a.

ADAM CUMMINGS: I just point that out because there is not dimension lines to that point and that is where we're putting the 57 feet to. Or the --

PAUL BLOSER: 32.

ADAM CUMMINGS: The 32 feet.

PAUL BLOSER: Right. That one is within the side -- it's from the road.

ADAM CUMMINGS: Right.

PAUL BLOSER: Because --

ADAM CUMMINGS: So it is not drawn on this map, but it is coming off of Earl Drive --

PAUL BLOSER: Right.

ADAM CUMMINGS: -- perpendicular 32 feet.

PAUL BLOSER: Yes.

ADAM CUMMINGS: 55 is called out there.

PAUL BLOSER: Yes.

ADAM CUMMINGS: Thank you.

PAUL BLOSER: No additions other than the side map has been updated in the office to show the location now and that reference point of the 32 feet will have to be shown on that drawing also for verification.

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

PAUL BLOSER: Again, not putting any conditions of approval on this.

Robert Mulcahy made a motion to approve the application with no conditions, and Robert Springer seconded the motion. All Board members were in favor of the motion.

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

1. The proposed variance will not have a negative impact on the environment or neighboring properties as several nearby properties have similarly sized sheds and this structure will not result in any visual impacts to the surrounding properties.
2. The lot is a corner lot. Therefore, it is considered to have two frontages. House front faces east, and side to north is also considered a front as it is on the perpendicular street. The shed is on the west side, or back of the house. Even though the shed is of minimal size, placement of shed cannot be accomplished within code restrictions for setback on the lot, therefore requiring a variance.
3. Application of Midlakes Development, 758 South Avenue, Rochester, New York 14620, property owner: Howitt-Paul Road LLC for variance to allow the rear setback for Lots 50, 51, 54, 55, 58, 59, 65, 68, 69, 72, 73, 76 and 77 in the proposed Greenwood Townhomes Subdivision Section 2 to be 23 feet (25 foot required) at property located at 741 Paul Road in RB with PNOD zone.

Matt Sinacola was present to represent the application.

MR. SINACOLA: Good evening, Mr. Chairman, members of the Board. Matt Sinacola with Passero Associates tonight representing Jack Howitt. If you would like, I -- I have a larger version of what you have in the application if that is helpful. It may not be necessary. So.

PAUL BLOSER: Dorothy (Borgus), can you see them up here without a problem?

MS. BORGUS: Yes.

PAUL BLOSER: Do you want a print there?

MS. BORGUS: No. That's fine. I looked at it in the Building Department.

PAUL BLOSER: The gist of this one, is a few months back they were in here for the apartments on the northwest corner of this project, as they -- the setbacks were in violation due to the window wells that were included and they were not caught on the original site plan. So reading this, not to steal your thunder, but we're at the same thing again.

MR. SINACOLA: We're at the same thing again, so if this looks familiar, it is. The -- the background -- I have the benefit of Jess Sudol being here from our office. He was present at the Planning Board. That is relevant in that the plans had been developed for Phase 2. The units, the town homes are subsidized, and the way things have gone down -- my understanding is there was a desire to maximize the driveway length and to -- as a result, shift the building back a couple feet to take advantage of fact that there is a 2 foot jog in the front of the buildings. That worked out well. However, it did the opposite of what, I believe, we stated that we didn't want to try to do, and that is encroach on the rear setback, which had been designed for 25 feet, but that did push these window wells yet again into that setback, 25 foot setback, rear setback.

We made an attempt to modify the location of these wells around the buildings, the two end units for each of the four building clusters. We shifted the wells to the sides where there is additional room, so that eliminated the number of variances as much as possible, but there was not anything we could do about the two center units in each of the four building clusters. So the setback from the nose of that window well would be 23 1/2 feet. We thought it would be prudent to request the 2 foot variance just to allow a foot or so or have a foot or so of slide depending on how they're constructed in case there is a little mess up there.

That is essentially where we are tonight. We're asking the Board to consider a 2 foot variance for each of the units listed, 50, 51 right on down to 77, just as the application shows.

There -- is there anything you want to add to that, Jess (Sudol)?

MR. SUDOL: No. An --

MR. SINACOLA: Again, I have a layout of the front of the unit, if you want to see that detail. There is a jog, 2 foot jog. As I say, the thinking there was we will benefit by pushing the buildings back a foot. Um, the alternative, of course, would be to redesign the units entirely and

have non-standard layouts for the units. It would be a good deal of cost and delay associated with that. We would very much like to keep things the way they are, keep standardization.

Again, because of the window, the little wells, it just doesn't seem practical to modify everything else for the sake of those wells. So that is where we are and why we're here tonight.

PAUL BLOSER: Just for clarification, a couple of things here that I'm going to go on the driveways, because I know Planning Board, attending those meetings, that was a concern, so we could accommodate a couple of car lengths and still clear the sidewalks, because we're putting sidewalks in this. We didn't want cars parking over the top of the walks.

The one thing I really want to clarify, Matt (Emens) and Jess (Sudol) on this print, are there other window wells -- is any of the main house structure, other than window well, going into that additional 2 feet or is it strictly window well?

MR. SINACOLA: No. It's just the window wells. As you can see, the back -- the back building line, unlike the front of the buildings, is -- is a straight line shot and it's parallel with the property line to the south as well as the property line that abuts to The Father's Home. So just the window wells themselves are -- are the -- are the issue. And --

PAUL BLOSER: One of the questions I have for Counsel on this, is in doing the preliminary consideration on this for conditions of approval, one of the things I would like to write into this is that this variance is for -- to accommodate the window wells. That any request to add onto this structure to obtain more living space would be not acceptable going forward.

This is strictly to accommodate window wells. Is that a possibility?

MICHAEL JONES: Um --

PAUL BLOSER: Because then we'll get into nonconformity of the units if people decide to put, you know, a deck off it or extend a kitchen out over the top of it or -- or start building stairways out of the basements. It gets into other things that now you're getting into more.

MICHAEL JONES: I understand that, I think, Mr. Chairman, what you're saying. I think, however, there is a legal impediment to making a decision on a future application that is not before the Board. So if some future resident wanted to make an application, they certainly have the right to do that.

Now, if -- this Board can make certain findings that is -- a -- certain things in coming to its decision here, but you can't restrict a future property owner from making an application. You have to take that in due course. So I don't think it would be a proper condition to say you can't make a future request for a variance if some other owner has the property at some other time. If I'm misunderstanding your question, I apologize.

PAUL BLOSER: No. You covered it. Then probably in my findings I will be clear that our decision is based on this being proposed for window wells only? If any other structures were to be built --

MICHAEL JONES: The Board could certainly make the finding that the layout of the development as a higher density with closer living spaces to each other and it would be inappropriate to allow a variance for additional living space, but because it is only window wells, you could make the finding that is okay. So you can put the language in there, but you want to base it on what is in front of you.

PAUL BLOSER: In findings as opposed to conditions?

MICHAEL JONES: I would say you put it in findings. The Town can capture in the property card in the file so when future applications come, a future Board would have that --

PAUL BLOSER: That's what I'm looking for. So in 10, 15 years, future Boards, not saying, "What were these guys thinking?"

MICHAEL JONES: I want to just say, it would be helpful because I'm often asked to look at Zoning Board determinations from 20 years ago where there is very little language to help me determine what the intent was at the time. So the more language you put in to talk about what your intent was at the time, the better. It would be for Counsel and future Boards in exercising interpretations.

While you have me on the floor, I do want to just inquire, Mr. Chairman, there was an amendment to the notice and I want to be sure when you read it, if you included Lot 64. There appears to be a total of 14 lot variance requests. 64 was amended to be included, and I just want to make sure that we're all clear that that lot is part of the application.

PAUL BLOSER: Lot 6-4?

MICHAEL JONES: Yes, Mr. Chairman. It wasn't on the typed-out notice, but it was included in the application, and -- and the notice to neighbors --

PAUL BLOSER: I see it in Passero's cover letter there.

MR. SINACOLA: Yes. I point out, Mr. Chairman, that we specified in the application letter that the -- the required 25 foot rear setback separation between egress window wells and the rear property line. So we're making that clarification, if you want to just emulate that language in your resolution, if you so decide to do that.

PAUL BLOSER: Thanks, Matt (Emens). I do have a copy of this one.

MR. SINACOLA: Thanks.

PAUL BLOSER: Matt (Emens), respectfully, I hope you know where I'm going with this, too. It's a project. We want consistency, and to have one go off and do something, it creates --

MR. SINACOLA: Understood.

PAUL BLOSER: -- other things. So I just want to be clear what our intention is, as a Board.

MR. SINACOLA: Yes. And it's -- it's -- as I say, we -- the intention right from the beginning, after the situation with the lot -- the first lot was not to have to do this.

But subsequent events and input from the Planning Board sort of drove us in this direction.
PAUL BLOSER: That's fine.
And I rather catch it up front than have it come back in later.
MR. SINACOLA: Great.
PAUL BLOSER: That's good.
Any other questions from the Board?
MICHAEL JONES: I have a question to the applicant. Are these units to be sold to future homeowners or to be rented?
MR. SINACOLA: I believe they're sold. They're town homes.
MR. SUDOL: They're subdivided as if they have the ability to sell them, but right now the intention is to rent them. They haven't put together a Homeowners' Association or anything. But they do plan to rent them for the foreseeable few.
MICHAEL JONES: So ultimately my next question is no HOA?
MR. SUDOL: No. There was a condition of Planning Board approval at such time as the first one was sold, the HOA would have to be in place.
MICHAEL JONES: Mr. Chairman, you could ask -- require -- if there is an HOA, an HOA could certainly put restrictions on additions and expansions, so that might be another road to --
PAUL BLOSER: On the condition of approval?
MICHAEL JONES: Yes, but they don't seem to have an HOA at this point, but that would be something you can talk about at the time. So this is just making you aware that this is a concern this Board has so if we get to that point, the request would have a restriction on it.
That is the only comment I have on it.
PAUL BLOSER: But that would be before Planning Board also, right?
MICHAEL JONES: Yes.
ADAM CUMMINGS: So nothing we have to worry about yet.
PAUL BLOSER: No. I won't include anything with it.
MICHAEL NYHAN: I'm sorry. I have a couple of questions.
On these window wells, are there any covers on these windows wells, or are they level with the ground?
MR. SINACOLA: They're level with the ground. Again, they're designed to allow egress from the building itself. So the window, as a part of the building structure, is -- is open, but given that it is below grade, the well just keeps this an open space so that occupants can exit the building.
MICHAEL NYHAN: The actual foundation, there is no part of the structure that is going to be in that 2 feet you're requesting, just the window well?
MR. SINACOLA: No, no, no. That is what I was getting to in my questions.
ADAM CUMMINGS: So I'm led to believe all these will have finished basements? Is that why you're putting in the egress --
PAUL BLOSER: Or potential for it.
ADAM CUMMINGS: That is why you're putting them?
MR. SINACOLA: I think they're half underground --
MR. SUDOL: No.
PAUL BLOSER: Fully.
MR. SINACOLA: So it is sort of a windowsill of this height (indicating), that opens and it allows you escape from -- from the lower units then. It is about a 3 foot drop or so.
PAUL BLOSER: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I also noticed that number score was -- lot number score was not mentioned in the application. But there is a bigger problem. If you look at the applicant's paperwork under -- on number 7 where it says, "Brief description of project," if you look at the first notation of lot numbers, there's 14. That same number 7, the second notation of lot numbers, there's 12. The numbers aren't the same. I don't know who prepared this, but maybe it's the same person that did the measurements so they never seem to have enough inches. I don't know what you want to do about that, but that's not correct. They're only asking in that paperwork for 12. 68 and 69 are mentioned in the first instance under number 7 and not repeated when -- in the later line -- lines.

ADAM CUMMINGS: They're in the cover letter, too.
MS. BORGUS: All of them.
PAUL BLOSER: The cover letter, yes.
MS. BORGUS: The cover letter is not the application. The application should count for something here.
ADAM CUMMINGS: I agree. I agree.
PAUL BLOSER: The sentence does start out, "This area variance application concerns the town homes on lots" -- and they're all listed.
MS. BORGUS: We're talking about the application.
PAUL BLOSER: On number -- on number 7, brief description.
MS. BORGUS: Well -- yes -- well, there is 14. There were 13 in the -- in the Zoning Board notice. There were 14 in the first line. But then if you read it, read the rest of it, two lots

are left out. There is no 68 and 69.

MR. SINACOLA: Yes, you're right, Dorothy (Borgus). 68 and 69 were mistaken.

MS. BORGUS: Come on, people. This is an important project. We can't measure -- I mean, we're trying to cram so many -- there is your problem. Cram so many lots -- units on that piece of land, that the corners are cut off of the lots. I mean, they're not even -- they're not even rectangles. They're odd shapes because the corners are lopped off in order to jam them in, jam them in.

If you remember, they were here in December of 2012, on the 18th of December to be precise, and again, they didn't have enough footage. They were short feet again for properties 12, 14, 16, 18. Mia Terrace. Homeowner -- home town units on Lots 7 through 10.

Again, they didn't have enough land. Now they're back, haven't got enough land again.

Well, are they going to keep coming back? How many times are they going to come in here and beg, I don't know, a mistake? I don't know. I don't know what they can chalk this all up to. But it's -- but it's very messy.

PAUL BLOSER: I -- Dorothy (Borgus), I understand what you're saying. I will say, though, on their cover letter, proposal on the application, all of the lots are identified as -- as requesting the variance for the 2 foot. Yes, the two of them were missed. We missed it on here (indicating).

MS. BORGUS: Right. That is the Building Department's problem.

PAUL BLOSER: So to err is human.

MS. BORGUS: Well, not over and over, because it looks to me like every five months they're coming in with an error.

PAUL BLOSER: The scope of the project is in my cover, and within 7, all of those units are covered in brief description.

MICHAEL JONES: The property is appropriately described in Number 1 being the property address, where it would be necessary to describe the property. Number 7 is a brief description of the project which would not require the identification of the lots, just a description of what you're doing. It is sloppy, there is no question about it.

MS. BORGUS: Sloppy is a very descriptive -- good descriptive word.

MICHAEL JONES: Thank you. But -- it is. But it is legally sufficient insofar as the lots are addressed at the proper section of the application at Number 1, and again, in the cover letter. So I just want to say it is legally sufficient in the application, but sloppy.

And that's their -- their -- you know, that lands on them.

MS. BORGUS: Right.

Thank you.

I would hope that this Board makes it clear to the applicant that we don't want to see them -- I, as a taxpayer, I don't, and as a Board, I wouldn't think you would want to see them back here and here again because they're short 6 inches somewhere, or 2 feet, or a foot or something. They don't leave themselves any room. When -- when they come up with a plan that is this dense, you better have it right.

You can't keep coming in here, you know, pleading your cause and thinking that everybody is just going to keep turning their head, letting it go.

Thank you.

PAUL BLOSER: Thank you for the comment.

I -- I agree that the information wasn't continuous 100 percent, but if we look at the whole package, I looked at the map, the cover letter, Number 1, they all are -- they're included in the package enough places that I'm comfortable with what they're doing. And I agree it's not 100 percent.

MS. BORGUS: Not kosher.

PAUL BLOSER: But neither is ours.

MS. BORGUS: Well, we can deal with that ourselves. We should be able to.

Robert Mulcahy made a motion to close the Public Hearing portion of this application and Robert Springer seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

JAMES WIESNER: Is this the last phase of the project, do you know? Or is there more to it?

MR. SINACOLA: There is a commercial section next to Phase 1.

PAUL BLOSER: On the west side of the property facing Wegman's parking lot.

JAMES WIESNER: This will be the last application theoretically for variances with the town homes?

MR. SINACOLA: Yes.

PAUL BLOSER: There is nothing on that commercial side of it that requires a variance, is there?

MR. SINACOLA: I don't think it has been specified. There is no -- there is conceptual layouts, and some amenities that were desirable to kind of mesh with the overall sort of community concept or the PNOD approval, but the exact building layout and so forth, that will have to be determined.

PAUL BLOSER: Site plan approved, final approved on that phase?

MR. SINACOLA: I don't think it --

MR. SUDOL: No.

MR. SINACOLA: Not final. Just conceptual layout.

JAMES WIESNER: Site plan has been approved for Phase 1 and Phase 2 of this project?

PAUL BLOSER: Yes.

JAMES WIESNER: Okay. That's all I have.

ADAM CUMMINGS: I haven't seen any architectural on these, but you said they're standardized units. Now I'm just looking at alternatives here. The way I view this there are three alternatives for the window wells. In the back, none, and in the front.

Is there any way to build them on the front in a little space? I know, you have the garage there and probably the front stoop with the front door. But there is a knock-out there. Just -- just as a third option.

MR. SINACOLA: I don't think there is a lot of option for the front. They may not be designed that way.

ADAM CUMMINGS: Would alleviate us having to grant variances is what I'm getting at. Because we're supposed to find the minimal acceptable variance.

ROBERT MULCAHY: Some of them are on the side.

ADAM CUMMINGS: But those aren't here for variances. Those will be minimized.

MR. SINACOLA: Yes. The actual -- the actual -- I would have to see -- I would have to look at the interior layout architecturally to see if it is possible in the front. Again, I'm not sure it would be desirable to put them in front.

MR. SUDOL: We can't put it --

PAUL BLOSER: That would have to go through Architectural Review, and it would be thrown back at Planning Board also because the site plan is already approved.

MR. SUDOL: The simplest answer is that's where the electric and gas meters are installed. Pretty much the frontage is either the man door, the garage or the meters.

ADAM CUMMINGS: Perfect answer. "Desirable" wasn't cutting it for me.

PAUL BLOSER: Any other questions, comments from the Board?

On conditions of approval, I don't think there is really anything to add to it at that point. I will cover that under findings.

ADAM CUMMINGS: Now we just hope for an accurate surveyor to lay these out.

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

Robert Mulcahy made a motion to approve the application with the following conditions, and Robert Springer seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved, as amended, with no conditions, and the following findings of fact were cited:

1. The requested variance is not significant in nature. It is necessary to accommodate window wells below grade that are installed as egress from the basement. During site plan placement of building on lots, the wells were not considered part of the structure. In addition, it is the Board's intent that the variance is for the window wells only. Should any of the units be sold to private ownership and/or a Homeowners Association is created, we would like the Planning Board to consider a clause to be added during approval, that the main structure WOULD NOT be allowed to be increased in size (living space area) within this two foot change in setback.
4. Application of Wadhams Enterprises, c/o Richard Wadhams, 369 Bostwick Road, Phelps, New York 14532; property owner: Curts Properties; for variance to allow front parking for approximately 12 vehicles per plan submitted (formerly approved for display vehicles only) at property located at 997 Beahan Road in LI with ADATOD zone.

Jess Sudol, Richard Wadhams and Matt Sinacola were present to represent the application.

MR. SUDOL: Good evening. My name is Jess Sudol from Passero Associates. With me this evening is Mr. Rick Wadhams from Wadhams Enterprises. They are proposing the redevelopment of the 997 Beahan Road property. We're currently working with the Planning Board on the site plan approval end of things.

Just to give you a very brief overview of the project, it includes an expansion of a parking area in back of the existing facility to basically house several or roughly 50 to 75 trucks. What Wadhams Enterprises does is they do local fuel distribution. Although is not zoning issue, just for everyone's benefit, the trucks aren't full of fuel when they're at the facility. They go pick up fuel and then they distribute it throughout Monroe County and other areas in the vicinity of our region.

The variance that we're seeking tonight is for parking in the front setback. The project was

formerly AutoCrafters and they had a vehicle display area which is shown -- I'm sorry. It is kind of tough to make out being it is a little far away, but right here in the yellow (indicating) is an existing paved vehicle display area. And when they were in operation they generally had about a half dozen vehicles out there for their business, which I won't get into the specifics of that, but it was appropriate for them to have vehicle display at that time.

Right -- because it was vehicle display, it doesn't lend itself to a geometric and efficient way of parking vehicles, so we decided to take it upon ourselves to -- instead of just living with what we have and try to slightly improve it so it works for the visitors of the future Wadhams Enterprises facility.

We're actually not putting any more pavement any closer to the Beahan Road right-of-way. We're actually move -- or adding a strip of pavement shown in pink to the west. That will allow head-in parking for the facility so any headlights would be pointed towards the building and not out towards the road. Actually, our first thought was to put them out towards the road, but we quickly realized the most efficient way to do it was to put the head-in parking in.

And the second benefit was it -- we weren't increasing or making the situation any worse. As I stated, 60 foot setback and right now the pavement is only about 29 feet and change from the right-of-way. We recognize that although it is an existing condition, that we're inheriting as purchasing the property -- or I'm not inheriting, but Mr. Wadhams is, we did decide it merited some mitigation. That is why we proposed some additional landscaping.

There are a few trees out there now because we're proposing to fill in the gap and add about another half dozen trees that will grow to full size, not just bushes to mitigate that additional parking.

If you look in the immediate vicinity of the project as far as character of the neighborhood is concerned, the projects to the south of us and the projects down around the corner on Paul Road do have similar facilities in that there is parking in the front setback, the front yard. Um, maybe not as much landscaping as we proposed, but I would just like to hit that checkmark because it is one of the five proofs that the Board would consider as part of an area variance application.

Something else I wanted to point out logistically, if we weren't able to use this area for what we're basically calling our visitor parking, it would have to be displayed somewhere else on site and there is a 100-foot buffer to the north here that we're doing everything we can to maintain. We don't want to come in here and ask for a variance to be in the buffer because there is single-family residential homes on either side of that. So displacement of that parking would lead to more disturbance and vegetation removal and potentially us having to serve more area in that 100-foot buffer which we're trying to avoid.

The last thing I wanted to point out, that the employee parking areas are right here (indicating) to the north of the building, and these areas back here (indicating) primarily are for the truck driver. What they do is they come, they park next to their truck. They get in, and then they leave for the day and do their route and they come back and get their trucks. That all happens in the back.

It is not a peak-hour thing where 80 trucks leave in 15 minutes. You know, it's a couple every ten minutes or so. But what we want to do is we don't want to have our visitors roaming around back here trying to figure out where they're supposed to park because then they could potentially come in conflict with some of those trucks that are leaving and coming. It works well when they can come into the facility in a clearly designated parking area right in front of the building where our entrance is so they're not going to have much conflict with those trucks going back and forth.

Again, as far as it being a significant variance, it is one that we have inherited and it is substantial, I should say, not significant in it is about 50 percent of the variance requirement, but again, all we're doing is holding the existing edge of pavement, basically squaring it off so we can park cars there. We know, if we just leave it there, people will still try to park there because they're going to be all over the place and it's not going to work well. Again, we're trying to mitigate our proposal by adding that landscaping which is a note that Conservation Board has approved. Before this Board asked for the area variance. We're going to continue to work with the Planning Board on the other multiple aspects of the site plan review and hopefully come to a conclusion at some point late this spring, early summer where Mr. Wadhams can start construction of his new facility.

PAUL BLOSER: Jess (Sudol), if you could comment a little bit about his current operation, where it is, how this is going to be different.

MR. SUDOL: Absolutely. Currently, I they operate out of Bergen, New York, and with gas prices the way they are, it's become pretty inefficient considering most of his business is centralized to the City of Rochester and central Monroe County. So it is pretty expensive, if you can imagine, for them to drive from Bergen into the city, fuel up, run their route and drive all of the way out to Bergen.

This area was identified as being ideal because for starters, its proximity to industrial Chili. You know, the various interstates, the airport so on and so forth. And just in general its proximity to Downtown Rochester and their ability to pick up at some of the local fueling stations -- not fueling stations, but large fuel dispensers.

MR. WADHAMS: Hess.

MR. SUDOL: Hess is right down the road, right on the other side of 390 and so on and so forth. So they really save that 15 to 20 mile hike back and forth to Bergen every day.

PAUL BLOSER: Thank you.

I guess I'm going to comment starting with saying that I have gone -- last week I went out to the Bergen -- the Bergen facility just to take a peek at it, what the operation looks like, and this past Saturday, I drove out to Phelps. I was out there for another purpose, but I went over to where their operation is there just to kind of take a look at the yard and see how they take care of things. One of the comments I will make is for several years, I have seen their trucks on the road, and I have always made a mental note of how clean the trucks look. I don't see that a lot. So...

MR. WADHAMS: Thank you.

PAUL BLOSER: So I compliment that.

The yards, as far as storage of the vehicles and everything looked very organized and kept. That's an important thing in my mind. What are they doing now? Because that philosophy would carry over I'm sure.

One of the things I like about this is, you know, we are in the near future, County looking at opening up Jet View to the 204 Exit, which would be a great benefit to this operation. I know there is some paperwork issues right now with the County and the State with that project, but it would make their goal of making things more efficient much --

MR. SUDOL: Certainly.

PAUL BLOSER: More palatable beyond what they're looking at right now. I just wanted that out on the table to start with.

One of the things I'm concerned about, front parking, um, and I would be putting a clause in here, as far as condition of approval, that there would be no parking for storage of tractors or trailers or a combination thereof in those spots.

Strictly passenger vehicles, non-commercial plated vehicles. That would maintain pretty much what we have got under current approval, vehicles being allowed to be there. While some of those plates are commercial, because they were RG&E trucks or telecom trucks or whatever, they are of a passenger size vehicle or SUV. And I would want to put that as a condition -- I wouldn't want to see tractor-trailers out there.

MR. SUDOL: We're comfortable with that. We have no intention whatsoever to use that for any commercial vehicles.

PAUL BLOSER: It is just something I would want to put in the notes, I think, for the -- for the comfort level of neighbors, but also to maintain what some of your neighbors are doing right now, existing businesses right there.

It's for -- it's for guest parking, visitor parking. I know Pike Place, they're a couple doors down from you. Their visitor parking is right out in front and the trucks are out in the back. So I would impose that.

Other than that, I don't have any questions right now.

JAMES WIESNER: I was just trying to find out, looking back at the previous Planning Board decisions where it was approved as a parking lot. Are you aware of -- I don't see --

MR. SUDOL: The Town staff informed us that that area was actually approved as a vehicle display area, not a formal parking lot.

PAUL BLOSER: Yes. That is correct. They had vehicles parked out there that they had done for customers to show what they did there as a business, so it was more of a long-term parking than just people in and out.

JAMES WIESNER: Okay.

PAUL BLOSER: So --

JAMES WIESNER: Just one comment I see says, "Shall be constructed of concrete," which obviously sounds like it is asphalt out front. What I saw was asphalt.

MR. SUDOL: Right. Um, I was aware that was a condition that was concrete but it looked like asphalt to us. Our intention would be to put asphalt and not lay concrete.

PAUL BLOSER: And stripe. You will have to meet codes for handicapped.

MR. SUDOL: Town Code for parking lot size, drive aisles.

PAUL BLOSER: As per site plan.

JAMES WIESNER: This will still come before the Planning Board for site plan?

PAUL BLOSER: For site plan.

JAMES WIESNER: Just presented at this point.

MR. SUDOL: Yes. In order to obtain site plan approval, we need our variances in place.

PAUL BLOSER: Has there been anything sent to architectural yesterday?

MR. SUDOL: Well, there are no changes to the building proposed.

PAUL BLOSER: Entrances in the front or facade or anything?

MR. SUDOL: No. It's also in an Industrial District, which I don't believe is subject to Architectural Review.

PAUL BLOSER: What about -- did they put a condition for Conservation Board approval?

MR. SUDOL: No. They actually signed our plans, the Conservation Board did, and approved.

PAUL BLOSER: Okay.

MR. SINACOLA: I can chime in on that, Paul (Bloser). I was present and made the presentation to the Conservation Board. They had a couple of minor comments about salt tolerance for some of the trees and some of the plants that we're choosing. They want to try to preserve some of the screening that is existing out around the pond.

PAUL BLOSER: Okay.

MICHAEL NYHAN: Normal hours of operation for the facility?

MR. SUDOL: The -- well, Rick (Wadhams) can answer.

MR. WADHAMS: I'm Rick Wadhams. Normal hours, we're -- we're 24/7. The trucks are -- they cycle, you know, all through the -- the day and night. They're not coming out in masses and returning in masses. We stagger them because they go and load at the same -- several of the same facilities, so we try to spread them out.

As Jess (Sudol) says, we do a major amount of our work right around the Rochester area, Monroe County. We also do some longer haul stuff where we'll send trucks out of this facility to work in Albany for the week and they won't return until like the weekends or maybe we staggered them over the weekend.

We haul product out of -- out of like Warren, Pennsylvania back up into the Rochester area for the Delta Sonics, and those trucks, they make like one run a day. They're not continuously in and out of the facility. They will leave and be gone for, you know, ten hours or so. But we stagger them, you know. It's a -- it's a 24/7 operation.

MR. SUDOL: With respect to this operation, the area in question is just for visitors, the more typical 9 to 5 hours.

MR. WADHAMS: Yes. I'm sorry.

MICHAEL NYHAN: So the employees park in the side lot or the back lot?

MR. SUDOL: The employees that work inside the building park right here (indicating). And then the employees who are actually driving the trucks park out in the yard.

MICHAEL NYHAN: So no overnight parking in the front area of the building?

MR. SUDOL: That's correct.

MR. WADHAMS: No.

MICHAEL NYHAN: How many -- what are -- what do the customers come to the building for? How many customers a day -- it sounds like a facility really for employees to pick up trucks and leave.

MR. WADHAMS: Yes. We're not really a convenience store or anything like that.

PAUL BLOSER: Just like the Staples stationery guy?

MR. WADHAMS: Yes, something like that. We're more their customer. But they still need a place to park. And UPS and things like that possibly. You know. But customer may be one of our clients that may be -- one of the Hess stations or Delta Sonic people that we deal with, or 711 or people may just come in and have a -- basically have a meeting and, you know, be there for an hour or two and leave. You know. It's just trying to keep a designated area like Jess (Sudol) said so they aren't hunting around out back where the trucks are and try to find a place to park and walking through that -- the parking lot or the shop or something.

MR. SUDOL: One of the things that we're dealing with is the zoning code requirement on the amount of required parking, which is -- I was just reading through it based on the map and employees per square footage, it is actually 35 parking stalls required which is about where we are now with the front and this area to the north, because we don't count the tractor-trailer storage in the back. So whereas, we do -- we need all 12, probably, you know, that is probably a rare circumstances, but we do need those 12 in order to meet the zoning requirements. And if we weren't able to put them there, as I mentioned earlier we would have to find another home for them on site because we're still trying to stay within the confines of the zoning code.

Again, it was fairly an easy fix for us because we only had to add a small strip of pavement and clean up what is essentially an existing condition.

MR. WADHAMS: There may be days where they are not used because we don't have any visitors.

MICHAEL NYHAN: The building itself, what is inside the building?

MR. SUDOL: There is going to be a dispatch, and then there is also is a -- basically a minor repair area. Minor as they only do minor repairs to the trucks. They basically get them out of the weather and change plugs or change tires or that kind of thing because they have a lot of them.

MR. WADHAMS: Preventative maintenance.

MR. SUDOL: They will have their office, a small office.

MICHAEL NYHAN: Office employees in the building, as well?

MR. WADHAMS: Yes. There is a -- dispatchers and the clerical people. Yes.

MICHAEL NYHAN: Okay. All right.

PAUL BLOSER: This is a -- this is -- the type of business is approved by code in this area.

MICHAEL NYHAN: Just getting a feel for the type of traffic we're seeing.

PAUL BLOSER: A couple hundred foot across it --

MR. WADHAMS: Yes, around the corner.

PAUL BLOSER: The same type of trucks, the same type of business.

MICHAEL NYHAN: I notice in the front of the parking area, on Beahan Road and the building, there -- you're putting in additional screening.

MR. SUDOL: That's correct.

MICHAEL NYHAN: Any berming or just screening with trees?

MR. SUDOL: Some berming, as well. We're going to have an excess of topsoil as a result of the large box out of the lot that we have to do, so we're going to berm up not only that area there but also on the other side of the access drive to kind of close ourselves in there.

MICHAEL NYHAN: So any visitors that come in will come in the front door of the building, correct?

MR. SUDOL: Correct.

MICHAEL NYHAN: Is there any plans -- I don't see any on here for any kind of buffer or berming, either to the north or the south, because as you go down Beahan Road, that's really

when you're going to see the parking lot.

MR. SUDOL: There is actually a 100-foot buffer to the north that is heavily vegetated now. That buffer gets applied. You can't put a building in an impervious area in there. But on top of that we are also trying to limit the amount of grading that we do in there try to maintain that existing vegetation. To the west of us is the old railroad bed and the south of us is more large industrial activity, so there is not really screening warranted there.

MICHAEL NYHAN: I'm referring specifically to the front parking lot.

MR. SUDOL: I'm sorry.

MICHAEL NYHAN: As you pull in the driveway to the north and south of that, there is nothing to the south of it when you come down the road to block that parking lot from anybody's view that is driving, and there is very little or small trees to the north of that. So in the main drive where you pull in, and just to the south of the building, at the edge of that parking area where there is nothing, can there be vegetation or berming there to further block that parking lot?

MR. SUDOL: Yes. We could wrap it around the corner, specifically on the south end of the parking lot, add another tree or two.

MICHAEL NYHAN: Will this be a lighting parking lot?

MR. SUDOL: No, not in the front. Just from the building. We're not adding any lights to the parking lot.

MICHAEL NYHAN: Okay. And I think -- so you will have -- so you will have a barrier then to the north and the south of just that parking area in front to block that front view from both the neighbors to the north and from vehicle traffic on Beahan Road; is that correct?

MR. SUDOL: That's correct.

MICHAEL NYHAN: I don't have any other questions.

FRED TROTT: Yes. How do you -- how many tractor-trailers do you have?

MR. SUDOL: Total, you mean spaces in the --

MR. WADHAMS: Total spaces, right?

MR. SUDOL: Not.

FRED TROTT: I guess my point is I'm trying to understand how you have all the space for the tractor-trailers and so little space for your employees.

MR. SUDOL: Because of that 24 hours of operation, the even distribution, the yard is always roughly half full so there is a lot of open spaces back there. It is the same way it works in the Bergen facility and the Phelps facility where they do the exact same operation. There is enough open spaces where they can literally park right next to the truck and get in and go and that has never been an issue before.

To answer the question, there is 67 spaces for the actual cab, for the trailer, and then there is a 35 spaces for the actual truck itself. We actually differentiate between the two. But because there is constant -- that ebb and flow of people coming and going, there is always ample space in that back lot for people to park and it's been proven at their other -- actually, much smaller yards where they have a similar amount of traffic and trucks.

MR. WADHAMS: There is roughly 30, 35 tractors, and -- and the additional spaces are for the trailers.

FRED TROTT: So I guess I'm trying -- I guess I'm -- I guess you're calling these employees spacing. You want to add these 12 here because you said you needed to -- for the space to have the right amount for employees. Technically for the zoning approval.

MR. SUDOL: Right. Well, that is part of it. I mean, there are several reasons.

FRED TROTT: So then, this isn't counting as employee parking?

MR. SUDOL: No. Our employee -- the employee parking in the zoning code is based on the square footage or max occupancy of the building and there will be those employees inside the building that we're accounted for. We're basically assuming the people driving the trucks and those employees in the back are essentially a wash. But the people that are in the building, that are driven by a maximum number of employees that could be in the building, and then it is also driven by the square footage of that building and its maximum occupancy that really drives the parking requirement that I'm referring to.

We're kind of just saying all of the -- we're not even counting the employees that are driving the trucks because we're assuming they take care of themselves in the back and they are also not accounted for in the code because they're not working inside the building.

ADAM CUMMINGS: I think to answer your question, Fred (Trott), we don't have the plan sheet that shows the parking calculations or the number of lots, but just strictly from our -- our zoning code, how many lots are required for this square footage building?

MR. SUDOL: How many spots?

ADAM CUMMINGS: Yes.

MR. SUDOL: 30 --

FRED TROTT: I'm looking at this as we have an overfilled bucket. I kind of have a problem with it, because this front lot, the intention of everything here has changed.

MR. SUDOL: Of the front lot?

FRED TROTT: Of the front lot. Yeah. I mean -- I can't sit there and talk about the whole building, but I know we're going to be seeing these people here again. For something. Come on. I mean, they're putting too much in here. It is just my opinion.

ADAM CUMMINGS: It really depends on how many spaces they need to supply per the zoning code. So it -- if they could shift the 12 over and shift them somewhere in the northern section of that, and shift some of the tractor-trailers over. Logistically it's probably not the best idea, but zoning code wise, it would fit.

MR. SUDOL: I mean, not to delve into what we consider a site plan review, but one of the reasons why they selected this facility, it gives them this nice geometrical square where they can fit with large, very wide drive aisles, a lot of maneuverability, a lot of the spaces that they need. Again, they're moving an operation from Bergen which literally has half the area that this presents with the same amount of people, the same people going to work. They're literally moving that operation here. They're not necessarily expanding. They're just moving an area here because it gives them the ability to have that mobility and maneuverability they don't have now in Bergen.

So we're very comfortable that this is going to work well for them. We're not going to come back and ask to the go to the north or go to the south or go anywhere like that.

FRED TROTT: You have no room for expansion either.

MR. SUDOL: We don't plan on expanding. There -- we know that -- we might have 69 trucks, maybe there is 62 coming from Bergen. But they -- you know, they don't plan on doubling in size. They plan on using their current operation in this facility which has been successful now all of the way from Bergen and now it will be even more successful if they don't have to drive down 490 every day.

PAUL BLOSER: Twice.

MR. SUDOL: Twice.

MICHAEL NYHAN: How many employees do you have in the building that work in the building 9 to 5 each day?

MR. WADHAMS: It's a -- again, it's a rotating staff. There may be -- oh, let's see. Maybe 15. 15 people in the building at a time, at the time. Including mechanics and office staff and dispatchers and terminal manner.

FRED TROTT: You said you would have dispatching from there also?

MR. WADHAMS: Yes.

FRED TROTT: Radio dispatching?

MR. WADHAMS: No.

FRED TROTT: Do you communicate to the trucks via radio?

MR. WADHAMS: No. It's all done by satellite. PeopleNet.

MICHAEL NYHAN: So if I count the spaces right between the side of the building, not the backyard, the side and the front, you have 36 spaces; is that right?

MR. SUDOL: That's correct.

MICHAEL NYHAN: 36 parking spaces that will be used for the 15 employees plus visitors?

MR. SUDOL: Correct.

And also shift changes. I mean, if you look at Creekside Commons, the maximum hours of operation there, you know, they have plenty of parking, but whereas that change over at 5 o'clock or 9 o'clock, whatever it is you have to account for an additional 10 to 12. So with 15 plus the extra 10 plus a handful of employees, we think we have it just about right here.

PAUL BLOSER: I am looking at this also saying a large part of the intent on this, Number 1, is for visitors. For the safety of those visitors, they don't have to cross truck traffic --

MR. SUDOL: Absolutely.

PAUL BLOSER: -- to get to parking spots.

MR. SUDOL: We don't want them wandering.

PAUL BLOSER: You're directing them into a visitors entrance rather than them parking off to the north and trying to figure out where the door is. They're not walking into the dock someplace. This directs visitors to the front door where they're going to be doing business.

MR. SUDOL: That's absolutely correct.

PAUL BLOSER: There is a lot of safety there because I'm looking where the entrance is. Any place else, visitors would have to be crossing truck traffic.

MR. WADHAMS: As far as the expansion, they have allowed for some growth. We have got -- we have less equipment now than they're actually showing spots for on that map. There is room for growth.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I'm hearing an interesting word tonight, "visitor." I looked through what you have there, in front of each you tonight, and you know, I didn't see the word "visitor" at all. It was supposed to be employee parking. That's the -- that was the theme.

Now, all of a sudden, we're here tonight and all of a sudden it's visitors. And my big problem was that, in the -- in their paperwork, they say that in the back, and you have read it, you have it in front of you, they have 36 -- spots for 35 vehicles, 69 trailers plus employee parking.

MR. SUDOL: Again, that is the functionality. We know it will function more as visitor and customer parking, but per the zoning code, it mentions it as being for employees, which is why the application reads that way.

MS. BORGUS: Again, that is -- Passero did this application, too. Just like the last one, I guess, things don't sometimes mesh up.

Um, under "Special circumstances," Number 8 on that form you have in front of you, it's very clear that they do not want to physically remove the existing pavement. Read it. This is for their convenience.

Number 3 under the criteria for area variance, they might just as well say "yes" when

they're asked if it is a self-imposed hardship. They might just as well say "yes."

I agree with Mr. Trott's concerns about -- there is so much parking there, it is hard for me to believe that they need these extra spaces. And talking about the extra spaces, it was asked -- I believe Mr. Wiesner asked, when -- when these parking spaces were approved for AutoCraft. It was on September the 8th, 2009.

And now they're saying in their paperwork this is a pre-existing situation, that they are just moving into as a new company. I was there before, so they're entitled to keep it. Well, guess what? That was approved for four spaces. Four. Not 12. Four. That's the approval they got in 2009. Four.

And it was -- as it has been pointed out, it was for display. It wasn't for parking. And those -- those display vehicles had to be moved -- they could only be there from 8:30 in the morning until 6 at night and from Monday to Friday and from 9 to 1 on Saturday. They were moving them all of the time. That wasn't meant to be parking. No matter what they say in their paperwork there, that they're entitled to something that was given to somebody else. They have a whole other slant on this. So if they think they're entitled to what anybody had before, then they get 4 vehicles, not 12.

Again, I -- I -- I don't know. I have worked -- I have worked in places over my working life where you could walk in from the back of a building and walk through if you were an employee. You didn't have to be at the front door or side door. You walked through the back of a factory. You had -- you didn't get in the way of equipment or what have you, but you -- but you lived walking through a building. So I think there is plenty of parking in the back for employees.

Another thing is, look at the Comprehensive Plan. Do we suggest front parking? Mr. Trott was on the Comprehensive Plan Committee. He knows. We -- it was to be discouraged at all costs. And these people talk about the -- you know, other businesses down the line having front parking. Well, Lord knows how long they have been there. Some of them have been there a long, long time when it wasn't an issue whether you parked in the front. Just because they got permission to do it or they did it many years ago doesn't mean we want that today.

I agree with Mr. Nyhan's point you will be able to see those cars from the side. They will have to put a lot of landscaping in to hide those cars from the side. And a lot of effort has been put in over the years to make that area more attractive, cleaner, better. This is no time to be just rolling over for -- for front parking. And for -- now, for visitors, which I'm sorry, but I looked through all of the paper you have in front of you and I didn't see the word "visitor." Didn't see the word "visitor" at all. And by their own admission at all they don't have visitors.

You know who will be parking in those spots. The employees. If they could get in the door with their car, they would try. They will -- the employees will take those 12 spots. You will have employee parking right in front of the building which is against everything in the Comprehensive Plan that you could possibly interpret.

And another thing I would like to point out, on the map, where they -- where they propose to put these -- put these spots, why -- why are there concrete parking stops in front of these -- these few spots on the end and they're not on the rest?

MR. SUDOL: Because there's a sidewalk there that is flush with the asphalt that we don't want the cars running into the pedestrians or blocking the sidewalk.

MS. BORGUS: Well, there is another pig in the poke. You know. I mean everybody thinks -- they come into Town and they can come here and we're just going to erase the zoning code for them. You know, they can -- they can make up numbers like -- like the prior occupant had 12 -- had these parking spaces. They did. They had display areas and they had four. They did not have 12. Don't buy that. There is a lot of issues here. The more that you keep giving in on front parking, the more you will be asked to do it. The more the pressure is.

It is time to draw a line in the sand and say no more. I don't care if it is down in an industrial area. I don't care if it is by the airport. I don't care where it is. You have got to come to a point where you say this is our code and no matter where it is, it applies.

Thank you.

Robert Springer made a motion to close the Public Hearing portion of this application and Adam Cummings seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

FRED TROTT: What is the Town Code for the parking spots?

MR. SUDOL: It's 9 feet.

FRED TROTT: 9 feet.

ADAM CUMMINGS: 9 1/2 by 19.

MR. SUDOL: Is it 9 1/2?

FRED TROTT: Because they have a couple in here -- they have one in here that is 9 foot.

MR. SUDOL: It is 9 1/2.

ADAM CUMMINGS: So that handicapped spot need to be expanded.

FRED TROTT: That is what I am trying to understand, how the handicapped parking there is only 9 foot.

ADAM CUMMINGS: You could shorten up the island.

FRED TROTT: Doesn't he need a variance?

PAUL BLOSER: You have the striped spot there that allows for extra room for that and for handicapped or for a van load and unload in parking.

ADAM CUMMINGS: But I think what Fred (Trott) is saying, that one slot has to be 9 1/2.

MR. SUDOL: Yes. Actually that striped area, actually by the building code only has to be 8 foot wide. So we only have to bump the stripe over a half foot, maybe 8 1/2 and 9 1/2 and make that code compliant. So we'll make sure we make that correction. The Planning Board won't issue site plan approval with a non-compliant parking spot there, so we'll fix that.

ADAM CUMMINGS: Actually, if you blow out those dimensions, those first two where -- where it is 16 feet marked off, that means those are actually 8 feet wide. To the east of those. Um -- not to nitpick the parking spaces.

MR. SUDOL: As part of the site plan approval, maybe we'll have to move that curb over to accommodate those spots that they will need.

PAUL BLOSER: That would have to go over a foot.

ADAM CUMMINGS: Through your iterations, did you look at any other spaces for the -- any other spots on the facility for those 12, or were they automatically chosen -- once again, I bring up alternatives.

MR. SUDOL: Well, we looked at putting them kind of back to back with where the 19 are. The problem is there is a large -- well, not that large but fairly decent drainage ditch through that would have to be piped through and there is -- is not an area for storm water management. We can't put it there. Now we have to actually put a pipe in, go to the other side of our storm water management area and out towards where that buffer area is to try to wedge it up in and do extensive grading and clearing to make that work, which is not desirable.

Again, we're trying to maintain buffer to the Residential zone more than anything.

ADAM CUMMINGS: So when you doubled them up, you obviously.

MR. SUDOL: The drive aisle.

ADAM CUMMINGS: Then you would have to shift your storm water facility somewhere.

MR. SUDOL: Yes. It pushes that storm water management area further north.

ADAM CUMMINGS: Probably get rid of the little fin there and expands it out a little bigger which would cause more grading or more cost.

MR. WADHAMS: You have to have a concern amount of swing area for the vehicles to go in and out of the shop, too. You couldn't bring that area too much closer to the building and -- and double it up.

ADAM CUMMINGS: I was looking that you would get rid of all that landscaping buffer for parking lot.

MR. WADHAMS: Would you encroach on the 100 foot?

ADAM CUMMINGS: Because I still have -- I know it's sensible design with the front entrance being there, but your main driveway with all of the trucks is going straight through there and then you got handicapped parking right there. So immediately you will be backing up into traffic going both directions. That is how it always pans out. It is just always a scary situation, in my opinion.

PAUL BLOSER: Those spots will actually be designated visitor parking as opposed to employee, in the front?

MR. SUDOL: We're not going to necessarily have visitor parking only signs everywhere, but as -- but it's our intention, you know, for good business they will want all employees to park here so they are more convenient for their visitors and customers similar to most facilities.

PAUL BLOSER: Are any of those in the front going to be handicapped?

MR. SUDOL: Um, now with all this talk, I think what we'll end up doing is moving the handicapped spot around the corner so it is closer to the front access. That makes a lot more sense now.

FRED TROTT: If you get a variance for front parking.

MR. SUDOL: Yes. That is one of the reasons why it is not there now.

PAUL BLOSER: As a condition of approval, if I put during business hours, visitor hours parking only?

MR. SUDOL: We wouldn't object to that.

MR. WADHAMS: I'm sorry?

MR. SUDOL: If we put parking -- if we assign certain hours to this lot where it can only be, you know, 8 to 6 or --

MR. WADHAMS: Yes. That wouldn't be a problem. Because that would be consistent with the previous --

MR. SUDOL: Yes, that makes sense.

PAUL BLOSER: -- approval that there is not overnight parking. You know, 24/7, right there. Strictly the -- your dayshift.

MR. SUDOL: Right.

PAUL BLOSER: Visitors. And I would -- I would like to see the handicapped out front, swing that run around that is in question as close to your front door as you can put it, where it should be. I will put that down as a condition of approval. Just curious if they have specific hours. Three conditions of approval I'll put on this.

Front parking is restricted to dayshift hours, 8 a.m. to 6 p.m. as consistent with the previous approval.

Number 2, no parking of tractors/trailers in front.

3, no parking of commercial type vehicles in the front. That keeps it passenger vehicle only.

MICHAEL NYHAN: Before we go on, Paul (Bloser), is there an existing work bay inside this building now or will you build it out? I see it is a proposed overhead door. Are those three proposed overhead doors -- are they existing now?

MR. SUDOL: I believe there is two now. We'll add one.

MR. WADHAMS: Two. Add one.

MICHAEL NYHAN: This is existing work area that you will be using for the repair of the vehicles.

MR. SUDOL: Inside the building?

MICHAEL NYHAN: Correct.

MR. SUDOL: Yes.

PAUL BLOSER: Which is -- that is what it was used for.

MR. SUDOL: Right. Which is again why this was a good fit.

MICHAEL NYHAN: Could the entrance to that be moved to the back of the building?

MR. SUDOL: I'm not sure -- how -- how does that pertain specifically to this? How does that pertain to the variance request?

MICHAEL NYHAN: Would it provide you with parking spots alongside the building and you could have vehicles parked over there, if that were moved --

MR. WADHAMS: Employee or personnel entrance to the back of the building?

MICHAEL NYHAN: The proposed overhead doors to enter the building to repair your visitor maintenance.

FRED TROTT: Still don't have enough --

MR. WADHAMS: Inside the building there is actually a dividing wall between that -- between the furthest door.

PAUL BLOSER: Already built out.

MR. WADHAMS: It's built out.

MR. SUDOL: The walls run north/south not east/west.

MR. WADHAMS: There is not room to bring a truck in from that direction.

MICHAEL NYHAN: Okay. I like to check.

Thank you.

PAUL BLOSER: Two additional conditions I would be putting on here would be Number 4, handicapped spot to be provided in the front. And five, this -- this is still subject to Planning Board site plan approval. So even if the variance was approved tonight, we still don't have final site plan. So in order for it to be in effect, they would have to approve a full site plan. And they would be looking at the parking issues, spots, handicapped sizes. That's their job. So pretty standard, you know, we put that in subject to Planning Board approval.

MR. SUDOL: Sure.

PAUL BLOSER: Okay. Is there anything else the Board would like to see as a condition of approval?

MICHAEL NYHAN: Landscape buffer between the -- on the north and south side of that front parking area.

PAUL BLOSER: In addition to what Conservation has already approved?

MICHAEL NYHAN: Yes. Because there is none there right now.

PAUL BLOSER: They have already approved and signed off on the plans.

MICHAEL NYHAN: Yes. Would you want to add that?

PAUL BLOSER: In addition to the shrubbery they're showing right now.

MICHAEL NYHAN: They're not showing any to the south.

MR. SUDOL: Are we talking about right here (indicating)?

MICHAEL NYHAN: Correct.

PAUL BLOSER: In the corner.

MICHAEL NYHAN: So the parking lot would not be visible from traffic on Beahan Road.

PAUL BLOSER: I see what you're saying.

MICHAEL NYHAN: Then also to the north, where your main entrance is --

MR. SUDOL: Here (indicating)?

MICHAEL NYHAN: Right at the edge -- right. There is also no barrier there any time.

MR. SUDOL: Well, there -- this is all heavily vegetated currently, so if you're traveling southbound, you wouldn't be able to see until you got right there (indicating).

MICHAEL NYHAN: When I was in your driveway, and I looked north, I could see a house. That is why I noticed that is visible. When you're in the driveway and look north, you can see a house. That is what I was trying to protect. The view from that house to that front area.

MR. SUDOL: Okay. In that case, I think it does make sense to put a couple right across from where the two connect.

PAUL BLOSER: So to the north side of the driveway --

MICHAEL NYHAN: Correct. Where the gate is on the driveway.

PAUL BLOSER: The south side of the front parking.

MICHAEL NYHAN: Correct. The south corner of the building.

PAUL BLOSER: Condition 6 would be additional shrubbery to the north side of the driveway entrance and to the south side of the front lot, purpose is to shield visibility of oncoming traffic and plan is to be approved by Conservation.

Okay? Anything else?

Paul Blaser made a motion to declare the Board lead agency as far as SEQR, and based on

evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Michael Nyhan seconded the motion.

FRED TROTT: I have a question. And it was approved and supposed to be concrete and they actually asphalted it.

Are you going to have to change --

PAUL BLOSER: I can put a comment in here that it be reviewed. I can send a letter to the Planning Board with that that their previous conditions be reviewed and --

JAMES WIESNER: It's for a different -- it's a totally different use. I don't think it would apply any more.

PAUL BLOSER: It's not really not a different -- well, it's --

FRED TROTT: That's why I'm asking the question.

PAUL BLOSER: I would have to pose it to Jim Martin and see if it is part of the site plan. It -- it's not part of us. It's -- it would be a site plan issue.

The Board all voted yes on the SEQR motion.

Michael Nyhan made a motion to approve the application with the following conditions, and Robert Springer seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 5 yes to 2 no (Fred Trott, James Wiesner) with the following conditions:

1. Front parking is restricted to daytime hours of operation from 8:00 a.m. until 6:00 p.m.
2. No parking of tractors or trailers in front parking area.
3. No parking of commercial vehicles in front parking area.
4. Handicap parking spot to be provided in front parking area.
5. Additional shrubbery to be placed on the north and side.
6. Subject to Planning Board site plan approval.

The following findings of fact were cited:

1. This variance request for front parking is similar to what the property neighbors have, and in similar businesses. As the neighbors across the street consist of an airport runway, there was no County objection. Use of this front parking is intended for visitor and handicap access use to keep them out of the traffic pattern of large commercial truck traffic maneuvering in their storage lot. The request is not significant in nature, will have no physical or environmental impact on neighboring properties and is the most appropriate spot for visitor spaces.

The 2/26/13 minutes were approved as submitted. (There was no meeting in March.)

The meeting ended at 8:35 p.m.