

CHILI ZONING BOARD OF APPEALS

April 26, 2005

A meeting of the Chili Zoning Board of Appeals was held on April 26, 2005 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: Peter Widener, Jeffrey Perkins, Dan Melville, Richard Perry, Gerry Hendrickson and Chairperson Beverly Griebel. Michael Martin was excused.

ALSO PRESENT: Daniel Kress, Director of Planning, Zoning & Development;
Keith O'Toole, Assistant Counsel for the Town.

Beverly Griebel declared this to be a legally constituted meeting of the Chili Zoning Board of Appeals. She explained the meeting's procedures and introduced the Board and front table. She announced the fire safety exits. The Pledge of Allegiance was cited.

BEVERLY GRIEBEL: Agenda Item 1, Jeffrey Hegadorn, I didn't have a problem with the sign.

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 2, Mark Trzyzewski, I was okay with that.

RICHARD PERRY: Had to drive all of the way around the curve to find it, but it was there.

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Okay. Number 3, Richard Burke, any problem with that?

RICHARD PERRY: No.

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Boy, this is going to be a record meeting.

Number 4, Matthew Coccia, any problem?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 5, Susan Knight, any problem with that?

RICHARD PERRY: No problem.

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Wow, that is a record.

DAN MELVILLE: Only five tonight.

BEVERLY GRIEBEL: Still that is pretty good.

One other announcement. The application from last month, Dario Marchioni, that was tabled, that was withdrawn by the applicant. I don't know if there is going to be any action on that in the future. I have no other information on it other than that.

1. Application of Jeffrey Hegadorn, owner; 235 Humphrey Road, Scottsville, New York 14546 for variance to allow the total square footage of garage area, including a new 32' x 48' detached garage to be 2,036 sq. ft. (900 sq. ft. allowed) at property located at 235 Humphrey Road in RA-1 zone.

Jeffrey and Lois Hegadorn were present to represent the application.

BEVERLY GRIEBEL: What are you going to be storing in the garage?

MR. HEGADORN: Motor home, a boat and a tractor.

BEVERLY GRIEBEL: And the size of your property, how large is that?

MR. HEGADORN: A little over six acres.

BEVERLY GRIEBEL: Six plus.

DAN MELVILLE: 6.780.

Is that garage needed for any kind of business activity?

MR. HEGADORN: No, absolutely not.

DAN MELVILLE: Concrete floor?

MR. HEGADORN: I'm unsure of that. I didn't want it to be a concrete floor --

DAN MELVILLE: You will have to be sure. If you will store motor vehicles --

MR. HEGADORN: If it has to be that way. The office people I talked to, they were unsure of that.

DAN MELVILLE: You will have to put concrete in it.

MR. HEGADORN: In that case, it will be.

BEVERLY GRIEBEL: Is that correct, Mr. Kress, if it is motor vehicles, it has to have a concrete floor?

DANIEL KRESS: State Building Code is very clear on this point. If there are motor vehicles stored in the building, you need a non-combustible floor, and the easiest way to do that is to pour a concrete slab.

DAN MELVILLE: I'm all set.

RICHARD PERRY: Do you know the height of your house?

MR. HEGADORN: Not exactly, but it is around 32 feet.

RICHARD PERRY: This will be shorter than that.

MR. HEGADORN: Oh, definitely shorter than this.

RICHARD PERRY: Will you build this yourself?

MR. HEGADORN: For the most part. The concrete work will probably be done professionally.

BEVERLY GRIEBEL: Do you do building for a living?

MR. HEGADORN: I used to. Years ago. I just started at Gas & Electric, so.

PETER WIDENER: One question. The setback from the road is 180 feet. Is that correct? I see the one arrow, but it seems -- it seems like that would be it, but I want to make sure. I have a 30 foot setback from the side lines, and then the road frontage, it looks as though it is 180.

DAN MELVILLE: 128, isn't it?

MR. HEGADORN: No, 180 feet back. It is roughly 10 feet behind the front of the house.

DAN MELVILLE: Oh, yeah.

BEVERLY GRIEBEL: The house is 170.

MR. HEGADORN: Yes.

PETER WIDENER: Same gravel driveway to the house?

MR. HEGADORN: Yes. I'm trying to use the same driveway that is already there so I don't have to do any extra.

PETER WIDENER: Will you widen the driveway at all?

MR. HEGADORN: No. It pretty much lines right up.

JEFFERY PERKINS: You had mentioned a tractor. Lawn tractor? What kind of --

MR. HEGADORN: No. It is a John Deere, 28 horsepower diesel tractor. I use it for the maintenance of the yard and some of the neighbors.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I didn't see a map up.

This garage is larger than one of the barns I have on my farm. Although my barn is two-story. Is this a single-story?

MR. HEGADORN: It's single-story usable space. I will have a high ceiling in the first floor.

MS. BORGUS: I didn't hear the question asked as to whether this will be painted the same as the house, or the style of it.

BEVERLY GRIEBEL: Can you tell us that, sir?

MR. HEGADORN: Yes. My house has vertical siding. This will also have vertical steel siding, colored the same. Or as close to it as obviously the manufacturer allows. It comes prefinished.

MS. BORGUS: Are there other barns this size on that road?

PETER WIDENER: Yes. The Drago barns on the one side are mammoth.

MR. HEGADORN: 60 by 120 foot barn across the road.

MS. BORGUS: Old barn?

PETER WIDENER: Old Schyuler (phonetic) farm down the road has a barn probably 30 foot plus in the air, long. Used for greenhouse purposes now.

MR. HEGADORN: The Bells (phonetic) have a small barn, smaller than this one. The new house up the road at the top of the hill has a brand new barn.

MS. BORGUS: I guess that is always my concern here is that we are starting a trend, and we pret -- pretty soon we have a whole road of, you know, fairly new houses with these humongous barns, and I don't know if this -- if in the long run that is a good plan. As this Town fills up more, we have to be made aware of making things blend.

BEVERLY GRIEBEL: How big is the motor home that you want to store?

MR. HEGADORN: 25 feet long. And motor home -- and that model line, it is the second from the smallest they offer.

BEVERLY GRIEBEL: That will take up room there.

MR. HEGADORN: Yes. I gauge the depth of the barn, the 32 feet, so I would have, you know, 2 or 3 feet on the front and back to walk around it. That is about as tight as I want to go.

MS. BORGUS: I didn't hear the question asked where are the things that are going to be stored in there in the new barn presently kept?

MR. HEGADORN: Strewn about the yard. Parked here and there in the driveway.

MS. BORGUS: I just think the Board should be aware that these garages, barns, whatever you want to call them are coming up very, very frequently lately, and I'm not sure it is a good trend. Thank you.

BEVERLY GRIEBEL: What are the green buildings that are back there on the right side of the lot? Are they sheds?

MR. HEGADORN: The one is open dirt floor, trying to keep the tractor out of the weather. The other one is just a garden shed with a rototiller, that kind of stuff in there.

BEVERLY GRIEBEL: Garden equipment. Okay.

MR. HEGADORN: Yes. Hand tools, things like that.

BEVERLY GRIEBEL: So this is going to get all your stuff undercover?

MR. HEGADORN: Yes. That is the main objective.

MS. BORGUS: One more question. Thank you, Madam Chair.

Will these other buildings be taken down and just this one barn now, or will we have a group of buildings?

MR. HEGADORN: No. I don't intend to take them down.

MS. BORGUS: Because if you remember, there was a three-sided shed that came before this Board not very long ago, and it came down because -- three sided sheds just don't fit in Chili.

PETER WIDENER: That was turned down because the square footage of the 10 acre plot was inadequate, and while waiting for it to be figured out, he withdrew. It wasn't all thumbs down.

MS. BORGUS: Several people on this Board did not like the concept of a three-sided building. That is another thing I don't think we need to see in Chili.

BEVERLY GRIEBEL: That was an oversized shed with an open front.

MS. BORGUS: Right.

BEVERLY GRIEBEL: In that particular case.

MS. BORGUS: This case is different?

BEVERLY GRIEBEL: Well, this is one that -- I don't recall this coming before the Board, so it must be small enough to be under --

MS. BORGUS: How big is it?

BEVERLY GRIEBEL: -- dimensions.

MR. HEGADORN: What is the question? I lost you there.

BEVERLY GRIEBEL: How big is the open shed?

MR. HEGADORN: 16 by 18 of usable floor space.

BEVERLY GRIEBEL: And the other one?

MR. HEGADORN: The other one, when I went to the Town to talk to them about building it five years ago when we first moved out there, I can't remember the exact dimensions, but it is kept to my existing garage. I have a small garage that is kind of built into the house. I don't know if you can see it from the road when you were there. It is very small. You can barely get any kind of -- anything other than a compact car in there. To keep under the 900 square feet, even though it is just a tool shed basically, they said since it had a wood floor in it, it -- it had to stay under 900 square feet. So approximate dimensions are 12 by 14 maybe.

BEVERLY GRIEBEL: Well, the 900 square feet refers to garage space.

MR. HEGADORN: Well, at the time they told me anything with a finished floor is considered garage space, so I had to keep the shed dimensions under the 900 square feet.

BEVERLY GRIEBEL: We'll clarify that with Mr. Kress.

MS. BORGUS: Hearing that, I'm just concerned about the total square footage of storage here. It seems rather excessive for a residential area.

BEVERLY GRIEBEL: Well, it is six plus acres. Thank you.

MS. BORGUS: Right. But if everybody wants three sheds, three barns, whatever you want to call them, it gets out of hand very quickly.

MRS. HEGADORN: The next door neighbor couldn't be here. She is still in Florida. She did send a note. I would like to read it.

DAN MELVILLE: Actually, you can send it up to the Chair and she will read it into the record.

BEVERLY GRIEBEL: It will be placed in the permanent record.

MR. HEGADORN: We have been talking about it for years. All of the neighbors are well aware of it.

BEVERLY GRIEBEL: Dated April 11, '05. Um, it addresses it to the two of you. "Nice talking to you the other night. All is well. I hope by the time I get home the snow will be gone. Jeff, it is okay by me if you build your barn next to your house," and then she goes on and on. So she has no objection to it. It is signed Veronica. And the address -- well, the address is in Florida.

What is her address?

MR. HEGADORN: 225.

MRS. HEGADORN: Right on the other side of the driveway.

BEVERLY GRIEBEL: Mr. Kress, regarding the two sheds there, on the property, 16 by 18 and 12 by 14 are the dimensions?

DANIEL KRESS: Strictly speaking, the question you have to ask before we ask that question is are they sheds? There is no definition of shed in the code book. There is a definition of garage. Frankly, there is an awful lot of people that think of their shed -- their garage as a shed, although it is, in fact, large enough to store a passenger vehicle which is what the definition of garage refers to.

So I'm guessing when permits were previously issued for one of the structures that someone made a decision up to 180 square feet was a storage shed. At some point past that number, certainly if the -- the intention is to store vehicles, they treat it as a garage.

BEVERLY GRIEBEL: Now, do these add up to the application square footage?

DANIEL KRESS: As I understand it, because you have got a total of 2036 square feet specified, which is far more than 32 by 48, we are talking into account the other structures on the property.

BEVERLY GRIEBEL: Plus there is a garage in the house part.

DANIEL KRESS: Yes. Which we would count that.

I haven't done all of the math tonight, but apparently that has been taken into account.

BEVERLY GRIEBEL: So those two sheds are considered in with this total of 2036?

MR. HEGADORN: Can I interrupt? The actual square footage of the new building is 1536. They came up with 2036. I believe what she did, when I was down there, I told her the dimensions of my garage. That is my house where we park a vehicle, and I think she must have added that on.

DAN MELVILLE: She has to.

MR. HEGADORN: I think that is how the numbers came up.

BEVERLY GRIEBEL: To get to the 2036.

MR. HEGADORN: Right.

BEVERLY GRIEBEL: But does the 2036 include the other two sheds on your property?

MR. HEGADORN: I -- I don't think so.

DAN MELVILLE: If they don't, we have a problem.

MR. HEGADORN: Well, the one is a dirt floor for tractor and implements. I don't think that is considered garage space, is it?

BEVERLY GRIEBEL: Well, no, that wouldn't be a garage. It should be a shed.

DAN MELVILLE: That is an accessory structure.

BEVERLY GRIEBEL: Mr. Kress, can you clarify that?

DANIEL KRESS: Without a survey map, I'm hesitant to give a definitive answer to that question.

BEVERLY GRIEBEL: So we are not sure what that 2036 encompasses.

DANIEL KRESS: Apparently as far as I can tell, it encompasses both the proposed new barn or garage and also the garage that is already attached to the house. Don't know for sure without running all of the numbers and going back and checking on the other sheds, as well, which I say are not on in the survey map I have in front of me.

BEVERLY GRIEBEL: So that might be something you have to clarify with him whether those exceed the dimensions to be done without a variance.

DANIEL KRESS: I guess we would have to go back and check and see what was done when those first went up.

BEVERLY GRIEBEL: I will leave that up to you then.

DANIEL KRESS: I can do that.

BEVERLY GRIEBEL: So we are just considering this new garage that would be an addition to the already existing attached garage.

MR. HEGADORN: I think that is how it was considered when this was written up, yeah.

MATT COCCIA, 117 Stottle Road

MR. COCCIA: I have some issues with this garage definition as well that I am going to bring up when it is my turn. This gentleman's -- this is in his favor. We already just defined a garage as something that as a non-combustible floor, so if it has a dirt floor or wood floor, how can that be considered garage space that needed to be added onto his variance request? I just don't see how we are going to call a 10 by 18 storage shed with --

BEVERLY GRIEBEL: He was saying that is the way they considered it when they asked --

MR. COCCIA: Well, I think they were probably wrong, and it is common for misunderstandings to happen. And I don't think that these sheds need to be -- I don't think he should have to reapply and lump this shed with a wood floor onto another variance and have to come back.

BEVERLY GRIEBEL: But the sheds -- the point I'm trying to make, the sheds are over the 180 square foot dimension.

DAN MELVILLE: Do they have a variance? He obviously got a building permit for that.

MR. COCCIA: I was told I didn't need to.

DAN MELVILLE: You need to clear it up.

MR. HEGADORN: I was told one is a dirt floor and one is a wood floor.

BEVERLY GRIEBEL: I'm not sure what is going on there, and I'm not sure who said what, when, but that is something Mr. Kress will look into to see if there is anything more that needs to be done on those.

MR. HEGADORN: By the time that I build a shed with the floor that I can, you know, roll a lawn mower and that on it -- I kept the dimensions of that shed under -- if I added my garage that came with the house, built into the house -- I kept the dimensions of that to keep it under 900. That is what they said at the time to do.

Then the other one, I asked them, and I said it was a dirt floor. It is just grass.

BEVERLY GRIEBEL: Well, that apparently is not added into that 2036 square feet that we are considering tonight.

MR. HEGADORN: Right. But by his definition, a garage, you have to be able to park a vehicle in. You could never be able to park a vehicle in this building. It is for rakes and shovels.

BEVERLY GRIEBEL: But then that leaves the dilemma.

DAN MELVILLE: It is a garage or a shed. That is what we have to know.

MR. HEGADORN: If you want to come look at it, it is a shed.

DAN MELVILLE: Then you need a variance on it.

BEVERLY GRIEBEL: We'll let Mr. Kress go into that because we can't solve any part of that. We are just dealing with the 2036 square feet. That was the -- in the request, which is your proposed garage, and your present garage.

MR. HEGADORN: Right. I think that is where that number came from. That number was generated over at the Town office.

BEVERLY GRIEBEL: It is hard to tell the size of the garage because it is not on this diagram.

MR. HEGADORN: Existing garage?

BEVERLY GRIEBEL: Yes.

MR. HEGADORN: 20 feet by 23, 9 inches.

BEVERLY GRIEBEL: Two-car garage?

MR. HEGADORN: Yes. Two-small-cars garage.

BEVERLY GRIEBEL: 20 by 23?

MR. HEGADORN: Uh-huh.

BEVERLY GRIEBEL: Okay.

DAN MELVILLE: That is 460 square feet.

BEVERLY GRIEBEL: That doesn't get it up -- 1536. 2000 -- well, it is close.

DAN MELVILLE: If you add the other one on it, the 16 by 18, that brings it up to 745.

BEVERLY GRIEBEL: I don't know. We don't have --

DAN MELVILLE: The shed he is asking for is about 1500, I think.

BEVERLY GRIEBEL: 1536.

DAN MELVILLE: 1536.

BEVERLY GRIEBEL: 32 by 48.

DAN MELVILLE: 2281. It is only 2036 on here.

We have to clarify those figures before we approve it to make sure we have the correct square footage.

BEVERLY GRIEBEL: Did somebody multiply those? Is that 1536 for the new one?

DAN MELVILLE: Yes. I just took your word for it.

MR. HEGADORN: That is what it is.

BEVERLY GRIEBEL: And the present garage is how big?

DAN MELVILLE: 460 and then the 16 by 18 garage or shed, whatever you want to call it is 285. It comes to 2281.

BEVERLY GRIEBEL: So that doesn't hit the 2036. I don't know where they came up with that.

MR. HEGADORN: It wouldn't hit that because she asked me how much floor, concrete garage space do I have, so these numbers, 1536 came from me, multiplying 32 by 48. And what other ever numbers were questions that the lady asked across the desk.

DAN MELVILLE: If they didn't consider that shed, then the numbers are still off. It doesn't add up. That is what we have to figure out.

MR. HEGADORN: Okay. Math error, whatever.

DAN MELVILLE: It doesn't add up. It is less than the -- if you don't count that, it is less than the 2036.

BEVERLY GRIEBEL: So he is not exceeding that amount anyway.

DAN MELVILLE: But right now, if you count that, it is exceeding that amount. If we approve it for that amount, it will not be correct. It may not be correct, let me put it that way.

MR. HEGADORN: Well, is that other -- the dirt floor building is your concern?

DAN MELVILLE: Well, it is not a concern. I just want to make sure we have the square footage correct.

MR. HEGADORN: I think we do, because the --

DAN MELVILLE: Because if we approve this number you're asking for, and that is not correct, you can't put that barn up.

MR. HEGADORN: I don't think that --

DAN MELVILLE: Or you will have to cut the size down in order to stick with this number we have approved.

MR. HEGADORN: We are strictly talking -- are we talking garage space, right? In the back, with the --

KEITH O'TOOLE: If I may.

BEVERLY GRIEBEL: Please enlighten us.

KEITH O'TOOLE: If the Board is of a mind to approve the barn, why don't you approve the barn subject to the approval of the Building Inspector, and they can calculate that and if, in fact, everything works, then we are done, and if it doesn't, they can put them on the agenda for next month and advertise it as to the proper square footage. Fair enough?

BEVERLY GRIEBEL: He would have to apply again, and he would already miss the deadline because the deadline was early due to the moving up of the meeting in May, unless he wants to table it --

KEITH O'TOOLE: If the Board is of the mind, you can hear him next month. I mean he has already advertised, already paid his application fee. The deadline is an administrative convenience for people that decide to walk in at the last minute. This is not that situation.

BEVERLY GRIEBEL: Or if instead of reapplying, if he wants to table it tonight, clarify all of the dimensions, work with Mr. Kress on it, and get things measured out, talk to him, and then see where we are --

DAN MELVILLE: When did you plan on starting this?

MR. HEGADORN: As soon as the weather breaks.

DAN MELVILLE: Our next meeting is about three weeks.

BEVERLY GRIEBEL: The 17th of May.

MR. HEGADORN: That is later than I planned, but --

DAN MELVILLE: I mean, I can go either way on that. I have no problem. If we are going to approve the barn, if we do --

RICHARD PERRY: The only issue is the -- he has given us the dimensions of the barn and the garage. What we don't -- what I guess it hinges on is what we are considering those two additional structures to be, or at least the one. And if it is a wooden floor, that cannot be considered a garage; is that correct, Dan (Kress)?

DANIEL KRESS: The issue of the floor is irrelevant. It is either a garage or a shed. If motor vehicles are stored in it, the building code requires a concrete floor. That is not to say there aren't buildings in which vehicles are stored that don't have concrete floors. It could still be a garage.

RICHARD PERRY: Are you calling a tractor a vehicle?

DANIEL KRESS: No, sir.

RICHARD PERRY: So he is not storing, you know, cars in a wooden-floored building.

DANIEL KRESS: With all due respect and not trying to give the applicant a hard time, but my people are only as good as the information given, and there are no sheds on the survey. That is why I don't want to give you a definitive answer to the question. We don't have complete information to answer that question.

RICHARD PERRY: All right.

BEVERLY GRIEBEL: Got you.

So the choices are, if we approve this for your request for this 1536 garage, or you can table the whole thing, come back next month after you talk to Mr. Kress and have a diagram showing where the sheds are and what the dimensions are and what you're going to call them, whatever. And he doesn't know if they're large enough to need a variance. I don't know. If it is too much square footage on the sheds, he might need a variance. Then he might need to add on. If we hear it tonight, and you find that something is amiss with it, and you have to pay the fee again and come back --

MR. HEGADORN: There is only one right way to do it. I guess you people should tell me.

BEVERLY GRIEBEL: Well, I would say it being tabled, you clarify all of the dimensions and then decide which way it goes on the application for next month.

DAN MELVILLE: If you do that, I would get right in and talk with them, go over everything, give them all of the information, the sizes of the sheds.

MR. HEGADORN: The only real question here is, is that a garage? Is that right, Mr. Kress? The building that is there already?

KEITH O'TOOLE: It is a question that can't be answered tonight. That is the bottom line.

MR. HEGADORN: What do we need to do to answer it? Do you have to come out to look at it?

DANIEL KRESS: Dimensions of all of the structures on the property, what they're used for so I can compare that to the definition of garage in the code. I can tell you how much of that counts as a garage then.

MR. HEGADORN: Okay.

BEVERLY GRIEBEL: So if you can detail all of that in a diagram --

DAN MELVILLE: That way, if there is anything else that needs to be done, we can advertise it that way.

BEVERLY GRIEBEL: If you need a variance because -- if they're called sheds, and you have too much shed, you need to ask for a variance to keep them there.

MR. HEGADORN: In RA-1 zoning?

BEVERLY GRIEBEL: That is something that Mr. Kress can clarify. I'm not sure.

DAN MELVILLE: Once he has the information -- we don't have the information. We don't have a drawing here that shows those on here.

MR. HEGADORN: Okay. All right.

BEVERLY GRIEBEL: So I think tabling it to have you clarify dimensions of the structures and discuss with the department head. Does that sound like a good plan?

MR. HEGADORN: Sounds like what the Board wants to do, right?

BEVERLY GRIEBEL: We have not taken a vote on it, but any other ideas?

RICHARD PERRY: No. It saves you the cost of having to come in again and pay for more signs for an application.

PETER WIDENER: Because we are tabling this, will we need -- he needs a new sign.

BEVERLY GRIEBEL: He will need a new sign.

PETER WIDENER: Do we need to accept –

BEVERLY GRIEBEL: Well, it is tabled.

PETER WIDENER: That is what I am saying.

BEVERLY GRIEBEL: If it is tabled, it is tabled until the next meeting. He can clarify that. He can get the dimensions and clarify it.

PETER WIDENER: We need the dimensions so we have the magic number so we can tell you what we are going for.

BEVERLY GRIEBEL: You see where they came up with the 2046 -- because we can't figure that out. We don't know where that came from.

MR. HEGADORN: I do know where it came from, but I don't know what to tell you.

DAN MELVILLE: But we don't have that here.

BEVERLY GRIEBEL: Nothing adds up to that.

DAN MELVILLE: It doesn't add up when you look at the map.

MR. HEGADORN: I agree.

DAN MELVILLE: It doesn't work out. That is what we need to know.

MR. HEGADORN: Meet with Mr. Kress, get that squared up and come back next month.

BEVERLY GRIEBEL: Yes. You will get a letter in the mail. You need to get new signs and post them as required.

MR. HEGADORN: Okay.

BEVERLY GRIEBEL: Sometimes you can change the date if the signs aren't weathered or ripped apart by the wind.

DAN MELVILLE: You might have to change the square footage. It would be better to get new ones.

RICHARD PERRY: You need to get that up 11 days before the next meeting so that you can have the signage up 11 days before. To make sure you're in compliance.

BEVERLY GRIEBEL: Get the dimensions, get a diagram of everything and make an appointment to meet with Mr. Kress because he is in and out doing inspections of new properties and stuff. You don't want to take time off work and then find he is out for the afternoon doing inspections. Just check with him.

MR. HEGADORN: Okay.

BEVERLY GRIEBEL: I need a motion to table this to May 17th.

PETER WIDENER: So moved.

GERRY HENDRICKSON: Second.

BEVERLY GRIEBEL: That would be to clarify all of these issues with the Building Department.

DECISION: Unanimously tabled by a vote of 6 yes to table until the 4/26/05 meeting at 7:00 p.m. with the following reason/finding of fact having been cited:

1. Applicant to clarify issues per discussion at public hearing.

Note: Applicant to obtain new sign(s) at the Building Department to post and maintain as per Town regulations. Applicant must be present for the public hearing.

2. Application of Mark Trzyzewski, owner; 6 Gateway Circle, Rochester, New York 14624 for variance to erect a 12' x 16' utility shed to be 192 sq. ft. (180 sq. ft. allowed), variance for shed to be 5' from rear lot line (8' req.) at property located at 6 Gateway Circle in R-1-15 zone.

Mark Trzyzewski was present to represent the application.

MR. TRZYZEWSKI: I need the variance for two reasons, because I'm over 180 square feet and from a practical point, I'm planning 12 by 16, the exterior dimensions. 180 square feet, 192 would cost the same, so I don't want to cut off the foot of the roof. The reason for the distance from the back, there is an existing shed there. Two large trees behind it and trying to retain the maple tree in front of the shed. If I side it long -- as the maple tree goes, I would be too close. That is why I'm trying to stay towards the back of the property. Because I have a corner lot, I

cannot put a shed on the other side of the house, because as you look around, that road continues and that is all road frontage so I'm dictated to put it in the corner of the lot. To me the backyard is not a practical point. I have a small backyard. I'm kind of forced to over here.

I did obtain letters from the neighbors and they have no problem with me putting a shed because it is relatively no different than the existing shed. It is bigger, more towards my property line. I'm not quite sure of the definition of a shed and a garage.

I am not planning on storing automobiles. I will have a wood floor unless I'm told to have concrete. Snow blower, pressure washer, lawn mower, table –

RICHARD PERRY: That's a shed.

MR. TRZYZEWSKI: To me it is a shed, but by your definition, I'm not sure.

If you tell me I need a concrete floor, I would ask to build a garage.

BEVERLY GRIEBEL: You have lawn care stuff and furniture you're going to put in there?

MR. TRZYZEWSKI: Right.

BEVERLY GRIEBEL: And the diagram does show that have you a large patio and chain link fence that takes further room. Large front yard.

MR. TRZYZEWSKI: Beautiful front yard but not buildable or usable to me. We do most of the living on the side yard or backyard.

BEVERLY GRIEBEL: Your picture is good here to show that you want to preserve that tree.

MR. TRZYZEWSKI: That is -- if I have to cut the tree, I will probably do something else, turn the shed a different direction but it has -- it will take me a lifetime to grow another shade tree.

BEVERLY GRIEBEL: It is better to keep a maple than cotton wood.

MR. TRZYZEWSKI: Cotton woods are going. I -- I cut -- spent \$7,000 cutting the trees on this lot. I cut 30 cotton woods. Whoever owned it before, they planted them right on the line, and no one wants to own them. When you ask your neighbor if they want to pay half the bill to cut the tree, the answer is no.

BEVERLY GRIEBEL: You had letters from your neighbors.

MR. TRZYZEWSKI: They're in the same attachments as you have. Only two neighbors. Corner lot. Letter from the neighbor behind and letter from the left-hand side, standing in front me. No problem. To them it would be the same existence as an existing shed. The new one would be more attractive.

PETER WIDENER: I had questions on the back line setback, at 5.8 feet. The side line was 5.5 feet.

MR. TRZYZEWSKI: That is the existing shed. Which came with the property that I bought.

PETER WIDENER: You will remove that?

MR. TRZYZEWSKI: I'm going to try to go 8 inches further toward the back and a little closer towards me.

PETER WIDENER: That is the measurement I was looking for. I see it now on your drawings. Thank you.

RICHARD PERRY: Did you answer that question? You're taking down the current shed?

MR. TRZYZEWSKI: I will take down the current shed.

RICHARD PERRY: I'm assuming that must have had a variance. How old is the house?

MR. TRZYZEWSKI: It was built in '66, '67. I have had it for six years.

RICHARD PERRY: Six years. If there was a variance for that shed --

DAN MELVILLE: It is only 100 square feet.

DANIEL KRESS: Given the size of the shed, my guess is no permit was required at the time it was built.

RICHARD PERRY: When it was sold, was it too close to the property line?

DANIEL KRESS: No. When the property is sold and buyer's or seller's attorney do not bother to call to ask if everything is in order, I have no way to tell something is not in order.

DAN MELVILLE: No permit or anything if it is under 100 square feet.

MR. TRZYZEWSKI: The value at the time of sale was zero, and probably today is zero.

BEVERLY GRIEBEL: Takes more effort to take it down.

RICHARD PERRY: You're finding out about the joys of corner lots.

KEITH O'TOOLE: Actually, the shed, is it being shipped as one piece?

MR. TRZYZEWSKI: I was going to build it. I would love to buy one and drop it in, but I can't find anyone without \$1,000 transportation that is building a nice shed, so I will build it myself.

KEITH O'TOOLE: Nice looking shed. Nothing further.

BEVERLY GRIEBEL: You didn't check something on the first page. Do you work for a

government agency?

MR. TRZYZEWSKI: Do I? The answer is no, I do not.

BEVERLY GRIEBEL: Okay. Thank you.

I will close this part of the public hearing. Have a seat.

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

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

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

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

1. Corner lot problem with small rear yard.
2. Shed placement will preserve a large tree.

Note: A building permit is required prior to this shed being erected.

3. Application of Richard Burke, owner; 460 Chestnut Ridge Road, Rochester, New York 14624 for conditional use permit to allow an office in home as a travel agent at property located at 460 Chestnut Ridge Road in R-1-20 zone.

Richard Burke was present to represent the application.

BEVERLY GRIEBEL: This went to the Monroe County Planning Department and this came back as a local matter.

You want to work as a travel agent?

MR. BURKE: Yes.

BEVERLY GRIEBEL: What will that entail in your home?

MR. BURKE: Basically just operating as an independent contractor through an existing travel agency in another location. As an independent outside sales agent.

BEVERLY GRIEBEL: A Rochester agency?

MR. BURKE: Not necessarily, no. I haven't decided which one I will be working with. It could be another part of the State or out of State or local.

BEVERLY GRIEBEL: So you don't know who you will be working with?

MR. BURKE: Not yet. There is quite a few agencies to choose from. I didn't want to commit to one until I was sure I would have the permit to be able to operate.

BEVERLY GRIEBEL: But if it was a local agency, why wouldn't you work at their place of business?

MR. BURKE: Because I will be actually operating my own independent business, and I won't be operating out of their location. It is more likely to be with an agency that is in another part of the State or out of State.

DAN MELVILLE: How many customers will you have at one time to your house?

MR. BURKE: Hopefully none. I don't plan to have any customers to my house. I plan to operate mostly by phone or e-mail or meeting customers at their homes, or possibly even, you know, renting a public room for a function. On occasion.

BEVERLY GRIEBEL: So you don't intend to have anyone coming to the house?

MR. BURKE: No.

BEVERLY GRIEBEL: No one will be coming and parking a car or anything?

MR. BURKE: I suppose I could see it happening once in a great while, but my house is not equipped to host customers. I have three young children and it's not exactly a professional business atmosphere.

BEVERLY GRIEBEL: My kids are grown up, but grand kids do the same thing.

PETER WIDENER: The question I had just to clarify for myself is, you do not need a State or County license to conduct this business at all?

MR. BURKE: I have been reading the laws, and I don't believe I do.

PETER WIDENER: So a d/b/a is not necessary.

MR. BURKE: I may file a d/b/a just to have a business name, but I have yet to decide that based on the type of arrangement I will be working with with the agency.

PETER WIDENER: Horrendous hours 8 to 8?

MR. BURKE: Could be any time between those.

PETER WIDENER: I see.

DAN MELVILLE: What about signage?

MR. BURKE: No signs.

DAN MELVILLE: No signs up?

MR. BURKE: No. Should be transparent to the neighbors.

DAN MELVILLE: Basically nobody hopefully will know you're working out of your house.

MR. BURKE: Right. Nobody should be aware of it.

BEVERLY GRIEBEL: What do you do now for a living?

MR. BURKE: I work at Roberts Wesleyan College as a Students Accounts Coordinator.

BEVERLY GRIEBEL: This is something you're transferring to or in addition to?

MR. BURKE: It would be part-time to start, and if all goes well, full-time.

BEVERLY GRIEBEL: You can quit your other job.

MR. BURKE: Not quite ready to do that.

RONALD PIKUET

MR. PIKUET: Their immediate neighbor at 1020 Paul Road, and I just came in so I didn't really hear the, you know, the whole discussion or what Rich (Burke) was saying. I personally feel if there is not going to be any traffic there, there is not -- it is not going to be people coming to the house -- is this what I understand?

MR. BURKE: Yes.

MR. PIKUET: I know they have a small lot. They have a big driveway. So I didn't know what that would entail. I personally feel if the Town Board of the Town of Chili is going to continue to raise people's assessments and make it ever more difficult for people to survive in their homes, they will have to allow some of the businesses in the homes so people can raise extra money to help pay their taxes. I would speak in favor of it. I'm in favor of this not only because the Burkes are very good neighbors of mine, but they're a young family that are struggling to make it in this world of ours and to live in this Town, and I think theirs is just another case like my own, that they will need to supplement their income in some way to offset the high cost of living in this Town of Chili.

So I would speak in favor of the application as there is no apparent traffic there. There -- most of this will be done on the Internet and through the home?

MR. BURKE: Yes.

MR. PIKUET: They're good neighbors, and I would definitely speak in favor of the application.

MR. BURKE: Thank you.

BEVERLY GRIEBEL: Thank you.

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

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

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

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

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.

4. Hours of operation as per application.
5. No outside employees.

The following finding of fact was cited:

1. The home office is a customary home occupation.
4. Application of Matthew Coccia, owner; 117 Stottle Road, Churchville, New York 14428 for variance to erect a detached garage to have a ridge line higher than the ridge line of the dwelling, variance to allow a 2nd driveway cut (one residential cut per dwelling allowed) at property located at 117 Stottle Road in PRD zone.

Matthew Coccia was present to represent the application.

BEVERLY GRIEBEL: This is a gambrel roof? It has a --

MR. COCCIA: Gambrel roof, yes.

BEVERLY GRIEBEL: Is that a change from the -- before?

MR. COCCIA: Yes.

BEVERLY GRIEBEL: You're asking for the ridge line higher than the ridge line of the dwelling. So that now -- you have clarified all those figures?

MR. COCCIA: Those are accurate, what is on the drawing there.

BEVERLY GRIEBEL: Okay. Your house is how high?

MR. COCCIA: 18 feet.

BEVERLY GRIEBEL: And this garage is how high?

MR. COCCIA: Just about 24 or 25.

PETER WIDENER: 25 feet. 9 and 1 9/16ths inches.

I applaud your accuracy.

These drawings are dated April 22nd, 2005. Current drawings?

MR. COCCIA: Yes.

BEVERLY GRIEBEL: Just had those drawn.

JEFFERY PERKINS: The height differential from the top of the house is 3 foot 11 and 9/16ths.

MR. COCCIA: Correct.

BEVERLY GRIEBEL: So it is about 4 foot?

MR. COCCIA: Just about 4 foot, yes.

PETER WIDENER: The building is 50 feet away from your home?

MR. COCCIA: Correct. From left to right. And it is -- front of the house to the front of the other building is about 60 feet, 58 to 60 feet difference.

PETER WIDENER: Quite a distance, 50 foot between two buildings. That is a garage that it is measured from. Not living space.

MR. COCCIA: Correct. With -- that drawing doesn't take into -- what that drawing doesn't take into consideration is the depth difference there. But I guess the first part of my variance request was a code interpretation. The last time I was here last month, and then from subsequent discussions with the Building Department, there is quite a bit of confusion as to what a garage is, what the building I'm putting up is called, and this fellow here is having trouble with the same issue now, and I imagine others are, and I think it really should be cleared up. If it means changing what the code says, let's change it. You know, if you want it to say something that it doesn't, let's change it. Don't interpret it to mean something that it clearly doesn't state.

And if you have got questions as to my -- I know I cited the code sections in my application that I was hoping you could see. I have them here if you would like me to read them.

BEVERLY GRIEBEL: That is kind of what we discussed last time. The height --

MR. COCCIA: The way we left it at the last meeting was I didn't have the information of height of my house or the garage. So I was going to determine that, so I had that information. While I was doing that is when I unearthed what I consider some discrepancies in the code, and frankly, part of the code really says I don't need a variance for the height difference. And I would really like the Board to interpret that, if you could.

BEVERLY GRIEBEL: Well --

MR. COCCIA: I can start with -- now I live in a PRD zone district. Section 115-14(d), subheading 2, if you want to call it, it says the following dimensional requirements shall be met for

areas not serviced by public sewers and public water, which is me.

BEVERLY GRIEBEL: You have public water, though.

MR. COCCIA: Water but not sewer. I still have well water, too, but I don't have sewer. It says serviced by public sewers and public water. It doesn't say either or. Then it says under that permitted and conditional uses as well as other requirements be subject to the provisions set forth in the AC, Agricultural Conservation District.

When you go to the Agricultural District, dimensional requirements, which is 115-20.3(d), dimensional requirements, and subsection 6, the maximum building height shall be two stories or 35 feet, whichever is the lesser. This is where when I originally went in with the information that I had and how I came up with the variances I needed the first time, I believe this is where the information came from out of the Building Department, and I was told the height was – the maximum height was 35 feet.

At that point, I didn't pursue it because I knew I was going to be under that.

DAN MELVILLE: That is correct. The maximum height of a building can't exceed 35 feet, but we also have a provision in our code --

BEVERLY GRIEBEL: The relationship to the house.

DAN MELVILLE: Yes. That it can't be higher than the highest level of the house.

MR. COCCIA: Which brings me to my next point. Thank you.

The definition of a garage. Now, there is a lot of back and forth about what a garage is and what this building is that I'm putting up. There is no definition in the code of a residential garage, but there are -- there is a definition of a private garage, and it -- excuse me, it says, D, "Accessory structure associated with dwelling units used solely for the shelter of private passenger vehicles and those spaces leased to a non-resident."

The first words, the "accessory structure" tells me it is one, the garage attached to my house already.

The second point, it says "used solely for the shelter of private passenger vehicles."

I'm not using this building solely for the purpose of storing passenger vehicles. Now, if you don't want it to say solely, and you want to interpret it like the Building Department has to mean mostly or mainly or principally used for storing passenger vehicles, I think it should be changed to say that.

When this definition was written, I don't know. Maybe there was no such things as lawn mowers when this was written. The answer I got out of the Building Department was, "What are we going to write a ticket to everybody that has a lawn mower in their garage?"

And the answer to that is no.

I mean, it is a goofy argument. The answer is change the code. Maybe it is a -- something different like primarily used for storing passenger vehicles.

BEVERLY GRIEBEL: Then you come up with people who want to have a business in the home. This has come up a couple of times. They want to run a hair dresser salon in the garage. They want to run a floral business in the garage. As a home occupation. So those are not allowed.

MR. COCCIA: I'm missing the connection with my application. I'm sorry.

BEVERLY GRIEBEL: If they had "primarily," then we would have all kinds of home businesses being done out of the garage.

MR. COCCIA: Only if they primarily parked their car next to their hair-cutting chair.

KEITH O'TOOLE: The way I have always interpreted this, first question is, when we talk about garages, there are public garages and private garages. Public garages are business garages, you know, service stations, storage facilities, whatever. Private garages are accessory structures to houses. And if you read the definition, and it does use the words "solely for shelter for private passenger vehicles," and then goes on to say, "and no space therein is leased to a non-resident of the premises," which is to say, it is not a storage facility. It is clarification. I believe that people have been storing junk in their garages since the beginning of time and while they may not be the most artfully drafted definitions, that is the way we have been interpreting it around here.

MR. COCCIA: I appreciate that, what you're saying there, but just to say no space is leased to a non-resident, that is telling me I'm not renting out the space for someone to store their stuff in. It doesn't say I can't put my stuff in there. To say that it becomes a garage because I'm not leasing it, is -- I don't understand the connection there. This is -- you know, if we want to start calling this stuff garages, look at it. If I really grossly exaggerate the size of my Saturn car, I can say that I'm going to use less than 400 square feet of that garage to store -- of that building, to store cars. It would be about 900 some odd square feet to store other things. This is a building, and the definition of a building, in the code book, is pretty simple. It says, any structure having a roof supported by columns or walls intended for the shelter, housing or enclosures of persons, animals

and chattel, which I had to go to Webster to find out what that meant. What it means is, moveable, tangible pieces of property. And that is what I am using this building for, to store moveable things.

BEVERLY GRIEBEL: You want to store your car in it.

MR. COCCIA: I want to park my car in it. I have a boat I would like to store in there. I have large lawn equipment. If you have driven by my house, you will see the trailers scattered all over the place. I have a lot of things, and I would like to get them inside. And I -- I really am looking for a clarification. With that said, the definition of a garage, I think, should be clarified.

KEITH O'TOOLE: If I may, we are not talking about the definition of a garage. We are talking about the definition of a private garage. If you looked at 115-41, it -- he refers to a residential garage, which is not defined by our code. When something is not defined by the code, we look at the normal and ordinary meaning, so sayeth the courts, and the ordinary meaning of a residential garage is a place where we store vehicles and junk, and I think what you're doing qualifies, and I give you a lot of credit for working your way through the code.

You have got -- 90 percent of the people that come through these doors don't even bother to take a look at it, but practically speaking, while one could argue we should dress up the code to tighten it up to make this here and here, legally speaking, I believe we are within our rights and it's up to the Board to make the determination, but it is my advice what you have is a residential garage that you're using for residential purposes, so I what it really boils down to is it the end of the world that your garage is a couple feet higher than the house, taking in light the grade and the setback and everything else.

MR. COCCIA: I did speak with you, Mr. O'Toole, a few weeks ago. Funny you felt it was very gray, and now you're very confident in the definitions you're giving me. Just fine.

But if you look at the next definition, public garage, you could read that and it could apply to what I am building. It does not say in there things have to be worked on in that garage for money or for profit or as a business. It actually goes on, and a lot of the things that it says under public garage are things that I will have stored in this building.

BEVERLY GRIEBEL: But what you want is a private garage. You will not rent out space.

MR. COCCIA: I want a building. I want a building. And I don't -- if you're just going to rule, give me a ruling on the variance and not address the code issue, fine, that is up to you.

DAN MELVILLE: I'm not prepared to make a ruling tonight without some research. We can adjourn this until next month.

KEITH O'TOOLE: It may be moot if you have no problem with the height of the garage as designed. There is no problem wasting the gentleman's time, the Board's time. Give him the variance and send the gentleman on his way.

BEVERLY GRIEBEL: Because if he is going to store a car, then my feeling is it is a garage, no matter what else you put in it.

MR. COCCIA: That is fine. If that is your decision, I agree. But the argument, "We can't make the code that specific because the code will become too thick," is the type of information I'm getting out of the Building Department. That's ridiculous. Make it this thick (indicating). If it is specific and tells me exactly what a garage is, or what this building is I'm putting up, so be it. I will be glad to sift through all of the paperwork and look at it. You know, we talked about whether or not this fellow's shed with a wood floor is considered a garage and the answer, if he parks a car in it, it is a garage. If you park a garage in it, it is supposed to have a concrete floor, then you can't call it a garage.

BEVERLY GRIEBEL: Part of his issue was he said he had been told something by the Building Department that we weren't aware, we don't know. That was five years ago. I don't know what he was told. I have no idea.

MR. COCCIA: Right.

BEVERLY GRIEBEL: So that muddied up that issue with him.

MR. COCCIA: Okay.

BEVERLY GRIEBEL: What you want to store in there is a car and other stuff, so if you're going to put a car in, it is going to be a garage.

MR. COCCIA: Okay.

BEVERLY GRIEBEL: I would say.

MR. COCCIA: Then on that, I think as a suggestion, the word "solely" should be taken out, "mainly" or "principally" should be put in. I understand the code is being worked on right now. A very simple change would clarify it for people in the future so they wouldn't have to struggle and get the battle and push-back I have been feeling from the Town.

BEVERLY GRIEBEL: It might make things even worse.

MR. COCCIA: I don't see how it could.

BEVERLY GRIEBEL: I can envision that based on what has come before this Board the last 10 to 12 years I have been the Board.

MR. COCCIA: Primarily for the shelter of vehicles and not for businesses being conducted. It is very simple and doesn't have to be that hard.

BEVERLY GRIEBEL: It is something we are working on, and take that note -- I don't know who is chair of that committee -- but I just got a memo on that. Mr. Kress, if you could put that on as a possible point of discussion, thank you.

You requested tonight the detached garage to have a ridge line higher than the ridge line of the dwelling and the second driveway cut. I believe Mr. Kress you got something back just late today from Monroe County Planning?

DANIEL KRESS: Late this afternoon we finally got our County Planning back only containing a single comment from the Monroe County Department of Transportation, quote, "County policy is to allow only one access per residential lot. Reconfigure the design to show the proposed garage utilizing the existing access," end quote.

So the County does not seem to be in favor of a second driveway.

MR. COCCIA: I spoke to the driveway. They have a procedure similar to this to appeal these things, and when I spoke to them, they told me -- I specifically asked, because I was standing in this building when I called. "Do I need anything from the Town before I start the appeals process with the County?" And the answer was, "No. It is all our decision. It is a County road. Town has nothing to do with it." I walked back into the Building Department and was told by the people in the Building Department, "No, no, you have to have our approval first and we have to fill out a little piece of paper and then you can go to the County and start your appeals process with them."

That is why I am bringing it up tonight in front of this Board.

PETER WIDENER: You have 300 feet of road frontage on your property, and you're just asking for another second cut driveway?

MR. COCCIA: Yes, sir.

DAN MELVILLE: Is that correct? They have to come here first to get approval before they appeal it before the County?

DANIEL KRESS: The customary order would be to get your local approval and then go to the County, but realistically you can see -- the two have to proceed simultaneously. Whether you have one or the other, if you don't have both, you don't have an approval.

BEVERLY GRIEBEL: Yes. I was kind of surprised at that, because when you were in here before, you were going to swing the driveway over from your --

MR. COCCIA: Yes. From discussions with my next-door neighbor and my architect, it seems more clear that there should be a second driveway there for a couple of reasons. One is it will allow this nice 50 foot green space to be created between the house and the garage, or the building, without a driveway cutting it off as it swings over to this new building. I would like to plant some trees in there, and this way when people drive by or walk by and look up my driveway that is there now, they can't see the garage or the barn as well as they would if the driveway gave them a clear line of sight. The reason -- that is the same reason why there is an S in the proposed new driveway, so that as you look up the new driveway -- there are some trees that are existing there, some ones I want to plant. There is no clear line of sight up to the new building. I kind of want -- I want to make it -- give it a rustic feel, put trees around, kind of hide it a little bit. That is my intention. I don't want it to be -- I don't believe with this drawing that it is overbearing, but I don't want it out in the open either.

BEVERLY GRIEBEL: But whether you swing the driveway from one side or the other, you would be swinging it way up in the upper part of your lawn, and I don't know why you couldn't swing that from your existing driveway. If you went --

MR. COCCIA: You see I -- right now the way this is, I can tree this area here (indicating). Where if I cut across this way (indicating), I got to push the trees way up front here (indicating). And this (indicating) also just becomes stone and asphalt in my side yard next to the house, instead of keeping this green (indicating) all of the way through here (indicating).

PETER WIDENER: I also think that the proposed driveway is on the bed of an existing farm lane way.

MR. COCCIA: Yes, it is.

PETER WIDENER: It has been used as a lane way by the estate for many, many years and how -- I see where -- it is would be feasible to put it there, because the lane way has been established. The packing of the ground has been establish there. It is a solid piece of area to put that driveway.

BEVERLY GRIEBEL: But that was used as a farm road or whatever you want to call it, lane way, prior to there being a lot with a gravel driveway quite close to it. And I think that is the objection the State has with these driveways that are very close together.

PETER WIDENER: My point is I'm saying the ground has permeability to withstand a lot of traffic and the -- it is a good place to put it if the State will allow him to have one.

MR. COCCIA: There are other concerns with the County, wanting me to address line of sight. It is not very close to my driveway. It is over 100 feet between the two driveways. The line of sight actually coming out of the proposed new driveway is better than the one out of my existing driveway. I'm working on that, but it is a ways off. There is too much overgrowth there.

As far as drainage goes, which is another concern with driveways, it won't be asphalt. It will be stone. It will allow the water to permeate through, not run off anywhere. There is obviously a culvert put in per the County's specifications. They have a blanket answer of "We only allow one per lot," just like when you come in to the local Building Department and they have a blanket answer of "It can't be taller than your house."

It doesn't mean you can't go and talk to them and appeal it and have another decision made.

I'm certain we have all seen circular driveways, places where there are two entrances.

BEVERLY GRIEBEL: But there has to be special approval now. Some of those pre-dated all of those restrictions.

MR. COCCIA: Okay.

BEVERLY GRIEBEL: And when they say only one per lot, it kind of -- you're going against that.

PETER WIDENER: Addressing the new second driveway cut, with the 300 foot lot, which most people don't have, I don't see where there is any problem with that second driveway, but I think that is out of our hands, isn't it? Isn't it to the County, because it is not our road?

BEVERLY GRIEBEL: It is a County road.

PETER WIDENER: There are many other building lots in the Town of Chili that are much smaller than that, and 300 foot is a whole lot of land.

BEVERLY GRIEBEL: What is the speed limit on that road?

MR. COCCIA: 40.

BEVERLY GRIEBEL: What do they drive?

GERRY HENDRICKSON: 60 feet.

PETER WIDENER: Union Street is 40. They're supposedly subdividing off the land to the north, with a driveway cut there. There that -- that much road frontage, you could do it, but he is trying to keep an 8 acre estate there. Just addressing the question on the driveway, that -- those were my thoughts on it.

BEVERLY GRIEBEL: This diagram has changed the garage a little to have a -- entrance doors facing the street.

MR. COCCIA: Correct.

BEVERLY GRIEBEL: You turned that around a little.

MR. COCCIA: Yes.

BEVERLY GRIEBEL: I know you said you could do that either way.

MR. COCCIA: The reason -- if you would like to know the reason, it is going to be -- if you're looking at this drawing by Renato (phonetic) where -- I will preframe it with a header, so if the need ever arises, I can add another overhead door.

There will be a preframed man door on the opposite side so if I do put an overhead door, I could put the man door to follow all building codes on the opposite side. I don't foresee that at this time, but that is -- if it were turned the other way, I just can't put three doors in there. It won't fit.

PETER WIDENER: If we look further north on the same road, there's a gambrel barn we approved with a three-door bay just the opposite of what he is asking for here, because his barn garage is higher than the house, because of the topographical lay of the land. Down the road the house was built on a hill, and the barn is probably 25 or 30 feet high anyway because it is the same type of barn and all of the doors are facing the road on that barn. It is right on the bend. It is just like at one point we are here (indicating) and the next point up the road, it is like this (indicating). It is the lay of the land. I don't think the barn heights are that critical right here.

BEVERLY GRIEBEL: The last time he was present, we didn't really know. He has gotten the dimensions now. This garage is higher, but yet it -- overall height --

RICHARD PERRY: But sitting back in, it won't look it.

BEVERLY GRIEBEL: From the street, it won't look towering over because it is in a dip.

MR. COCCIA: 3 foot difference there in grade.

JEFFERY PERKINS: Primary issue he is applying for is the height variance.

DAN MELVILLE: And second road cut.

JEFFERY PERKINS: And second road cut. It is clear from Monroe County we can't approve a second road cut based on their recommendations.

PETER WIDENER: So he has to take that up with Monroe County?

BEVERLY GRIEBEL: Yes.

RICHARD PERRY: We can approve it all subject to Monroe County's approving of the second cut.

BEVERLY GRIEBEL: If we want to approve something. If you want to vote to approve something that Monroe County is in favor of.

DAN MELVILLE: I'm not willing to do that.

MR. COCCIA: Can I ask the question, if Monroe County does approve it, do I have to bother coming back here?

BEVERLY GRIEBEL: I think side table, if he would apply and get approval from Monroe County, then he goes ahead and does the road cut?

KEITH O'TOOLE: That is correct.

RICHARD PERRY: So we can approve the barn --

DANIEL KRESS: If you approve it tonight with the condition that the County also approve it, which frankly, whether it is a condition or not, the County will have to approve it, then that would be correct. But the zoning, in fact, does have an expressed prohibition of more than one driveway or road cut. So one way or another, a variance is necessary, now or later.

BEVERLY GRIEBEL: So if we approve it and he doesn't get approval by the County, then he can't do it.

DANIEL KRESS: That would be correct.

BEVERLY GRIEBEL: If we say no tonight and he goes to the County, then he has to still come back here and get approval from this Board.

DANIEL KRESS: That would be correct.

BEVERLY GRIEBEL: Couple of situations.

RICHARD PERRY: It is all academic if the County says no. Why make it more difficult for the individual when --

PETER WIDENER: It is keeping within the neighborhood, because the barn garage built up the road --

RICHARD PERRY: The County has to have an approval or he can't do it.

JEFFERY PERKINS: If the County said okay, how would the Board vote?

PETER WIDENER: Hypothetically.

DAN MELVILLE: He can't issue a permit without County approval then to put that road in? That driveway? How does that work?

KEITH O'TOOLE: You could put the driveway in, but just never actually go onto the County road.

DANIEL KRESS: Someone from the County would come along and question it.

MR. COCCIA: I was thinking about cutting down the trees in front of my house and pulling right onto the lawn. What is to stop that? I don't know. Make my driveway wherever I feel like parking my car on the front lawn.

BEVERLY GRIEBEL: You don't want to split the difference by putting the one driveway between the one you have now and the proposed one?

MR. COCCIA: No.

BEVERLY GRIEBEL: That wouldn't make a whole lot of sense either.

MR. COCCIA: No, no.

BEVERLY GRIEBEL: Several issues. If we vote no on this Board for the second driveway, and he -- it gets approval, then he has to come back here --

KEITH O'TOOLE: My question is, why would he bother coming back here if you vote no? Either it is a good idea from a zoning point of view or it is not. Our jurisdiction ends at the property line, at the right-of-way line. That is where the County's jurisdiction starts. Conversely, if the County gives him the permit and we think it is a miserable idea, then it is a worthless curb cut permit. It is either a good idea to give him the permit, or it is a bad idea, and the man is paying so he doesn't have to waste time going to the County.

MR. COCCIA: Thank you. I prefer large bullets.

JEFFERY PERKINS: That was in part my question. If we think we could live with a second curb cut, subject to Monroe County's approval, why don't we just say it and then let the County decide. Or we say no. Should we separate the two issues and vote on them independently?

BEVERLY GRIEBEL: We need to vote on them separately.

DAN MELVILLE: I was going to say if we vote on them together and he gets voted down, he can't come back for a year.

PETER WIDENER: I think you're right. Vote on them separately.

BEVERLY GRIEBEL: We'll separate the vote.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: As Madam Chair has pointed out, I specifically asked that at the last meeting when this gentleman was present about the driveway, and he assured the Board that he didn't need a second road cut. I would also like to point out if these two variances are granted tonight, this will be a total of four variances given to this gentleman on our zoning code. That is a lot for a house.

MR. COCCIA: In response to that, I changed my mind about the driveway. And as far as the other variances, I would like this building, and --

DAN MELVILLE: Address the Board.

MR. COCCIA: I thought I heard this woman say earlier she has a barn on a farm. Do I have to have a farm to have a barn-sized building?

MS. BORGUS: My barn is 110 years old, and I do believe that predates the zoning code.

BEVERLY GRIEBEL: I don't think we had a zoning code back then. You weren't here and I wasn't.

MR. COCCIA: Does that mean you're the only one entitled to it?

BEVERLY GRIEBEL: Some things predate the code.

MS. BORGUS: Madam Chair, I have 107 acres. Of true farm.

To get back to this ridge line issue, I would question the logic of a -- of approving this or thinking about approving it because it is back 50 feet from the house. That starts a very dangerous precedent, because it won't be long and you will have somebody in here who wants a barn and they will be 40 feet back from their house, and then you will have another one who is only 30 feet back from their house, and you will have set a precedent that our height restrictions don't mean anything, and you know, the distance back will get to be what will drive you buggy.

PETER WIDENER: What is throwing us off on the height restriction is the topography of the land.

MS. BORGUS: If you look at the drawing, look at the house, the middle line. If you go from the base of his house straight out, you still exceed the height of the -- the barn still exceeds the height of the house, so I think that is a moot point. Look at the middle line.

RICHARD PERRY: It won't appear that way because of the depth of the barn.

MS. BORGUS: You're on a slippery slope when you say it is okay if you put it back a little way because to the eye you won't see it. The next person in here will use that to beat you over the head to get another variance out of you because you approved this one tonight, if you do. You're on very slippery ground here.

MR. COCCIA: If I may address the Board, it is not that slippery. People with ranches, are they forced to have something only the height of a ranch? Without a variance I mean. The usable space. If I make this at or below the height of my house, the upper part of this building becomes useless. The cost savings is very minimal. The footprint is still the same size. The cost difference for me to buy a truss where I have to crawl around on my hands and knees, or where I can walk through and store things is relatively small, and forcing me to keep it down lower quite frankly increases my cost per usable space and also with the size of this building, it will look so low and so flat, in order to keep it under my 18 feet, that I think it would look lousy. I think this is -- has a very nice look to it. It would have to have a low sloping roof in order to stay under the 18 feet. This is a new design from when I came in before.

MR. COCCIA: Yes, it is.

BEVERLY GRIEBEL: Is this higher than the original design?

MR. COCCIA: I don't think the -- I think I had just an approximation because I didn't know that it mattered. So now since I have enlisted the services of an architect, I made that very clear I need a drawing for tonight that is very specific as to where my building is going to be, what the height will be. Previous to last month I just -- wasn't an issue with me.

BEVERLY GRIEBEL: So you changed really from your prior design. You just defined this a little better?

MR. COCCIA: Correct.

BEVERLY GRIEBEL: Is it about the height of the one you had before, or is that --

MR. COCCIA: It is roughly the same, but I don't know -- I think I had approximately 26, 27 feet or something like that on my last, but like I said, I didn't define it because I was just showing it as a --

BEVERLY GRIEBEL: Structure.

MR. COCCIA: Yes.

BEVERLY GRIEBEL: A building there.

MR. TRZYZEWSKI: Mark Trzyzewski. I don't know the gentleman. I know the area. Going back. You're talking about the height of the barn being taller than the house. That is fairly normal. If I had a ranch house, I won't build a barn the height of the my ranch house. That doesn't make sense unless you have a ranch house on piers. To me it doesn't make sense. We are not California. I don't think we are blocking ocean view. I don't think the question is, he has a tall barn so I can't see the ocean. I don't think that happens on Stottle Road.

To me, if you go by the old house, there is -- is a fair chance the barn is taller than the house. To me is that appealing. I think that is normal. To me from his interpretation of the code I could go up to 35 feet for my barn or garage whatever I want to call this. And your big hang-up, it is actually taller than the house. Does it make it look better because the barn is shorter than the house or possibly better because the barn is taller than the house?

My opinion, if you have a barn taller than the house, that would be more attractive. It doesn't matter if they're the same. When I'm driving down the road, whether that is the same height, physically appealing, to me that is nothing I would be looking at. Is this property big enough for the barn. If he says yes -- I mean, driving down the road I would not be offended because his barn was 3 feet taller from the house, from a practical point. I couldn't give it a second look. 70 feet, yes. But difference of 4 feet. I personally don't know the gentleman, but from a practical point, to me it is a moot point that you're talking about.

BEVERLY GRIEBEL: How many acres do you have?

MR. COCCIA: A little over 8.

BEVERLY GRIEBEL: I'm not sure how to respond to your comments. I'm not sure what the thinking was when the code was written. I don't know. I have no idea.

DAN MELVILLE: But that is the code and we have to look at it that way.

MR. COCCIA: Maybe it makes a little more sense if it was applied to an attached garage, as opposed to a structure like this. I could see if it was attached and it was taller, that would maybe start looking strange, but separate, especially when you get these distances...

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

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

Jeffery Perkins made a motion to approve the variance pertaining to the garage height with the following condition, and Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

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

Peter Widener made a motion to approve the variance pertaining to the second driveway cut with the following condition, and Gerry Hendrickson seconded the motion. The motion was approved by a vote of 5 yes to 1 no (Dan Melville).

DECISION ON THE GARAGE HEIGHT VARIANCE: Unanimously approved by a vote of
6 yes with the following condition:

1. Subject to Monroe County Department of Transportation approval for a curb cut permit.

The following findings of fact were cited:

1. The garage height will appear lessened due to the topography of the lot.
2. No change in the character of the neighborhood.

DECISION ON THE SECOND DRIVEWAY CUT VARIANCE: Approved by a vote of
5 yes to 1 no (Dan Melville)
with the following condition:

1. Subject to Monroe County Department of Transportation approval for a curb cut permit.

The following findings of fact were cited:

1. Applicant has 300 foot of road frontage to accommodate the second driveway cut.
 2. Monroe County will make the final decision.
5. Application of Susan Knight, 3313 Chili Avenue, Rochester, New York 14624, property owner: Upstate Properties; for variance to erect an 8' x 2' double-faced addition to existing freestanding sign at property located at 3313 Chili Avenue in G.B. zone.

Susan Knight was present to represent the application.

DAN MELVILLE: We received something from the County it is not marked --

BEVERLY GRIEBEL: Do you have the County comments on that? We have an unchecked box.

DANIEL KRESS: Came back as local matter.

BEVERLY GRIEBEL: Okay. And are you the applicant, Susan?

MS. KNIGHT: Yes.

BEVERLY GRIEBEL: Do you have a notarized signature from the property owner?

MS. KNIGHT: I have a letter from them. I don't believe it is notarized.

BEVERLY GRIEBEL: It must be notarized.

MS. KNIGHT: I can get it notarized.

BEVERLY GRIEBEL: It says at the bottom notarized signature of the property owner if that is -- if you're not the -- if the applicant is not the owner.

MS. KNIGHT: Where does that say that?

BEVERLY GRIEBEL: At the bottom.

MS. KNIGHT: I see.

BEVERLY GRIEBEL: Right on the bottom here, on the first page. "Notarized signature of property owner or owners if not the applicant."

So you don't have that notarized signature?

MS. KNIGHT: No. We only have that signature there.

BEVERLY GRIEBEL: It is not notarized tonight.

MS. KNIGHT: No, it is not.

BEVERLY GRIEBEL: Even though I know Mr. Easton --

DAN MELVILLE: We'll have to table it to have him sign it -- have you -- him sign it in front of a notary.

BEVERLY GRIEBEL: We can't hear it because you're not the property owner.

MS. KNIGHT: Okay.

BEVERLY GRIEBEL: Since the property owner is not here to speak for it, then we couldn't grant you anything on a property that you don't own.

KEITH O'TOOLE: Could we make it conditioned upon getting a notarized statement from Mr. Easton?

BEVERLY GRIEBEL: Can we do that?

KEITH O'TOOLE: I don't see why not.

DAN MELVILLE: If we can do that, I'm fine with that.

PETER WIDENER: Susan (Knight), I see your signature is Dr. Susan?

MS. KNIGHT: Yes.

PETER WIDENER: Thank you.

MS. KNIGHT: Thank you.

BEVERLY GRIEBEL: How does the Board feel about that?

DAN MELVILLE: I'm okay with it.

JEFFERY PERKINS: We have a copy of the letter from Mr. -- Mr. Easton is the owner of the property?

MS. KNIGHT: Yes, he is.

JEFFERY PERKINS: If this was notarized -- if we didn't have a letter at all, I would be a little more concerned, but we do have a copy of the letter.

BEVERLY GRIEBEL: Subject to getting it notarized. Okay.

MS. KNIGHT: Thank you.

BEVERLY GRIEBEL: So they would need to get that notarized signature in the Building Department before it would be final, so you wouldn't get a letter in the mail until that would be presented.

MS. KNIGHT: We can drop that by by the end of the week. It is not a problem.

BEVERLY GRIEBEL: As long as he is not on vacation.

MS. KNIGHT: He was on vacation last week. He is back.

BEVERLY GRIEBEL: Okay. The school vacation.

Now this is the son -- is this the son?

MS. KNIGHT: Two brothers that own it.

BEVERLY GRIEBEL: The dad is retired.

MS. KNIGHT: Yes.

BEVERLY GRIEBEL: Gene used to plow my driveway.

JEFFERY PERKINS: With both brothers owning it, do they need both signatures on the document?

BEVERLY GRIEBEL: If one is notarized and the other has a problem, they can fight it out between the two of them, I guess. I don't know.

KEITH O'TOOLE: I don't think we are in a position to do due diligence as to the ownership arrangements. Not that type of application, but it is a good point.

MS. KNIGHT: I can have them both sign it for the heck of it. It is not a problem.

BEVERLY GRIEBEL: Get it notarized and get the signatures notarized.

JEFFERY PERKINS: Eliminate any concern.

MS. KNIGHT: No problem.

BEVERLY GRIEBEL: Don't want anything to hold it up.

MS. KNIGHT: No.

BEVERLY GRIEBEL: You have the office -- is that back in the building way at the back?

MS. KNIGHT: Inside the Rochester Fitness Center. Our patients are having a hard time finding us. A new doctor has joined our facility, and his original facility was in Greece, so my patients all knew where I was, but his are really having a hard time. "Where are you?" They're coming from Greece, not familiar with the area.

BEVERLY GRIEBEL: And when traffic is whizzing by, it is hard to find things like that.

DAN MELVILLE: Without a sign, they won't find it.

BEVERLY GRIEBEL: The sign there is up on the board if anyone wants to look at it.

You want to add this double-sided sign to the sign board by the road?

MS. KNIGHT: Correct. We would be going under Ace Swim and Leisure.

BEVERLY GRIEBEL: That would let people find it because your office is really in the back part of that lot.

MS. KNIGHT: Yes. It is not even visible from the outside. It is within the fitness center itself.

JEFFERY PERKINS: Is there any other additional signage outside the building?

MS. KNIGHT: Nothing to this caliber, no. There is one sign up on that pole sign that says -- it is part of Bill Howard's Prudential. We have Knight Chiropractic in there, but that's just -- secludes it to me, and I'm not sure if I'm keeping it there or not.

On the outside of the building, we have just a little square sign on the side of the building that says this is where you enter for us, and we were asked to do that so patients wouldn't be coming specifically through the front entrance.

DAN MELVILLE: Directional signs.

MS. KNIGHT: We would like to eventually do some -- like Bill Howard has signage up on the front, fitness center, Prudential, and we would like something like that on the side for

chiropractic, but that is another day.

JEFFERY PERKINS: Are there any issues that relate to this existing signage on the -- outside part of the building or anything like that? Any issues at all?

DANIEL KRESS: I am not prepared to speak to that at this time, although I would think any additions would likely require a trip back to this Board. We are -- I would comment as far as the sign out at the road, which is not owned by Howard, but actually the Eastons. I'm assuming the trade-off for this going up is that the sign that is presently up there for the chiropractic operation would come down.

There is also at least one other sign on there for a business that is no longer in Mr. Howard's building, and that ought to also come down.

MS. KNIGHT: That would be cleared up with you and Bill Howard.

DAN MELVILLE: That will be one of our conditions of approving this, that that comes down.

MS. KNIGHT: I don't have any say over anybody else's business besides my own, but I will make sure they know you want it taken down.

DAN MELVILLE: You don't, but Ron Easton who has to notarize this will know about it. You can tell him before we make our approval to put that sign up, we'll make that a condition and that will have to come down.

MS. KNIGHT: I guess I will have to talk to Bill (Howard) as far as how he would want to fill the gap. I think it would be unsightly to leave open space up there. It is like a big -- I don't know if you can see it on the pictures.

DAN MELVILLE: Maybe there -- there will be another business. He can put a blank sign in there probably with nothing on it.

MS. KNIGHT: That is up to him. I can't tell him to change his sign.

BEVERLY GRIEBEL: You're just applying for your sign up there on the pole sign.

MS. KNIGHT: Right.

JEFFERY PERKINS: Can we state that one of the conditions is that any other directional signs associated with this business are -- fall within the code? Or is that a --

BEVERLY GRIEBEL: I think we can leave that off. Dan (Kress), we don't know exactly what is there, and the Building Department can make that determination.

What is approved or not approved. Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I think there are a couple of misconceptions here.

There aren't two brothers that own Ace Swim. There are four.

BEVERLY GRIEBEL: Well maybe, yeah.

MS. BORGUS: My son-in-law is one, so I know. And Mr. Ron Easton no longer is -- the boys -- the sons own the company.

BEVERLY GRIEBEL: I didn't know he had retired.

MS. BORGUS: He did.

How big is the Ace Swim Serve sign?

BEVERLY GRIEBEL: I don't know.

MS. KNIGHT: It would probably be approximately --

DAN MELVILLE: We don't have that information.

MS. BORGUS: My point being, that we are asking for an 8 foot by 2 foot sign. I do not believe that is 8 feet, the one above it.

MS. KNIGHT: It is 2 feet by 8 feet wide. Mine would be. Theirs would actually be probably closer to 3 to 4 feet and then 8 feet wide. There is a gap.

DAN MELVILLE: The 8 feet --

MS. BORGUS: The 8 feet is what I am questioning.

DAN MELVILLE: Between two -- the two poles, that should be 8 feet. Whatever it is -- if it is more than 8 feet, I don't know.

MS. BORGUS: I don't think it is 8 feet. That is the point.

DAN MELVILLE: Less than 8 feet?

MS. BORGUS: I'm wondering where we came up with the 8 by 2.

DAN MELVILLE: That is all they would be able to put in. Between those two poles.

MS. BORGUS: I wouldn't want it sticking off the side.

DAN MELVILLE: I see your point.

MS. BORGUS: If you approve 8 --

DAN MELVILLE: We'll make sure it stays in between the poles. It will be a box sign that will --

MS. BORGUS: That is not the way the condition is being asked for. I just don't like these loose things.

Does it need to be yellow?

MS. KNIGHT: I prefer it to be yellow.

MS. BORGUS: All of the rest of the signs -- Good Guys is red and green, but all of the other signs are white backgrounds. I do not see why this should be yellow. I think with the Easter egg mess we have across the street with the pizza shop with all of the colors, little Las Vegas, we don't need all these colors on the other side of the street competing, as well. I would direct the Board to the code 115.34.6, paragraph 8.14, which limits the colors on any sign in the Town of Chili to four --

MS. KNIGHT: If you look across the street at Chili Paul Plaza, we have a great array of beautiful signs that all have unique colors to them.

BEVERLY GRIEBEL: The interchangeable ones.

KEITH O'TOOLE: If I may ask the applicant, how many colors do you have on your sign?

MS. KNIGHT: This sign, yellow, black and blue.

KEITH O'TOOLE: Sounds like three to me.

MS. KNIGHT: Thank you.

KEITH O'TOOLE: Thank you.

MS. BORGUS: It seemed to me this Board would want the sign to be kind of consistent. Not have one yellow sign.

DAN MELVILLE: I would think the landlord would want them uniform.

MS. BORGUS: I would think so, too.

BEVERLY GRIEBEL: I think maybe she is trying to make it unique to tell people look for the yellow sign.

MS. BORGUS: That may be, but we have a code. We have a code. And we already have other signs in Town, I know, because this has not -- this color factor has not been pointed out before, and we have had some fairly new signs -- I could tell you where they are -- that have 8 colors on one sign. So I just think it is time that we either -- we go by the code.

I think a yellow sign is tacky looking. It doesn't add anything to the neighborhood, and that is what this Board is about, protecting the quality of life in Chili.

MS. KNIGHT: It doesn't take --

RICHARD PERRY: Your taste and someone else's are really irrelevant.

MS. BORGUS: We have a code.

MS. KNIGHT: It is not artsy.

RICHARD PERRY: Does the code say you can't use yellow?

MS. BORGUS: Doesn't look good.

RICHARD PERRY: Does it say in the code you can't use yellow?

MS. BORGUS: Four colors on a sign.

RICHARD PERRY: Does it say in the code you can't use yellow?

MS. BORGUS: No, but there is already more than four on the sign. If there is four or more, we don't need another color introduced. That is my point.

RICHARD PERRY: Point is, her sign has three colors.

MS. KNIGHT: Right.

MS. BORGUS: It is questionable as to whether it is a sign or a part of a sign.

BEVERLY GRIEBEL: Right. Is the sign the whole thing, or is the sign she is asking for a sign which is one insert on that larger overall structure?

MS. BORGUS: Exactly.

DAN MELVILLE: That's a good question. I mean, do you consider it the overall sign, as far as the --

BEVERLY GRIEBEL: Because they came last she doesn't get her choice of sign?

DAN MELVILLE: A lot of landlords, you have to put their colors on whatever it is.

MS. BORGUS: That is exactly right.

BEVERLY GRIEBEL: We don't have an artistic review board in Town.

MS. BORGUS: We should.

DAN MELVILLE: The Wegmans property, you see the signs are the same.

KEITH O'TOOLE: We could have a board that reviews color. That would be good.

MS. KNIGHT: This is becoming painful.

JEFFERY PERKINS: Yellow is a happy color.

BEVERLY GRIEBEL: I like yellow. Do you have another question?

MS. BORGUS: I do. What are we going to do now the bakery is coming in there? What are we doing with them?

MS. KNIGHT: Bakery is not here today. We are discussing my sign.

BEVERLY GRIEBEL: We are only discussing this one.

MS. BORGUS: Look ahead is what I'm asking this sign to do. They may want purple.

RICHARD PERRY: Sounds great.

BEVERLY GRIEBEL: This is a professional office with patients having a difficult time to find the office.

MS. BORGUS: I know all about that, but -- you know how I feel about signs in Chili. I think they should be -- serve a purpose but be as unobtrusive as possible.

MS. KNIGHT: I think the biggest --

MS. BORGUS: Excuse me. I'm addressing the Board.

MS. KNIGHT: Sure.

MS. BORGUS: Yellow sign stuck in the middle of this sign is not what is in the best interest of the aesthetics values we place on our Town.

And especially from the fact that this tenant does not even rent from the Eastons.

BEVERLY GRIEBEL: No, but the sign for the whole -- encompassing the property happens to be at the road. There is no other road sign that she is going to use to advertise.

MS. BORGUS: With regard to the form that wasn't notarized --

KEITH O'TOOLE: Just for the record, if I may point out, I know a sign that has three colors. We call it the American flag, red, white and blue. Can we move on, please?

BEVERLY GRIEBEL: She is going to get the paperwork notarized before she can get approval for the sign.

MS. BORGUS: How does it read on the form? Who is to notarize this?

BEVERLY GRIEBEL: The sign --

KEITH O'TOOLE: Presumably a notary public. Can we please move on?

MS. BORGUS: This is a public hearing, Mr. O'Toole, and I wish you would let me exercise my democratic rights.

KEITH O'TOOLE: You have a right to state your point. You don't have a right to repeat it ad nauseam.

MS. BORGUS: I'm asking a question. This is the first time I've asked it.

KEITH O'TOOLE: This is not a question-and-answer period. It is a public hearing. You have a right to make a point.

MS. BORGUS: I would like to make a point. I would like clarification.

BEVERLY GRIEBEL: Okay. Let me read Question Number 13. "Notarize signature of property owner in parentheses if not applicant," and then there is a space for a name and a date, "sworn to me before this" --

MS. BORGUS: Thank you, Madam Chair. My point is, is it the property owner where she rents or the property owner where the sign is?

BEVERLY GRIEBEL: Property owner where the sign is.

MS. BORGUS: All right.

BEVERLY GRIEBEL: Because it wouldn't be where she rents. She doesn't want the sign down there.

MS. BORGUS: I'm pointing out it is a different owner than the building in the back, than the buildings that run perpendicular to Chili Avenue, and it is also a different property owner than where the sign is.

DAN MELVILLE: She would have to have the property owner who owns that sign.

MS. BORGUS: Thank you.

Well, I guess you get my drift. I have no problem with the white sign. I think this looks terrible. Thank you.

RICHARD PERRY: With the purple that will be a nice accent.

MS. BORGUS: You may get one yet.

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

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

Richard Perry made a motion to approve the application with the following conditions, and Gerry Hendrickson seconded the motion. The motion was approved by a vote of 5 yes to 1 no (Dan Melville).

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

1. Final approval is subject to applicant obtaining the required notarized signature of the property owner and delivering same to the Building Department.
2. Other chiropractic signs to be removed.
3. Inset sign will be sized to fit between upright posts.

The following finding of fact was cited:

1. Signage will assist patients in locating the doctor's office at some distance from the street in a high traffic area.

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

The meeting ended at 9:05 p.m.