

CHILI ZONING BOARD OF APPEALS
June 19, 2012

A meeting of the Chili Zoning Board was held on June 19, 2012 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: Signs, we'll go over them first. The only one that, um, I think was a question on the first application, on Shrubbery, I did see that at the front end of the week, um, it had been vandalized. Later end of the week it was gone.

Other than that, I saw all the other signs.

ROBERT SPRINGER: You're right.

ROBERT MULCAHY: Just the one on --

FRED TROTT: Same thing.

PAUL BLOSER: It was up, and I had verified that with Kathy (Reed), also. So I am going to let that proceed and go.

Starting with an informal discussion first. This is an application we heard a couple months ago for a -- as a new application for a Land Use Variance to allow professional business at property at 2674. We did this -- we did -- we didn't close it. We tabled it because there was really kind of some confusion that we already had a zoning approval on that application many years ago, and in reviewing it, and looking at current code, we kind of felt that the better way to go with this is a definition and redefine what the code actually calls and rather than going through a whole new application and another variance. Just for some of you new here, once a variance goes into effect on a property, it carries with the property forever. So we want to be cautious about putting any kind of variance on properties. So as this was already brought up for -- starting out with this, um -- this is for Dr. Christopher Mozrall for an interpretation of the existing Land Use Variance granted on December 22nd, 1985, for a dental office.

INFORMAL:

1. The Board will hear a request from Dr. Christopher Mozrall for an interpretation of an existing Land Use Variance granted on December 22, 1985, for a dental office. Applicant is requesting the Land Use Variance allow a professional business office, at property located at 2674 Chili Avenue in R-1-20 zone.

Christopher Mozrall was present to represent the application.

PAUL BLOSER: Nothing has really changed since we last talked. I know the building is up for sale and you have moved to your new location here in Chili.

DR. MOZRALL: Correct.

PAUL BLOSER: So it's kind of a situation now where we would like to better define, as I said, what that variance does allow for use of the business. I have talked to a few people, and we have sent out an e-mail just on how the code applies, and I guess at this point, I'm looking for some Board discussion on this, on how we would like to define this, as far as what we would allow into this facility. I'm just looking into the code on this one.

FRED TROTT: What are you proposing?

PAUL BLOSER: I would like to broaden the definition, like I said in here. Right now it just says for a -- a dentist office. I would like to expand it as our code says for a professional business office. And I guess at what point do we want to put on some suggestions as far as types of businesses that we would want or not want, to get to the place in the code?

MICHAEL NYHAN: You're talking about Restricted Business type?

PAUL BLOSER: This is 500-17, Section F. Number 2. Licensed professionals and offices including the following professionals attorneys, physicians, architects, accountants, specialized business or commercial schools, employment agency, credit bureaus, data processing, management consultants, manufacturers agents, commercial artists, surveyors, engineers and realtors.

That's what is allowed right now. That is pretty broad base on what -- even the previous variance was written as, just a dentist office.

We don't have any idea right now. Um, I mean it is set upright now as an apartment and the dentist office, and we would like to, you know -- if we go by what the code says right now, we would say it is defined as code. And the variance is in place to allow that. And there is the definition.

If we wanted to add anything, you could. If we wanted to limit anything, we could do that. It is still a residential neighborhood, borders up to neighbors. So certainly I want to be cautious and make sure that we're protecting the neighbors also.

There was also a question if -- was kind of stalling for the attorney on this one because I never got a direct answer from him, if we could allow an add to this as -- as the parcel or as the property, the dwelling, the structure -- I guess structure is a right word -- right now as it sits, it is divided into two. I won't say apartments, but two separate units within, and if we could get into this approval that it -- if it sells, that it could be used as a small apartment upstairs with a bigger section downstairs, as a two apartment, rather than just a business and an apartment, because that is how it is set up now, approved.

MICHAEL NYHAN: So what would we have to do then, rezone -- or just give a better definition of the type of business?

PAUL BLOSER: Just a better definition. It is already zoned.

JAMES WIESNER: So we actually take this list and we pare it down any more?

PAUL BLOSER: This is code. This is what is allowed. So to take away from the code, I can't see where we can do that.

JAMES WIESNER: Because it seems like it could be very broad, so more narrow --

PAUL BLOSER: That is why I say if we want to put specific limitations on it, we could do that.

MICHAEL NYHAN: I think if this was -- just looking for more interpretation. It's hard to say without knowing what business will go in or when that could happen. It could be six months from now or a year from now. This Board could be a different composition then. I think from my opinion in looking at the property, it has been a dental office for almost 20, 30 years now?

DR. MOZRALL: Since '85.

MICHAEL NYHAN: Without any adverse effects on the neighborhood. So any business that were to go in there, I would want to look at the character of that piece of property is not going to change whatsoever, because -- because you have a direct residence on one side and the apartment complex on the other.

So I guess the best opinion that I could give is as long as whatever business went in there did not change the character whatsoever of the property in its appearance, that it still appears to be a residential piece of property, then that is the type of business, I guess, I would be in favor of approving. But without knowing what that business is, I couldn't possibly -- I don't know how we could possibly name any business or every type of business. I think I -- we need to know what business may be --

PAUL BLOSER: You don't. It is up for sale. That is why we need a broader definition, so he can at least have a better attempt -- right now it is designated as just being a dentist. The code allows for much more.

Michael Jones arrived.

PAUL BLOSER: So what we're trying to do is give him some relief so he can sell the place, but absolutely, you're correct. I would want to see the -- a condition of approval that residential character of the structure be -- be maintained and that would include signage. No additional signage to the property.

ADAM CUMMINGS: I don't have the zoning map here. I take this one -- this parcel actually sits in R-1, doesn't it? It is not in the Restricted Business District.

PAUL BLOSER: This is R-1, yes.

MICHAEL NYHAN: So we're talking about a restricted type business.

ADAM CUMMINGS: That -- that listing, permitted uses, is actually for the RB zone. All we're doing is pushing that listing to a totally different zone. So I don't know -- that's -- if that is actually an accurate use of that list.

JAMES WIESNER: I think it was more looking for definitions of occupations that would be appropriate for that setting, more than it was for a label.

ADAM CUMMINGS: Right. But we're trying to use the code's definition, I think in an inappropriate use. Because we're really restricting the businesses. They're asking for variance; however, we're restricting the businesses.

There is the man of the hour.

ED SHERO: What is the question, if it could revert back to Residential? Is that what you were asking?

FRED TROTT: That was one of them.

ED SHERO: It was Paul (Bloser)'s question.

PAUL BLOSER: Well, if the dwelling, Number 1, could be sold as a double residential at this point, because right now, it is -- it is divided up --

ED SHERO: It is still zoned Residential, so I don't know why it couldn't be.

MICHAEL JONES: Yes, could always be used as Residential.

PAUL BLOSER: I just wanted to make sure it could be allowed in the interpretation so as part of the sale there is not a question -- with other realtors that are looking at it, they know that that is an option, to be sold as a double.

MICHAEL JONES: Correct. It is always a permitted use under the permit zoning. Question is if it goes back to Residential, then the variance -- would the variance continue. That is a fair question.

ADAM CUMMINGS: My question is whether that listing of permanent uses is actually appropriate, since this doesn't fall in the RB District. It is actually an R-1 District.

Can we just take a list of permitted uses from one zone and apply it to another zone?

MICHAEL JONES: Yes. The Board has the authority to do that. Whether it is appropriate is a question for you. Legally you have the authority to interpret what the intent of the existing variance is, and if that is what you believe the original intent was, you have the authority to make that interpretation, yes.

PAUL BLOSER: Thank you.

Then, that is what we're going forward with.

So I think on this one -- this is actually going to be -- I will say conditions of approval --

ADAM CUMMINGS: This is just an informal tonight.

PAUL BLOSER: This is just informal.

MICHAEL NYHAN: This is informal conversation to give some direction.

PAUL BLOSER: But this Board -- the existing variance, there is not a new variance.

ADAM CUMMINGS: Right. I don't know if we need to even discuss conditions at this point. We haven't had any public comment.

ROBERT SPRINGER: Do we have any questions?

ADAM CUMMINGS: I don't know. I just don't know if we're jumping the gun.

MICHAEL JONES: If I could just climb in a little bit. So we're acting as a Board under the authority of an interpretation. So you don't necessarily have to have the public comment. As an informal discussion, if that is all we're doing tonight, you can certainly discuss what individual members would feel would be important just for the purpose of discussions as far as conditions go. So that is okay. I don't think you're binding yourself. It is just an informal discussion.

PAUL BLOSER: Okay. Then taking that a step farther, if we were -- in defining this, can we put our conditions on here without it going to a new amendment and to vote? We have never done one of these before.

MICHAEL JONES: Sure. That is okay. That's totally fine.

So just so I understand the question, can you go a step further and put conditions on it?

PAUL BLOSER: On an existing variance.

MICHAEL JONES: Yes. Because what the Board is being asked to do is to interpret what the intent of the existing variance was. If you look at your original minutes from 20 some years ago, there was discussion about the reasons the applicant was requesting the variance for a dental office. Now, typically when you grant a use variance, you don't restrict it to the particular type of office necessarily. It is that type of use. So the idea is it is interpreting what was intended, what was the type of use the Board was granting the variance to allow. So what type of use is the dental office. You're looking at minutes and history. What was the type of use that was being granted by that variance. If you make a condition that is appropriate to carry out that intent, then I think that is legally fine.

PAUL BLOSER: Okay. Then -- that is kind of where I was going. We're just going to put -- any condition, one of them -- that Mike (Jones) said, that the house be maintained with the residential appearance, at all times. And that -- that the permitted uses as called out in the section are already approved within the code.

MICHAEL NYHAN: I think for an informal discussion and to give some direction, what I would say is that the intended purpose for giving that Land Use Variance was for a professional office such as a dentist office to be in there. And I think for this Board, I think we should wait until we have, you know, some sort of an offer from somebody that is willing to purchase that property with an intended use so we can act on that intended use. Not just to leave it open that any one of these 15 or 20 types of businesses could go in there and then grant that variance without knowing what that business could be.

PAUL BLOSER: We're not granting a variance now. We already have a variance.

MICHAEL NYHAN: So we're just giving that interpretation. So I guess I just don't know what we would be voting on.

PAUL BLOSER: The variance they have right now is -- it's as if they just stamped it and said, "Here, you have got a variance. Go run a business."

What we need to do is define that. Because it was never really defined or conditioned.

MICHAEL NYHAN: Okay.

PAUL BLOSER: So that is -- that's what this interpretation is.

ADAM CUMMINGS: Okay. We don't want to repeat that same mistake.

PAUL BLOSER: Right.

JAMES WIESNER: So we have to revoke on it in order to make it --

PAUL BLOSER: Not on a definition. On a new application we would have to.

JAMES WIESNER: I'm not open to that whole list.

PAUL BLOSER: I agree. I don't think we should open it up to everything. That is why I am looking for suggested uses. Such as -- attorneys or -- or a physician or a dentist or an architect or an accountant. Specialized business, commercial schools, no, I don't think so.

You know, you're still going to have limited parking in there. You know, six, eight cars max at any given time. I would still like to have business hours on that. Because there was never any business hours put in. I think that's a crucial thing for a neighborhood.

So it is just -- it is putting the details back on paper that were never there.

ROBERT MULCAHY: There is only a few on this list that I would object to. Most of them are all right.

PAUL BLOSER: And I guess that is what I want to do, is just tighten it up. This is -- we have drawn this out a couple months now, and I don't believe any fault of the applicant. So I -- so I really would like to close this out.

JAMES WIESNER: We have done this previously where there is an interpretation of the code by the Inspector, where he asked for an interpretation of the code and then we go in and vote on it.

I mean, why wouldn't we do something like that instead, I guess? Because my concern is that we have got seven members of the Board here. We're not all going to agree on what is in that list. I don't think it is fair that it get thrown out there without getting some sort of vote on it. Everyone is able to comment here.

PAUL BLOSER: Anything else, Bob (Springer)?

ROBERT SPRINGER: No. Other than the structure.

PAUL BLOSER: It is not a new variance.

ROBERT SPRINGER: I understand.

PAUL BLOSER: It is already there.

JAMES WIESNER: But it is defined as a dentist office right now.

ROBERT MULCAHY: I'm kind of afraid as to what kind of business is going to go in there.

Is that what we're talking about here?

PAUL BLOSER: Yes.

ADAM CUMMINGS: That's one of them. And then we're also afraid of restricting it for the applicant so he can never sell it except for reverting it back to Residential. Because the likelihood of getting a dentist is proving to be unlikely.

ROBERT MULCAHY: So going back to Residential would be --

ADAM CUMMINGS: An option.

ROBERT MULCAHY: -- an option.

PAUL BLOSER: It's an option, but -- I mean, I think we have other things in here that we could look at just to loosen it up for him. The attorneys, physicians, architects, accountants.

ROBERT SPRINGER: Is there any specific question --

DR. MOZRALL: Not at this point. I think we can come up with five or six, and it is tied right to those five or six residential. Attorney, physician, architect, accountant, surveyors, engineer, realtor. I -- I wouldn't want to go -- I mean, they're very specific. Because they're similar to -- it would be a few people at a time coming in and out. Not classes, meetings, or hang out.

ROBERT SPRINGER: Could you walk it down through what you just went over -- I would lock it down so what you just went through, plus the use of an apartment or two apartments, and the residential structures stay the same and no additional signage.

PAUL BLOSER: I think that is really clear. It opens it up quite a bit for the sale of the property.

ROBERT SPRINGER: That's all there is, at this point.

PAUL BLOSER: Okay.

ROBERT MULCAHY: I think I would go along with that.

PAUL BLOSER: Fred (Trott)?

FRED TROTT: Yeah. That sounds fine to me. I don't know -- I don't know that we want the commercial artist in there. We wouldn't want --

PAUL BLOSER: Specialized business.

FRED TROTT: Specialized business. I didn't know if you wanted to do the management consultant?

PAUL BLOSER: Yes. That one is fine. I'm looking at these and saying you're going to have an office staff of three, four, and maybe two, three, four clients at any time. Might be a joint meeting, but probably more one-on-one in any of these given situations. That really kind of limits your traffic. That is the intent.

I would also like to put hours of business on here, in fairness to neighbors, as we have done with any other similar situation.

ROBERT MULCAHY: Do we have to vote on that?

PAUL BLOSER: I think amongst ourselves, I think I would want to have the majority vote on it, yes.

FRED TROTT: Okay. I have no problem with that.

PAUL BLOSER: That's the right way.

ROBERT MULCAHY: Can we do that? Can we change the --

PAUL BLOSER: We can modify under conditions of approval, as -- as how we interpret this variance as it was given.

Certainly this code has opened up a lot more, too, since it was rewritten. I think is the best of both worlds and becomes a win/win for all of us at this point.

ADAM CUMMINGS: It is still really a restrictive list. We're only choosing out of 14. Someone else shows up, there still could be 35 other occupations that are in existence now -- that aren't in existence now that could come up in the future, and we have restricted them not -- to not be eligible for this. That is my hesitancy, is we're still restricting. We're expanding it a bit, but we're still restricting.

PAUL BLOSER: I think you have to --

FRED TROTT: But I think we're showing that we're open, so that when they try to sell it, that that helps the realtor --

ADAM CUMMINGS: But we're once again, trying to apply it to this one instance trying to sell it. Even if he doesn't sell, we're now opening it he can use the building for all these uses. It is the property owner. It is not just the sale we're trying to open it to. This variance sits with it. So really the sale in the back of my mind really isn't -- is a moot point. It is really I'm just trying to make it so that it's not totally restrictive of just dentists.

FRED TROTT: Yeah.

PAUL BLOSER: I will go ahead and start writing. The Board's interpretation of the December 22nd, 1985, approval is with the following conditions.

Paul Bloser reviewed the proposed conditions with the Board.

ROBERT MULCAHY: Management consultants.

ADAM CUMMINGS: Are we going to physical therapists, occupational therapists?

PAUL BLOSER: That would fall under physician.

ADAM CUMMINGS: You can go to the State Education Department and all of the licensed professionals there. There is probably 150 of them.

JAMES WIESNER: I think we need to be pointed in giving a half dozen and stay at that.

PAUL BLOSER: We'll leave that out now.

Paul Bloser further reviewed the proposed list of conditions.

ROBERT MULCAHY: And apartments in there, too.

PAUL BLOSER: For the businesses.

ROBERT MULCAHY: I can see the next buyer wanting to make it an apartment.

PAUL BLOSER: There is apartments.

ADAM CUMMINGS: There is already a variance for apartment.

ROBERT MULCAHY: But upstairs and downstairs.

PAUL BLOSER: Dual structure.

ADAM CUMMINGS: And downstairs follows with the R-1 zoning.

ROBERT MULCAHY: You take that out and it would be --

Paul Bloser further reviewed the proposed conditions of approvals with the Board.

MICHAEL JONES: Per the conditions of -- the Board has been discussing, relative to their inclination to interpret the previous use variance referenced to that kind of business, to include the list they have just gone over, do you consent to that list and those conditions?

DR. MOZRALL: Yes, I do.

MICHAEL JONES: Okay. Thank you.

PAUL BLOSER: Doctor, since we last spoke, has there been any interest in any other type of business, you're realtor going in there?

DR. MOZRALL: The only thing, my realtor brought some other realtors in to take a look at it. We have lowered the price twice. Potentially this week we may have somebody going in, but nothing. It has been vacant --

PAUL BLOSER: You have that pretty much covered as far as you're concerned with allowing what additional businesses might be allowed in there?

DR. MOZRALL: Yes. Yes. That will help.

PAUL BLOSER: All right. I guess real quick I will run through these quick to see what I have written here.

Paul Bloser reviewed the proposed list of conditions with the Board.

PAUL BLOSER: I need to make a motion that these conditions be accepted as an interpretation of the December 22nd, '85 --

FRED TROTT: I make a motion.

ROBERT MULCAHY: I will second it.

ADAM CUMMINGS: I have a weird question for Counsel. I don't remember when SEQR was adopted. Would SEQR have been done in 1985, or should we do it today?

MICHAEL JONES: It wouldn't be done. If you want to just include it in the resolution, this would be a Type II action. So SEQR as a Type II, you don't have to do anything.

ADAM CUMMINGS: Right. But --

MICHAEL JONES: Yes, that would be fine.

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.

DECISION: Approved by a vote of 4 yes to 3 no (James Wiesner, Michael Nyhan, Adam Cummings) with the following conditions:

1. Allowed uses include dental, physicians, attorneys, architects, accountants, manufacturer's agents, management consultants, surveyors, or realtors.
2. Structure can also be used as a double apartment.
3. Structure and property must maintain residential appearance.
4. No additional signage allowed.
5. No additions or external structures to be added to property without Town permits, as required.

The following finding of fact was cited:

1. This application is a hearing to clarify the intent of the previous board and what and how this property can be used. The conditions listed are defined by current code as acceptable uses of the property and structure. No relief from the current Chili code was given. Based on this being a code interpretation and not a variance request, there was no public hearing.

PUBLIC HEARINGS:

1. Application of Joseph Fallone, 55 Forest Meadow Trail, Rochester, New York 14624, property owner: M/M Robert Fallone; for variance to allow existing pool to be 9'8" from dwelling (10' required) at property located at 45 Shrubbery Lane in R-1-15 zone.

Joseph Fallone was present to represent the application.

PAUL BLOSER: For the record, as you come up, I will ask that you give your name and address, please.

MR. JOSEPH FALLONE: Joseph Fallone, 55 Forest Meadow Trail, Rochester, New York 14624.

PAUL BLOSER: Good evening.

MR. JOSEPH FALLONE: Good evening.

PAUL BLOSER: I am going through on the print on this.

The only question I had on this was in the back, on this clearance, shown on here, the 9'8", 10 foot required, um --- Ed (Shero), is this -- is this where another -- another one of these where we did the measurement off the bow window and does that go right to the road as far as foundation? You're taking it off the structure or the foundation.

ED SHERO: Code used to be the foundation. It was changed a couple years. A portion of the main dwelling.

PAUL BLOSER: Okay. Do we have 10 foot away from the foundation?

ED SHERO: I only measure 9'8" from the bow window.

PAUL BLOSER: Okay. Mr. Fallone, the overhang on this is approximately?

MR. JOSEPH FALLONE: Foot and a half.

PAUL BLOSER: 17 inches?

MR. JOSEPH FALLONE: Approximately.

PAUL BLOSER: So without -- that was foundation -- if the window wasn't there, we would have it right to the -- the window is what, 2 foot off the ground, the average on those.

ED SHERO: It is not really a window. It's a door.

PAUL BLOSER: Door.

MR. JOSEPH FALLONE: It's a door that comes off the back, off the dinette.

PAUL BLOSER: And overhang off the back?

MR. JOSEPH FALLONE: Yes. Cantilever.

PAUL BLOSER: Okay. All right. Board questions?

FRED TROTT: The only question I have is, we're going to be good with the 9'8" and not a year from now coming back with what was actually 9'7"?

ED SHERO: If you want to make it 9'7", or you want to make it 9'8"?

FRED TROTT: I just --

PAUL BLOSER: I -- I understand what you're saying on that.

FRED TROTT: It's already preexisting, right?

PAUL BLOSER: Everything is there.

FRED TROTT: Yeah.

PAUL BLOSER: So --

FRED TROTT: Just -- we have been caught by it before, you know. Give him a couple of inches extra breathing room.

PAUL BLOSER: I -- okay.

MICHAEL JONES: The only condition I think the Building Department is looking for, um, would be a condition that the final permit is closed out within 30 days so all final inspections are taken care of. As far as the issue with the extra inches, I mean I don't really have a position on it.

ED SHERO: No permits were closed out and again, both of them are for the deck.
PAUL BLOSER: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Um, two questions. Did I hear that the deck and the pool did have a permit, didn't have a permit?

ED SHERO: Do not.

MS. BORGUS: They were built without a permit?

ED SHERO: That's correct.

MS. BORGUS: Here we go again. How do people get off doing these things?

The other question I have is, it has always been my understanding that we work from the -- as Mr. -- as Ed (Shero) said, we work from the furthest point out on the building. The way I look at that, it is 7 -- 7 feet 2 inches. If you come -- if you saw a line from that door, parallel with the rest of the building, isn't it 7 foot 2 inches? It is not 9'8".

ED SHERO: I don't believe it is 10 foot. It is 10 foot minimum. As what the architect was trying to show, the pool had to be 10 foot from the foundation. He was incorrect in showing that.

MS. BORGUS: No, no. I am looking at -- the variance is to allow an existing pool to be 9'8" from the dwelling. It is not 9'8" from the dwelling. 72 inches.

ED SHERO: See 10 foot from the pool and building. It says 10 foot minimum. It is not a measurement. His point of doing that was that the pool had to be 10 feet from the building -- it is not a true measurement. It wasn't like oh, I measured this and it is 10 foot.

MS. BORGUS: But -- okay -- I guess I am not making myself clear. If you draw a line straight over from the door parallel to the rest of the building, it's -- it's not -- you're looking at a bigger variance, I think, than you have gotten this -- in this proposal. It says 7 feet 2 inches. If you come right over from the door, find a point and go from there to the pool, it is 7 foot 2 inches.

ADAM CUMMINGS: The railing itself calls out at 7 feet 2 inches, and the door is the cut-out down there, so it has got to be greater than 7 feet 2 inches.

MS. BORGUS: If you're happy with it. It just looks pretty strange to me.

ADAM CUMMINGS: I don't know -- it sounds like that measurement -- I will point to it up here (indicating). It sounds like this measurement from here (indicating) to here (indicating) is 9 feet 8 inches. That is the closest point. These are all railings. The structure is here (indicating). This is the dimension Ed (Shero) was talking about, just the minimum.

MS. BORGUS: But if you took the point that is the furthest out where that door is, I was always under the impression we use the furthest point out as being the line. And if you -- if you draw an imaginary line across to where -- to where the rest of the measurements, you don't get 9'8" inches.

ED SHERO: I see what you're saying. You're saying a parallel line.

MS. BORGUS: Exactly. Because we're going from the furthest point of the building, right?

ED SHERO: We are, but we go from the distance from -- the closest distance from the point of the building to the pool, not the parallel lines. Because the house would jog back and the pool is allowed to jog back with the house.

MS. BORGUS: The pool is just sitting there if you ask me. It is not moving back with the house. (Laughter.)

I remember the house at Bellaqua, right at the corner. And that is what we got into there. They wanted a bump-out of a window and then suddenly, suddenly we didn't have the same measurement. I don't see where this is any different. Whatever. Thank you. I don't think it is right. I think you got to be consistent.

FRED TROTT: We can vote for 7 foot.

MS. BORGUS: Whatever, but you ought to have it right. Accuracy is all I am after, and consistency.

PAUL BLOSER: Thank you.

MS. BORGUS: I'm unhappy that people build things without permits and they just think they can get away with it. Obviously some are going to get caught and there ought to be a punishment. Thank you.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: Question. Have the permit fees been paid to date?

PAUL BLOSER: I believe the permits have to be applied for.

ED SHERO: The permits haven't been paid for because we couldn't accept the permit because the variance made it so we couldn't accept the permit for the pool. So until this step is taken, we couldn't entertain the permit. If this is denied, we can't take the permit.

Michael Nyhan 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.

Paul Bloser reviewed the proposed conditions of approval with the Board.

ADAM CUMMINGS: Did we want to change the measurement? I'm comfortable with that measurement.

PAUL BLOSER: I would leave it as the application --

ROBERT MULCAHY: There is two points you could take that off of you would be fine.

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.

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

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

1. Both the pool and deck permits must be applied for and final inspections must be completed within 30 days.

The following finding of fact was cited:

1. The deck and pool were constructed inches from the drawn plans and would have been in accordance with past building code, but recent code changes make it not in compliance. The requested variance will have no negative effects on environment or nearby properties.
2. Application of Howard Cohen, owner; 5 Blue Ridge Trail, Rochester, New York 14624 for variance to allow the total square footage of garage area, including a new 22' by 28' garage addition to be a total of 1,288 square feet (1200 square feet allowed) at property located at 5 Blue Ridge Trail in R-1-15 zone.

MR. COHEN: Good evening, everyone. I am Howard Cohen, owner of 5 Blue Ridge Trail, Rochester, New York 14624.

PAUL BLOSER: This is going in the back of the house?

MR. COHEN: Correct. I'm looking to remove the back wall and go into the yard. The current backyard, very roughly I had at 72 feet beyond the back of the current garage. I will go 2 feet for the garage space.

MICHAEL NYHAN: I'm sorry, the distance from the new structure will be 72 feet to the back lot line?

MR. COHEN: From the existing structure, 72 feet. From the back of the current garage to the end of the line approximately.

MICHAEL NYHAN: The new structure will be 22 by 28?

MR. COHEN: Correct.

MICHAEL NYHAN: Existing structure is kind of blurry. What is the size of the existing garage? Is that a one-car garage?

MR. COHEN: No. Two car. Actually two plus. It is 28 wide. The width is the same, and the depth is a little bit less than the 22. Maybe 20 feet.

MICHAEL NYHAN: Okay. Thank you.

PAUL BLOSER: Not too deep then. Not very deep then.

MR. COHEN: Not really. I have -- if the Board wants, I have engineer's drawings and architectural drawings.

PAUL BLOSER: So you do have stamped -- are they stamped drawings?

MR. COHEN: I do. Would you like a copy of this one?

ADAM CUMMINGS: It is really up to the Building Department.

PAUL BLOSER: It really is. What is this going to be constructed -- the exterior?

MR. COHEN: What material? It is a redwood siding.

PAUL BLOSER: Similar to what the house is.

MR. COHEN: Exactly the same. As exact as we can make it.

ED SHERO: I would just ask if the Building Department asks if this is approved, no business be operated out of the garage. And obviously the building permit is going to be required. Drawings will be stamped by a licensed engineer or architect.

PAUL BLOSER: Ed (Shero), can you turn on your mike? I can't hear you.

ED SHERO: Did I have it shut off?

If the application is approved, we ask for the condition that no business be run out of the garage, such as auto repair. We ask that an engineer or architect stamped drawing showing elevations be included with the building permit application.

PAUL BLOSER: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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.

Paul Bloser reviewed proposed conditions of approval with the Board.

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 James Wiesner 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 by a vote of 7 yes with the following conditions:

1. Plans and elevations showing the proposed structure must be prepared and stamped by a licensed engineer or architect and submitted to the Building Department.
2. Materials used must match the existing structure in siding, roofing, trim, windows, doors, etc.
3. Structure is not to be used for business purposes of any type.
4. All permits and inspections must be completed as required by the Town.

The following finding of fact was cited:

1. The requested variance will not have adverse impact on the physical or environmental conditions in the neighborhood.
3. Application of Donna Crowley, owner; 4 Pound Ridge Circle, Churchville, New York 14428 for variance to erect a 20' 8" by 12' addition to garage 6' from side lot line (10' required) at property located at 4 Pound Ridge Circle in R-1-15 zone.

Michael Crowley was present to represent the application.

MR. CROWLEY: Good evening. My name Michael Crowley, 4 Pound Ridge Circle.

PAUL BLOSER: In looking at the house, you have got a -- a raised area with a decorative block. I'm assuming the garage is going where that is.

MR. CROWLEY: Yes. That is landscaping block that surrounded the (inaudible) existing driveway.

MICHAEL NYHAN: Is that decorative block going to be removed and extended, or is that the garage built within that space?

MR. CROWLEY: The garage should be built within the space. The decorative block will be removed and basically replaced for the foundation of the proposed addition.

MICHAEL NYHAN: Thank you.

ED SHERO: I would ask if the variance is granted, it requires stamped drawings. For elevations, we have some drawings but they're not stamped and from the architect -- You want me to redo it?

PAUL BLOSER: I read your lips.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott 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.

FRED TROTT: Same conditions as the other one.

PAUL BLOSER: Yes. 1 through 4, I will repeat.

Paul Bloser reviewed proposed conditions of approval with the Board.

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 Adam Cummings 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 by a vote of 7 yes with the following conditions:

1. Plans and elevations showing the proposed structure must be prepared and stamped by a licensed engineer or architect and submitted to the Building Department.
2. Materials used must match the existing structure in siding, roofing, trim, windows, doors, etc.
3. Structure is not to be used for business purposes of any type.
4. All permits and inspections must be completed as required by the Town.

The following finding of fact was cited:

1. The requested variance will have no adverse impact on the physical or environmental conditions in the neighborhood. The original garage is barely 20' deep which is pretty small compared to current designs.
4. Application Steve Kostovski, owner; 83 Christina Drive, North Chili, New York 14514 for variance to allow proposed enclosed porch to be 13' from existing in ground swimming pool (15' required) at property located at 83 Christina Drive in R-1-15 zone.

Steve Kostovski was present to represent at lip indication.

MR. KOSTOVSKI: Good evening. Steve Kostovski, 83 Christina Drive, North Chili 14514.

PAUL BLOSER: So the existing patio is already there?

MR. KOSTOVSKI: Correct.

PAUL BLOSER: So is this a raised patio right now?

MR. KOSTOVSKI: Correct.

PAUL BLOSER: All concrete, I'm assuming?

MR. KOSTOVSKI: Yes.

PAUL BLOSER: Is this one of the prefab type three-season rooms?

MR. KOSTOVSKI: No.

PAUL BLOSER: This is something you're doing yourself?

MR. KOSTOVSKI: This is hand-built.

PAUL BLOSER: I'm sorry.

MR. KOSTOVSKI: This is built out of wood. It's not a prefab.

PAUL BLOSER: This something you're doing yourself?

MR. KOSTOVSKI: Contractor.

PAUL BLOSER: Okay. Do you have drawings on this?

MR. KOSTOVSKI: We did submit them.

PAUL BLOSER: I saw sketches, yes.

Is this three-season?

MR. KOSTOVSKI: One season?

PAUL BLOSER: One season.

MR. KOSTOVSKI: Yes.

PAUL BLOSER: So just screened-in, no windows on it?

MR. KOSTOVSKI: Correct.

PAUL BLOSER: No heat in there or anything?

MR. KOSTOVSKI: Nothing.

PAUL BLOSER: So this is an in-ground pool?

MR. KOSTOVSKI: Correct.

PAUL BLOSER: Is that all fenced in right now?

MR. KOSTOVSKI: Yes. 6 foot high vinyl fence.

MICHAEL NYHAN: The existing patio is a concrete patio with a footer; is that correct?

MR. KOSTOVSKI: Correct.

MICHAEL NYHAN: You will take that current footprint and just build a structure with a roof and screen that, the sides of that?

MR. KOSTOVSKI: Yes.

MICHAEL NYHAN: Okay.

ED SHERO: Another requirement is a permit is required, as we talked. That's it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott 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.

Paul Bloser reviewed proposed conditions of approval with the Board.

PAUL BLOSER: Did you have white siding on the house?
MR. KOSTOVSKI: Beige.
PAUL BLOSER: Light color. Is this what they're going to use?
MR. KOSTOVSKI: The trim will be white.
PAUL BLOSER: Okay.
MR. KOSTOVSKI: To match the vinyl fence.
PAUL BLOSER: Okay. Trim windows -- are there any solid windows going to it, or just screen?
MR. KOSTOVSKI: Just screens.
PAUL BLOSER: Okay. All trim to match the existing on house.

Paul Bloser further reviewed proposed conditions of approval with the Board.

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 James Wiesner 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 Adam Cummings 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. All required permits and inspections must be completed and obtained from the Town.
2. Trim to match existing on house and fencing.
3. Roofing materials to match those found on the main structure.

The following finding of fact was cited:

1. This type of addition is common within the neighborhood. It will have no adverse impact on the physical or environmental conditions in the neighborhood.
5. Application of Mr. and Mrs. Maxwell Poray, owner; 841 Morgan Road, North Chili, New York 14514 for variance to erect an addition to garage 5' from side lot line (9' as preexisting setback) at property located at 841 Morgan Road in AC zone.

Matt Emens was present to represent the application.

MR. Emens: Matt Emens, HB Cornerstone, 99 Garnsey Road, Pittsford, New York 14534. I'm also here representing my clients, who also happen to be my sister and brother-in-law, this evening for the application that is before you.

Just kind of go through -- I think as I have said, if you have a chance to look through -- basically an existing one-story residence, um, with a breezeway and a one-car attached garage, looking to demolish the breezeway and the existing one-car garage to erect a new two-car garage, attached to the house, and also, um, with that would be some renovations to the existing home.

JAMES WIESNER: These are modifications to the existing structure?

MR. EMENS: Um --

JAMES WIESNER: So the existing portion of the structure is torn down and rebuilt?

MR. EMENS: Basically the house is made up of three components: One-story house with a walk-out basement. Then there is a -- the breezeway and a one-car garage.

The idea is to be able to fit a two-car garage on the east side of the property, um, you would need to demolish the breezeway and enclose that existing stairwell and basically build your new garage on the east side.

Um, the west side of the property, obviously holds some challenges as a site. You can see the -- that -- basically it cuts the bottom corner of the property, is a creek. It also drops -- you can see in the photos that we have provided of the existing structure, um, it is a full walk-out basement like I said on the back. So the grade is an issue. You can also see there the existing utilities, um, the underground electric that goes into the house right there that would have to be relocated. And the correction to the house, just architecturally it doesn't fit to put it on the other side. So...

PAUL BLOSER: Okay.

FRED TROTT: Is -- I'm looking on this -- is that going past the lot line, or am I --
ROBERT MULCAHY: Driveway.
MR. EMENS: That's correct; yeah, it does. That's existing condition.
FRED TROTT: Oh, that is an existing condition?
MR. EMENS: Yeah.
FRED TROTT: Is that an issue?
ED SHERO: Not with the Building Department, it isn't.
MICHAEL JONES: It's a legal issue with the neighbor.
MR. EMENS: Just as a side point, too, Paul (Bloser), we have -- the neighbors to the east and west here this evening to speak favorably on this proposal.
PAUL BLOSER: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GAIL BOVILL 835 Morgan Road, North Chili 14514

MS. BOVILL: Max and Maggie are my neighbors right next door. I have no issue with this project at all.

PAUL BLOSER: Thank you.

MAGGIE WALKER, 847 Morgan Road

MS. WALKER: I'm the neighbor immediately to the west of the Porays, and I have no objections or concerns with the project either.

Adam Cummings made a motion to close the Public Hearing portion of this application and Robert Mulcahy 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: Matt (Emens), I assume you have done drawings?

MR. EMENS: Yes. Basically we're still trying to tidy up exactly the scope of work before we apply for the building permit.

PAUL BLOSER: You will stamp them?

MR. EMENS: I am not. Yet. Give me a year or two, so.

PAUL BLOSER: Do you need stamped drawings on this, Ed (Shero)?

ED SHERO: Yes.

Paul Bloser reviewed proposed conditions of approval with the Board.

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.

Robert Mulcahy made a motion to approve the application with the following conditions, and Fred Trott 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. Plans and elevations showing the proposed structure must be prepared and stamped by a licensed engineer or architect and submitted to the Building Department.
2. Materials used must match the existing structure in siding, roofing, trim, windows, doors, etc.
3. Structure is not to be used for business purposes of any type.
4. All permits and inspections must be completed as required by the Town.

The following finding of fact was cited:

1. The requested variance will not have adverse impact on the physical or environmental conditions in the neighborhood.
6. Application of Michael Schmitz, owner; 37 Creek View Drive, Rochester, New York 14624 for variance to erect a 22 1/2' by 7 1/2' foot open porch 41' from front lot line (60' required) at property located at 37 Creek View Drive in R-1-15 zone.

Michael Schmitz was present to represent the application.

MS. SCHMITZ: Christine and Michael Schmitz, 37 Creek View Drive, Rochester, New

York 14624.

PAUL BLOSER: Looking all over for the sign there, and I finally saw it on the tree. I must have gone by it three times.

MS. SCHMITZ: Sorry. We called and asked. "However you could get it up."

PAUL BLOSER: Is this a deck you're doing? Is it going to be a patio type? What are you doing?

MS. SCHMITZ: We're proposing a wood deck to replace the concrete step that was there. The deck would just cover the side -- where the concrete step was on the sidewalk in front of the house, just to give us a little more seating room, since our house backs up to 490, sitting on the back deck is noisy, so it would be nice to have company over and be able to hear them.

MICHAEL NYHAN: What would the elevation look like on this? Would it be a deck with railing and what would the cover be -- the roof type?

MS. SCHMITZ: This is only meant to be a foot off the ground, 12 to 18 inches off the ground.

MICHAEL NYHAN: No roof over it.

MS. SCHMITZ: No.

MICHAEL NYHAN: With a railing?

MS. SCHMITZ: We weren't going -- planning on a railing, since it was not high enough to need it per code.

MICHAEL NYHAN: I see. Okay. Just a flat deck structure, no side on it.

MS. SCHMITZ: No. Won't be any higher than the front porch step was.

MICHAEL NYHAN: I see.

PAUL BLOSER: One step up?

MS. SCHMITZ: One step.

MR. SCHMITZ: One step up and you're done.

MICHAEL NYHAN: No other questions.

ROBERT SPRINGER: If I understand this, you're going to cover the current concrete that is breaking down and the walk over?

MS. SCHMITZ: We have actually already removed the concrete step because it was so deteriorated and starting to be a hazard, so we removed that step completely because it was to the point where it needed to be gone. The sidewalk is still there and we would cover that.

ROBERT SPRINGER: Okay.

ED SHERO: Couple things. If the variance is granted for the deck, if a roof is wanted somewhere down the line, if you come back, the variance will need to be modified. A building permit is required. You may or may not have already started this. I looked at some holes and I seen -- the sidewalk, but be aware, you would need a permit.

MS. SCHMITZ: Okay. That is why we're here, so we can get the permit.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I guess I'm having a problem with math. How does 7' 6" and 41 feet equal 60? That was built before the current zoning law?

PAUL BLOSER: Oh, yeah. This goes back.

MS. SCHMITZ: Our house was built in the '50s.

MS. BORGUS: So it never was 60 feet from the road?

PAUL BLOSER: No.

MS. BORGUS: Never?

PAUL BLOSER: No.

MS. BORGUS: Okay. 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.

PAUL BLOSER: The only comment I will make on this 22 1/2 and 7 1/2. No construction as far as materials is started yet right?

MS. SCHMITZ: No. We have purchased them. We haven't started using any of them.

PAUL BLOSER: Just for the sake of numbers and math, we have done a lot of front porches, people with the same age house, the porch is deteriorating and they're replacing them. I would like to have this at 40 foot, and you got 7 1/2 foot over the 22 foot. If you make it 8 foot, 22 1/2, saves a lot of material waste.

MR. SCHMITZ: You want you to come out further.

PAUL BLOSER: The extra 6 inches.

MS. SCHMITZ: That's great.

MR. SCHMITZ: Thank you.

PAUL BLOSER: Do the full 8 foot and it saves on materials.

MR. SCHMITZ: Not a problem.

MS. SCHMITZ: Makes our day.

MR. SCHMITZ: You made us happy.

MS. SCHMITZ: We were trying to be conservative for the whole --

PAUL BLOSER: I understand. But just because of the standard lengths and everything else, I would go the 8 foot and, you know, do the setback at 40. Then we're safe with anything -- we have done 40 foot on a lot of houses. And this is consistent another -- in that neighborhood, driving around. I don't have a problem with that.

MS. SCHMITZ: We have drawings already based on -- though. Do we need to have that -- them revised to meet that?

PAUL BLOSER: With this, I would say for the matter of 6 inches, we can note it and we'll do -- just your as-built drawings, when it is complete, we'll make note in here that we're allowing 22 1/2 foot by 8 foot and then submit your final drawings and they can just be, you know, modified to show that. It's not that big of a deal.

MS. SCHMITZ: We just wanted to make sure if we needed new ones, we would go get them.

PAUL BLOSER: You will have to do that on your final drawing and your updated lot map so it is shown properly on there.

MR. SCHMITZ: Thank you.

PAUL BLOSER: The 40 foot just gives you enough flexibility. If you ever decide to sell the house, there is no question that -- the transfer of sale at that point, who is using the surveyor scope, where it falls, because we have seen that before, too.

MS. SCHMITZ: Wonderful, thank you.

ADAM CUMMINGS: GPS satellite just moves all over the place. (Laughter.)

Paul Bloser reviewed proposed conditions of approval with the Board.

PAUL BLOSER: Are you using wood, composites?

MS. SCHMITZ: Wood.

MR. SCHMITZ: Pressure-treated.

PAUL BLOSER: Staining it?

MR. SCHMITZ: Clear.

PAUL BLOSER: The footers, with a deck that height, there is no easy way to open a hole back up to have it inspected, so make sure they're all inspected before you put any concrete or posts in them.

MS. SCHMITZ: Okay.

PAUL BLOSER: Because they will make you dig it 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 Springer 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 by a vote of 7 yes with the following conditions:

1. Setback variance was revised to 40 feet from the front lot line to accommodate an 8 foot deep deck.
2. Permits and inspections must be completed as required by the Town.

The following finding of fact was cited:

1. Wooden decks of this type are common to residential areas and there is no evidence to suggest that it would cause any negative impact. In fact, removing the decaying concrete stoop will enhance the neighborhood. The variance was changed to 40' to give the property owner to allow the best use of materials without waste.
7. Application of Anthony D'Agostino, 56 Erie Crescent, Fairport, New York 14450, property owner: DLG Properties, LLC; for variance to allow two wall signs totaling 35 square foot (one wall sign at 15 square foot allowed) variance to allow a 2' by 3' double-faced A-frame sign, variance for all signs to contain more than four colors at property located at 4479 Buffalo Road in R-1-15 zone.

Anthony D'Agostino was present to represent application.

MR. D'AGOSTINO: Hi. Good evening, gentleman. I'm Anthony D'Agostino, 56 Erie Crescent, Fairport, New York; subject property 4479 Buffalo Road.

PAUL BLOSER: Sorry for tripping over your name.

MR. D'AGOSTINO: Not a problem. Sounds like "August." D'Agostino. It's all right.

PAUL BLOSER: The signs that you're proposing, are those the two white ones you had down on the side of the building there?

MR. D'AGOSTINO: Yes, sir. They are -- there was -- I recently purchased the business overall, Kiddy Kollege. There are five locations throughout Monroe County. This is one of locations and, um -- of the five locations, three are leased properties and two are owned. I purchased this building on February 1st as part of the acquisition of the company. DLG Properties is an LLC that I own that owns the two owned properties. There was an existing signage on both the east and the west sides of the property when I -- and also an A-frame when I did take over the business, and the intention was to replace them with the upgraded signage.

PAUL BLOSER: Okay. Well, I saw the signs there, and I -- they're nice looking, the two. I had one on each end of the building on the ground.

MR. D'AGOSTINO: One of them was still remaining on the building.

PAUL BLOSER: On the building.

MR. D'AGOSTINO: For Kathy (Reed) -- per Kathy Reed it was okay to have one only remain, and the other one we took down per the request of the Zoning Inspector.

PAUL BLOSER: I like the color. It's nice. It's not really blasting at you.

MR. D'AGOSTINO: Thank you.

PAUL BLOSER: Color choice was nice. Nice.

ROBERT SPRINGER: Are we making reference to only the two signs that are on the side of the building? Or are we also talking about the double-faced A-frame sign?

PAUL BLOSER: I think we should do it as two separate.

ROBERT SPRINGER: Two parts?

PAUL BLOSER: Yes.

ROBERT SPRINGER: No question about the signs on the wall, for the building.

ROBERT MULCAHY: No questions on those two signs.

PAUL BLOSER: I think I'll probably do this -- split this in two, on the votes also.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: First off, I have a problem with the red and white sign from the Town that was supposed to be displayed for ten days. I have some pictures here which I will share with you. It was laying against the building on the 10th. It wasn't -- it was out by the road today on an A-frame sign, facing one direction only. Not -- not so that you could see it from the road. One -- one side only. I don't think that -- I know that is not the intent with those signs. It is so that the public has notice. That is not giving notice.

I don't know where those -- that sign was when you people looked at it and I don't know when you looked, but I know for ten days that sign has not been posted legally. It has not been obvious.

Um, I -- I have -- I would like an explanation, I guess, from the Building Department how there were so many signs on that building when he purchased it? How we had an A-frame sign out there?

Now, my understanding of the sign law, and -- I'm big on signs here, so unless you have a corner lot, I don't know how you get two signs. I don't know how you're entitled to that. And just because a prior owner had done whatever to get it -- maybe he had a permit, maybe he didn't -- but that is no reason that this man should have two just because it was that way before. It is based on his frontage.

It is a 35-mile-an-hour speed limit there. People aren't exactly whipping by at 60. So I would think he could stay within the code on his size of sign of the code and put it on the building like everybody else. If you allow this, everybody in Town, corner lot or not, will want a sign on both sides of their building. You're establishing a very, very bad precedent.

Um, I'm wondering what he is going to do with all of the other signs that he has on the, um, west side of the building.

I will be glad to share these pictures. He has a train, a school house, some ABC blocks. There is a lot of signage here. What does he plan on doing with all these things? So I hope these help. You can't have all this stuff sitting around that building, because we have no code left if we allow this kind of thing. So I hope those get passed all of the way down the Board.

As far as the A-frame goes, we just don't allow these in Town. Too bad that the people there before had one. They shouldn't have had it. It was illegal then. I don't know how they got by with it. A-frames are not to be had in Chili. I don't hear any reason as to why he has a hardship on any of this. So it's too bad that was the way it was when he bought it -- it's too bad. It's too bad. It was illegal then. It should be illegal now.

We don't need to start with all this. I'm very concerned about all of the extraneous decorative signs he has leaning up against that building. They're very attractive, but you can't have all that stuff around every building in Chili. It's clutter.

Thank you.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: I just want to point out that the Zoning Board of Appeals sign that I -- that I saw was actually on an A-frame sign closed up, leaning against the building, which was at least 25 feet from the road.

My understanding is the Zoning Board gives the signs with instructions as to how to post. This sign was not posted legally or properly for the Zoning Board of Appeals.

The other comment involving a request for a double-faced sign, um, should be voted down

by this particular Board as it is not acceptable according to the Chili zoning code, as I know it.
Thank you.

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

With regard to the wall sign portion of the application, the Public Hearing portion of the application was closed at this time.

PAUL BLOSER: This is right now on the wall signs. The -- the two signs as they are being proposed, just those, one on each end of the building, I don't have a huge problem with. Um, that structure -- there again, we look at these -- each application has to stand by itself based on location. This by code would never be allowed to be built -- barely 20 foot, 15 foot setback. If you go 15 foot setback from your road, you're almost in the front door. So as far as posting the sign in the middle -- you would be punching into asphalt.

Your only other option there is to put a sign on that one-story roof out front that could be seen from both directions. So it is do you want to see something like that, or you want to see it on the two ends?

I don't have a problem with the square footage. I don't have a problem with the appearance of the sign. It is do you want them back to back, centered on the building of the roof, or do you want them on the sides of the house? As I was looking at it when I went by, I would rather see a double-sized sign right in the center of the roof. You could see it a lot more prominently than I think you could on the approach. In the one direction you're coming from the 55 into a -- it -- it is 35 or a 40 right there. I think for visibility and advertising, you could see a sign right in the center on top rather than you would on the two sides of the house -- or the structure. But as -- but as far as, you know, placement, I guess we're looking at the square footage right now. The back side, or the sign, or one either end. I don't think the size is objectionable.

But as far as any other signage, I wouldn't want to see any other than on the front of the building. The two sides, or over the door or anything. I think there is stenciling in the windows.

MR. D'AGOSTINO: Yes. We have replaced that -- we have since erased the stenciling. We're take it all -- we cleaned it up. We're trying to clean the building up a lot.

ADAM CUMMINGS: Is there an address sign that should be included in this? Because their address is not in any of these signs?

PAUL BLOSER: Is there -- is there a street number on the building?

MR. D'AGOSTINO: Um, I believe there is a street number by the front door of the building of 4479, but I don't have it on the signage itself.

ROBERT MULCAHY: It is over that door there?

MR. D'AGOSTINO: Yes, sir.

ADAM CUMMINGS: Because that would add to the square footage.

PAUL BLOSER: The number?

ADAM CUMMINGS: Yes.

PAUL BLOSER: That is preexisting.

ADAM CUMMINGS: But I think we still have to add it in.

FRED TROTT: Add it to the sign.

ADAM CUMMINGS: The variance.

FRED TROTT: You're saying add to both signs.

ADAM CUMMINGS: We can leave it on the building, but the variance should include that square footage?

PAUL BLOSER: Ed (Shero)?

ED SHERO: I didn't hear what the question was. You were kind of looking at Paul (Bloser).

ADAM CUMMINGS: I'm sorry. The address, the street address, that square footage for that sign, should that -- it is a total square footage for this property.

PAUL BLOSER: It's over the door, the front door.

ADAM CUMMINGS: Per right now. So it would be a third sign.

ED SHERO: Street numbers?

ADAM CUMMINGS: Yes.

ED SHERO: We would not add that in.

PAUL BLOSER: That's what I thought of the --

FRED TROTT: The question being, should he have the street number on the sign?

ROBERT MULCAHY: I don't see where he can put it. There is no place he can put it.

ADAM CUMMINGS: Or both sides as he is proposing, both sides of the building.

FRED TROTT: We usually make that requirement of the sign.

PAUL BLOSER: That is more, though, when it is a monument sign.

FRED TROTT: Okay. True.

PAUL BLOSER: Not a wall sign.

ROBERT MULCAHY: Now, we're going to get rid of the train there, the blocks -- they will go back.

MR. D'AGOSTINO: They're actually going to be -- he is actually correct, they're going back to the playground areas as -- as the playgrounds get cleaned up. We're just cleaning them up.

PAUL BLOSER: Behind the fence area?

MR. D'AGOSTINO: Yes. Again, those -- while I understand what Mrs. Borgus' comment was, they're not classified really as a sign. It's decoration, artwork. If we start disciplining that around Town, we'll need another zoning enforcement person.

I understand what you're saying, but if it is in the back, behind the fence, around the playground area, not in front like it is there, I have no objections to those. I don't think they should be included as part of the sign package.

MICHAEL NYHAN: I think we have had other buildings we have given variances to and we asked them not to do that and they have taken the liberty to do it anyway, so I think there needs to be a condition on here that that type of decoration can be -- that can be construed as a sign, much like the sign that is being proposed -- so I think a condition should be -- those should be removed from the area and not permitted in the front of the --

PAUL BLOSER: In the front.

MICHAEL NYHAN: You're looking at the building being so close to the road, I think it would look worse to have one single sign on the front than the two small signs on the sides. And a monument sign, you couldn't put it there with the setbacks.

ADAM CUMMINGS: That would be a sight distance issue, as well. You would be blocking traffic.

MR. D'AGOSTINO: I also have full-sized, like seven-seat school buses coming in all throughout the day, so I don't really have any space to --

PAUL BLOSER: In the driveway.

MR. D'AGOSTINO: In the driveway.

PAUL BLOSER: I don't think the Fire Department would ever allow it either. For access for emergencies. So I think it's -- -- the only other place I thought of signage is on that roof.

MR. D'AGOSTINO: Yeah.

PAUL BLOSER: Mounted up there on the front dormer. You have the double-sided one there. It would be a little far forward.

MR. D'AGOSTINO: Actually, it would probably give me more exposure to the road; however, I didn't think it was as slightly.

PAUL BLOSER: Yes.

MR. D'AGOSTINO: Didn't look like it would fit very well in the neighborhood. But I appreciate it.

Paul Bloser reviewed proposed conditions of approval with the Board.

ROBERT MULCAHY: Will we address the color? Or allow -- it is eight colors.

PAUL BLOSER: The signs are already complete. That is what --

ED SHERO: The signs are complete, but he is asking for -- there is actually three variances. One of the variances he is asking for is the eight colors.

PAUL BLOSER: I will put the two wall signs as presented with colors as shown are allowed. Because they're already done. It's complete.

Did you see there where the other colors are in the little details, the people walking?

ROBERT MULCAHY: Yes.

PAUL BLOSER: So if I say, "As presented with the colors shown" --

ROBERT MULCAHY: That's fine.

PAUL BLOSER: Anything else? If he ever changes them, they have to come back for approval. So that is it.

Paul Bloser further reviewed proposed conditions of approval with the Board.

PAUL BLOSER: Mr. Nyhan had a suggestion.

MICHAEL NYHAN: The condition of the other --

MS. BORGUS: The other signs.

MICHAEL NYHAN: About the other signs in the picture.

PAUL BLOSER: I apologize. We were going to do that.

Any decorative signs to be kept behind fence --

MR. D'AGOSTINO: Excuse me, Mr. Bloser.

PAUL BLOSER: Sir?

MR. D'AGOSTINO: The only thing I'm concerned about, is we have children in there who are constantly making signs that we're putting in the windows and stuff like that as artwork.

PAUL BLOSER: Those are rotating, though. That is why I said not a permanent sign.

MR. D'AGOSTINO: Okay.

PAUL BLOSER: Permanent sign is something that is screwed in, nailed in, glued in, is there for the run. Something like that, the artwork the kids are doing to display to the parents for an open house or something like that, that is different. It is not like they're there for six months or a year.

MR. D'AGOSTINO: I didn't hear you say "permanent," sorry.

PAUL BLOSER: That is why I included that word.

You will do promotions in the fall for enrolling for the school year. We understand that. That is a part of business. Those fall under a category for a temporary, less than 30 days advertising a special event, an open house or something like that.

MR. D'AGOSTINO: Okay.

PAUL BLOSER: And any questions -- that is why you call the Building Department and they will keep you straight and honest.

MR. D'AGOSTINO: Oh, I know that.

PAUL BLOSER: The other signs, the locomotive or whatever it is, for the child play area are for their amusement and not passersby.

MR. D'AGOSTINO: Correct.

Regarding the wall sign portion of the application, 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.

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

PAUL BLOSER: On the A-frame sign, these are the ones that really cause a problem in Town. You're in a very high profile area, and we just don't allow them in Town. We really have not made exceptions to these. A temporary manner for advertising something in the window, that's different. It's on sale, you're running a special, there is something going on.

In the front like that, it -- it's in the walkway of pedestrians. That side of the guardrail, I have a concern with that. Kids do walk from the school back and forth and they don't always walk on the proper side of the road, facing traffic. If they have to walk around that obstruction or bicyclist or whatever, I have a safety concern with it on that side of the guardrail. It's a precarious spot. You're tight there.

For a lot of reasons, I wouldn't want an A-frame sign there. Just from the standpoint that it is an A-frame sign, it just -- we have never allowed them in the Town, on these -- on any type of variance. And yours, it is my opinion -- it's one vote -- it's more of a safety concern than anything else there. I am just not happy with it. Because the kids do go back and forth to school on foot and bicycles. I will open this up to Board comment.

JAMES WIESNER: Illegal in Town and there's good reason for it.

MICHAEL NYHAN: No discussion needed.

ROBERT SPRINGER: No A-frames.

PAUL BLOSER: I will not open this portion up to public comment. I will just move forward with the vote. I did SEQR.

MR. D'AGOSTINO: Can I make one comment before --

PAUL BLOSER: Yes, sir.

MR. D'AGOSTINO: I appreciate it. I understand the value of -- you know, not having that throughout the Town. I think just right up the road from me, um, right towards the four corners of the Village of North Chili area there, um, before that, there is a municipal building of some type and there is a child care facility in there, and there is an A-frame sign that is out there advertising that child care facility, which is probably about 300 or 400 yards from my building.

Um, and so I just was wondering in the -- in the fairness of the overall community of how a child care, you know, business does, you know, advertises itself, that is one of the reasons -- not only when I acquired the building was there a sign already there, an A-frame that was there, but I did also notice another A-frame was there for another child care facility in literally a stone's throw. So I just wanted to bring that to the attention of the Board as part of this.

PAUL BLOSER: Okay. I don't want to sound argumentative with you, because --

MR. D'AGOSTINO: No, I understand it. I get where you guys are coming from.

PAUL BLOSER: If there is a sign there, Ed (Shero) will take note of that and it will be addressed.

It's -- to the best of my knowledge, we have never in the ten years I have been with this, allowed an A-frame sign up.

MR. D'AGOSTINO: That's fine.

ADAM CUMMINGS: Doesn't mean they don't show up.

PAUL BLOSER: Exactly. It is nothing that we'll probably approve of, to say yes, you can have one. Do they go up? Yes, they do. I also know he has a stack of them in the Building Office in a closet they have gone around confiscating, so that does happen.

MR. D'AGOSTINO: No problem. Just what I have seen.

PAUL BLOSER: What is fair is fair. If they're there, that is what we have Code Enforcement for.

MR. D'AGOSTINO: Sure.

PAUL BLOSER: But I think in fairness, though, we do have to proceed. We have to proceed with a vote on it.

ADAM CUMMINGS: Should we still have public comment?

PAUL BLOSER: I -- I can open it up. I think we heard it -- a comment.

ADAM CUMMINGS: I think we heard comments, but formally since we did segment them --

PAUL BLOSER: I will open public comment on the A-frame sign. Please.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I agree with this gentleman that sign should not be where it is, and I'm

sure that Mr. Ed is going to take care of it tomorrow.
Thank you.

CHARLES RETTIG, Coldwater

MR. RETTIG: No. We do not need to start a precedent with A-frames.

With regard to the A-frame portion of the application, Robert Mulcahy 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.

With regard to the A-frame portion of the application, the Public Hearing portion of the application was closed at this time.

DECISION ON THE WALL SIGN PORTION OF THE APPLICATION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Permits and inspections must be completed and obtained from the Town.
2. No additional wall signage or permanent advertising signs are allowed
3. Wall signs as presented with colors as shown are allowed.
4. Any design change in sign must be submitted to the Town Building Department for approval.
5. Decorative artwork must be removed from the building exterior.

The following finding of fact was cited:

1. This business is under new ownership. The new signs were put up without permits or any kind of review. The Board approved the size, color, and design of these signs as appropriate for the size of the walls where they are to be placed. They will blend in well nor will they create any adverse impact on the physical or environmental conditions in the neighborhood.

DECISION ON THE A-FRAME SIGN PORTION OF THE APPLICATION: Unanimously denied by a vote of 7 no with the following finding of fact:

1. A-frame signs are not permitted in the Town. It is the continuing trend of this Board to prohibit this type of sign. In addition, based on desired location, it is felt it would be in the way of pedestrian and bicycle traffic forcing them to move into vehicle traffic lanes.

8. Application of Mr. and Mrs. John Mertz, owner; 11 Pine Ridge Drive, Rochester, New York 14624 for variance to erect a 34 1/2' by 9 foot open porch 51 foot from front lot line (60 foot required) at property located at 11 Pine Ridge Drive in R-1-15 zone.

Mr. and Mrs. John Mertz were present to represent the application.

MS. MERTZ: We're Maureen and John Mertz, 11 Pine Ridge Drive, Rochester, New York 14624.

PAUL BLOSER: Now, the front porch, you're putting a roof over the whole thing going down.

MS. MERTZ: There is already an existing sidewalk roof that is halfway across. We want to extend it all of the way across the front of the house and put a little gable in the middle and extend it out closer to the road. So it is a lit bit larger.

PAUL BLOSER: It will add a lot of character to the front of the house.

MS. MERTZ: Uh-huh.

PAUL BLOSER: You're not enclosing the -- correct?

MR. MERTZ: No. Open.

MS. MERTZ: The plan is to have it poured concrete with 4 by 4 posts wrapped in vinyl, and then obviously you see the roof overhang and the 10 foot gable in the middle with railings.

PAUL BLOSER: Okay.

MS. MERTZ: There was a similar porch done a couple years back down the street, and I think I drove by it on my bike one day and said, "I think I want that porch."

It really did. It made this other house just look tremendously improved.

PAUL BLOSER: You have to maintain the same lighting that you have there now?

MR. MERTZ: Same lighting? No. I think we'll change the lighting. It will be overhead pot lights in the deck itself, in the roof of the porch, and then we're going to put -- right now, currently there is only one light in the middle of the garage door. We're going to add two lights on each side of the door. We're bumping out the garage.

I have a variance already that I obtained in 1988 to push the garage out 4 feet closer to the road. Um, and so we're -- we're pushing that out and we're putting one door instead of two, and adding the little entry door.

PAUL BLOSER: Okay. Very nice.

ROBERT MULCAHY: How far is the existing overhang from the road?

MR. MERTZ: I think it is 5 feet now. So that would make it 55 feet from the road. We'll kick it out probably another couple of feet and then right in the middle where the gable is, um, there is going to be an 8 foot pad, so there will be a 9 foot, um, roof. So that would be 51 from the road frontage.

ROBERT MULCAHY: Thank you. I think it's beautiful.

PAUL BLOSER: I think so, too.

MR. MERTZ: Thank you. We'll submit stamped by a licensed architect and -- when we get our permit.

ED SHERO: We just had -- a couple issues we had. The shed and the pool deck. Where are we on those?

MR. MERTZ: Yes. We'll get all necessary permits and variances for the -- for the existing shed and the pool deck that we recycled. We recycled a pool and the pool deck from the neighbor across the road, and -- and we had to cut those supports because they were cemented in because they're currently not cemented in, but we'll fix that.

ED SHERO: I'm just asking if the variance is granted, the variance really doesn't come in effect -- we couldn't accept the permit application until the deck and the shed were satisfied with the Building Department.

MR. MERTZ: Sure.

MS. MERTZ: That is fair. When we did the pool, it was funny because we had the permit for the pool and all that, and we thought we were being kind of conservative with the deck that they were going to throw away, and we realized that ut-oh, the footers are not in, so we will fix that. It is kind of a small deck attached to the pool. We'll have that done this summer before we go further on this.

ADAM CUMMINGS: The shed, where is the shed located?

MR. MERTZ: The shed is in the back corner. It's not in compliance because it's closer to the lot line than it should be without a variance.

ADAM CUMMINGS: So you will pursue a variance for that.

MR. MERTZ: Pursue a variance and permit if necessary. It is larger than 100 square feet.

ADAM CUMMINGS: How far off the lot line do you think it is?

MS. MERTZ: It's not off the lot line. It's --

ADAM CUMMINGS: You need a variance.

MR. MERTZ: 3 feet. I think it is 3 feet all of the way around.

ED SHERO: You have to be 5 feet. You have to be 5 feet unless you have a State variance.

MR. MERTZ: We'll have to apply for a State variance.

ED SHERO: Just be aware, if it is made out of wood structure, you probably won't get it.

MR. MERTZ: Okay.

ED SHERO: It has to be a non-combustible or you -- can it be moved?

MR. MERTZ: Yes.

ED SHERO: That might be the easiest.

MS. MERTZ: Why does it have to be 5 feet?

ED SHERO: That is the State. The Town is 8.

ADAM CUMMINGS: If you just move it to 8, you don't need a variance and don't need to wait for anything. You just need to move it.

FRED TROTT: And size issue.

ADAM CUMMINGS: We have to have a permit but not a variance.

ED SHERO: Depending on the size.

PAUL BLOSER: What size is the shed?

MR. MERTZ: 12 by 16.

ED SHERO: You need a permit.

MS. MERTZ: If we moved the pool, we can move the deck. We moved the pool across the street, so I think we can move a shed. We had a lot of friends.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Adam Cummings made a motion to close the Public Hearing portion of this application and Robert Mulcahy 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 reviewed proposed conditions of approval with the Board.

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.

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

1. Plans and elevations showing the proposed structure must be prepared and stamped by a licensed engineer or architect and submitted to the Building Department.
2. Materials used must match the existing structure in roofing, trim, etc.
3. Open issues with the pool and shed must be completed prior to issuance of a Building Permit for this application.
4. All permits and inspections must be completed as required by the Town.

The following finding of fact was cited:

1. The requested variance will have no adverse impact on the physical or environmental conditions in the neighborhood.
9. Application of 1350 SR LLC, owner; 1 South Washington Street, Rochester, New York 14614 for variance to erect a warehouse/distribution center to be 31.46 feet from rear lot line (60 feet required abutting a street), variance to allow buffer to be between 6' and 60 foot per plan submitted (100 foot required), variance to allow front parking per plan submitted at property located at 1350 Scottsville Road in GI zone.

Betsy Brugg and Ken Glazer were present to represent the application.

PAUL BLOSER: I want to start out with this -- in that we're going to go through, hear it, and we'll hear public comment, but I'm not going to take a vote tonight because as a result of Planning Board, this past week on Tuesday, um, there is an incomplete SEQR application, and I would like to see that completed prior to us making a vote on this application.

MICHAEL JONES: If I can add to that, the Planning Board has made a declaration of their intent to act as lead agent, so the only action I would recommend this Board to take is a vote to consent or not consent to the Planning Board acting as lead agent for the purpose after coordinated review under SEQR, and consequently, this Board can't take any action until that review is complete.

So we can have the Public Hearing, listen to public comment, close the Public Hearing and then wait until the review is done.

PAUL BLOSER: Okay. Thank you.

MS. BRUGG: Very good.

Thank you, Mr. Chairman, members of the Zoning Board of Appeals. My name is Betsy Brugg. I'm an attorney. I'm here on behalf of the applicant on behalf of Buckingham Properties and the entity 1350 SR LLC that owns the property at issue.

A number of items to go through. I will step back and elaborate a little bit on the procedure and the fact that this was at the Planning Board. I was not at that meeting, but I am familiar with the events of the Planning Board meeting. I think the Planning Board received the plan well, but as mentioned, some issues came up with their legal notice and their SEQR, which resulted in a delay in the completion of the SEQR, so this Board cannot take action as has already been discussed.

However, we can go forward and talk about the variances required for the project.

Um, this is a -- a nice project. I will give you an overview of it and specifically talk about the particular variances that are required in order for this development to occur.

So the site, um, just so you know, the plan that went in here went in -- you know, with the application by the deadline. However, since that time there has been comments that came back from the Planning Board and from the Conservation Board. So I have just a slightly updated drawing. I think this drawing shows the entire parking field.

However, the Planning -- we have asked the Planning Board to waive some of the required parking and to allow us to land bank it. Frankly, it is unnecessary parking. It's environmental friendly. Doesn't require a variance. However, it looks like we have a whole lot of parking there that doesn't exist.

We actually are showing originally 62, I believe -- 62 parking spaces total. Four of those are on the side yard. The remainder in the front yard. There are actually a few less. There is a total of 56 parking spaces. We have reduced the number of parking spaces because the Conservation Board requested that -- requested some green.

JAMES WIESNER: Can we put it up here so people can see it?

MS. BRUGG: That would be great.

Can you see it from there?

Super. Thank you so much.

So the Conservation Board requested some green in the front of the building. It was placed here, but it is actually going to move on the opposite side of the street, again, in response to comments through the Conservation Board and Planning Board review process.

In addition to that, um, the Conservation Board also requested that some of the landscaping be relocated into the front yard. That has been done as shown on this plan. Um, the -- the Fire Marshal wanted a 10 foot wide fire lane added. That has been added. A hammerhead turnaround has been requested. That needs to be added. Um, and I think that pretty much covers those details.

So we're talking about 124,850 square foot distribution center for American Tire Distributors on this lot, which is currently -- 6.44 acres approximately in size. I call it the old Olympic Bowl site. I think that is how most of us know it. Sort of an unusual parcel. It's across the street from the airport.

Most of the land is on -- the north side of the street is airport property. Some of the property is actually located in the City of Rochester. We have the RG&E facility. I think it's a training and distribution type center over here (indicating). We have Comfort Windows & Doors, which is also a distribution, and I guess it is light manufacturing or assembly type facility over here (indicating).

We have Weidner Road which kind of cuts across, so we actually have frontage on Scottsville and a little bit of frontage on Weidner here (indicating), opposite the -- the Wegmans/Palmers distribution facility.

The area, hopefully you have all driven by there. I'm sure you're all familiar with it. It's really quite a hodgepodge. These uses are -- are really more intense, industrial type uses. Back here in this area (indicating) along Weidner RG&E has these ginormous spools of utility wires and all kinds of equipment, you know, outdoor storage. We don't have any outdoor storage proposed with this operation, but they have all types of outdoor equipment and things throughout here (indicating).

Comfort Windows & Doors has their building here (indicating). They have loading docks. In the back here, there -- not exactly -- I took a ride over there a few weeks ago. I'm not sure what they do with this building, but there is actually a building over here (indicating) next to Weidner, to an extent. Their building is actually closer to the road than the -- than the building we're proposing here.

So the building that we're showing here is a distribution center. There will typically be about 25 employees on site at any time. Um, there are a number of loading docks. If they have a customer come to the site, which is very rare -- for the most part they send out delivers. If they have a customer, they're usually a large truck coming in to pick up something that they need, a commercial type of customer.

So they don't have a whole lot of need for parking. So we're actually proposing to land bank the bulk of the parking, and I have not heard any objection from the Planning Board as that was part our application to them. So what we're showing is this area of parking along the front area (indicating), kind of near the office area in the front.

The Planning Board has seen the architecture. Nice architecture. I would be happy to share it if you're interested in the architecture. The landscaping and green areas, shown along the front.

Um, and that is kind of an overview of what this parcel is. Hopefully you have had a chance to drive along Weidner to know what is down there because we are asking for a variance for the setback of the building over here (indicating). I think it's -- we're showing 31. Can I borrow your legal notice for a second? We're showing 31 -- just over 31 -- 31.46 feet from this line (indicating). There is an error in the legal notice. The notice says -- says 60 feet is required.

I did check with David Lindsay before the meeting tonight. I should have said 50 feet. He checked with Kathy (Reed) in the Building Department. It's not really anything that impacts the application because it was noticed as a larger variance so it doesn't impact the Board's ability to move forward with or require any readvertising.

We are requesting a variance for this setback. We are requesting a variance to allow parking in the front yard and we are asking a variance from a requirement in the code that applies to industrially zoned property which requires a 100 foot landscaped buffer from non-industrial zoning.

The property over here, with this frontage on Scottsville Road, has General Business zoning. The property on Weidner is Industrial. However, I would point out, that while these properties are zoned Commercial, they are actually industrial type uses, and many of the uses along Scottsville Road in this stretch actually are more intense industrial uses. It is really a very mixed area. It is a little commercial. There are couple of restaurants. There are little strip plazas. There's a little office. There's some distribution centers. There is -- I don't know. There is some intense industrial type uses. I'm not really even sure what they do. There is building material suppliers. There is everything over here (indicating).

So that is a little overview of that.

So we have those three variances. I will hit the easiest one -- the first, which is the parking in the front yard. You will find parking in the front yard throughout the neighborhood. It is consistent with the character of the neighborhood. It's appropriate for the use. It's beneficial to

the extent that it allows not only green, environmentally friendly site planning here, but it allows us to maintain cross access with adjacent property owners. We're maintaining the cross access, and essentially close to the same spot. It might shift a little bit depending on the comments that come back from DOT with RG&E.

We have cross access which exists, which will be maintained with the Comfort Windows & Doors. Those are beneficial from a safety standpoint (inaudible) and to keep vehicles, you know, traveling between properties. Um, beneficial to the public.

So that is the front parking setback.

The second variance pertains to the, um, the rear -- well, the building setback that I spoke of on Weidner. Code requires 50 feet. We're showing 31. It's absolutely appropriate. This is a very unusual lot. It happens to have Weidner cutting across. If you have been on Weidner, we're actually adjacent to the same property neighbors. Comfort Windows & Doors is actually building closer to the road and actually closer to the Wegmans or Palmer's distribution building.

Our corner of our building, um, actually backs up to nothing. There is some vacant parking at this -- associated with that facility, but we're not across from their building. There is some green provided behind there. There is a change in grade and elevation back there, and so that -- essentially that variance is not going to have any impact on anybody. It is -- it is really a dead-end street with, um -- not exactly sure what they do at the end of the street.

I drove all of the way down. There is mountains of dirt. I think, you may know. I don't know exactly what is over there.

ADAM CUMMINGS: That might have been an old DOT project.

MS. BRUGG: There is a big giant pile of dirt -- dirt and lots of big trucks. Then we have all of the outdoor, um, utility equipment from RG&E. So there is nothing there that is going to be adversely impacted or affected by being what is being proposed. On top of that, we're really improving the conditions of the property with a nice building, appropriate landscaping, and it should -- it really should not impact anything along Weidner as far as that setback.

Um, and then the third variance is the landscaped buffer requirement. I think we have to step back and think about why that requirement is in the code. It is there to protect land uses that might not be consistent with an industrial use. That is essentially the purpose of that. You will not find any -- you will find minimum landscaping throughout the entire neighborhood as it is in its current condition. I'm not aware of any property there that has even close to that amount of landscaping.

But in this case, we're adjacent to other intense commercial, really more industrial type uses. The immediate neighbors actually would fall under the industrial zoning if they -- if you take a look in the code. So there is nothing to -- there is no need for protection. We are consistent with the adjacent neighbors, the adjacent neighboring properties. Their uses are of a nature -- they're actually more intense than our use. We don't have any outdoor storage of materials. RG&E, if you have taken a look what they have over there, there is all kinds of stuff out there. So there is really no benefit offered by a landscape buffer.

So, um, what we have done is we have really designed the site to fit with the character of the neighborhood. The buffer variance does not have any adverse impact whatsoever. What we're proposing is appropriate and consistent with the character of the neighborhood. We are meeting the Town's requirement for landscaping, which I believe is 1 percent of the cost of the project, and where that isn't met, a contribution is made, but at this point, we have provided an estimate on that.

Um, the landscaping really, the emphasis has been in addressing the comments of the Planning Board and the Conservation Board, and the most important thing, um, to date, has been really to add some green along Scottsville Road, so that is what has been done here.

As far as the Board's charge, um, we have to meet certain standards set forth in the Town law. That is what the Board has to do in deciding whether to grant the variance. I believe we have met those standards. I have addressed them in writing. In my application. So I will just go through them for the record.

You know, really the ultimate question that the Board is considering, this is a balancing test. The benefit to the applicant from the granting of these variances as against any detriment to the health, safety or welfare of the neighborhood or community, um, so I think what we have here, the benefit to the applicant is they can't do this project. The site cannot be redeveloped as proposed without the variances. So this business requires this building, and essentially, the variances that we're proposing.

The detriment to the health, safety and welfare of the community, I would propose that there are no detriments whatsoever from these particular variances because of the specific facts of the application, the particular location of the property, the surrounding land uses, um, you know, we just have a situation where we just don't have any adverse impact on anyone from these variances.

So the specific criteria, whether an undesirable change will be produced in the character of the neighborhood or any detriment to nearby property, from the granting of the variances, again, I don't believe we have any detrimental impact whatsoever.

As far as the setback on the Weidner, um, that does not impact any adjacent property. Um, it's consistent with other setbacks along the road. There is adequate green, and there is adequate -- there is a grade change.

There are other elements of -- of the site that really mitigate any impact. If there actually were a neighbor that would be affected, but we actually don't have any neighbors to be affected. RG&E does not -- their property is next door. Comfort Windows & Doors is next door. They

both have materials closer to the road than this building setback proposed. Comfort Windows & Doors has an actual building and a fence.

And the property on the opposite side of Weidner is that Palmers/Wegmans distribution facility. We are opposite a big giant parking lot. We're not opposite their building. There is not a lot of traffic on Weidner Road. It is a very discreet location to have this variance. So I can't see any potential adverse impact there. Variances for the landscape buffer.

Again, this buffering is unnecessary. It doesn't serve any purpose in the context of this particular neighborhood and the particular properties that we're talking about.

Um, it wouldn't be beneficial, and it is completely out of character with the neighborhood. What we have done is tried to give you the best site plan with the landscaping place in the most appropriate locations.

Again, we have addressed comments from the Conservation Board and the Planning Board. There is a lot of traffic on Scottsville Road. It makes sense to put landscaping along Scottsville Road. That is what we have done. As far as the buffer, to separate the use from neighboring uses, there is really no value in that. We're not in that type of a neighborhood. We don't have a residential community. We don't have a Walgreens. We don't have anybody that needs protection from this type of a use. We're actually a less intense of a use than the neighboring uses.

We don't have any outdoor display. We have minimal customer parking. There is not a lot of noise. We have some loading docks, very similar to what Comfort Windows & Doors has. So we really fit with the character of the neighborhood and there is no need for the buffer.

Um, and again, the variance for the proposed parking to be located in the front yard, this is -- this is actually consistent with other properties along Scottsville Road. That is where the parking really belongs, and again, it has no detrimental impact on the character of the neighborhood. It is beneficial to the applicant; there's no detriment at all to the community from the parking in the front yard. In fact, the community will benefit from the fact that the cross access is maintained in the front, which is really the only place you can have it.

Whether the benefit sought by the applicant can be achieved by some other method is the second question the Board has to ask. There is no other method feasible for the applicant to pursue. This is the way the project needs to be laid out for this particular business use.

We have some physical constraints, just because of the way Weidner Road cuts into the property. We have dimensional issues with the size of the property. We have the location of the existing cross access to deal with. Given all those things, the site has been designed in the best way possible.

Whether the variances are substantial. And I would say that these variances are not substantial in any way. Not in amount, and more importantly, not in any meaningful way. There is no adverse impact. There is nothing significant. Nobody will drive by the site and go, "Wow. They didn't put in a buffer," or "Wow, they have parking in the front yard."

These are elements that are completely consistent with the character of the neighborhood, so they're not substantial. The variance along Weidner Road, again, we don't believe it is substantial because of the conditions along Weidner Road. The fact that other adjacent properties have, um, also, um -- there is a building on the Comfort Windows & Doors property as I have mentioned, and, um -- there is screening. There is trees. There is green. There is nobody -- there is no neighbor that will be affected by it.

For that reason, it has no meaningful impact. No adverse impact. For that reason it is not substantial in its nature.

The variance for the, um, parking in the front yard, I think I have already mentioned is not substantial. It is -- it is a pretty common variance, pretty common condition found with commercial and industrial property throughout the Town. Doesn't have any adverse impact and it is appropriate on this property, so there is no substantial nature or quality to that particular variance either.

The fourth question, whether the proposed variance will have any adverse effect or impact on the physical or environmental conditions of the entire district, um, the variances are actually beneficial. We actually have a vacant lot currently, and what we're proposing is really to improve the conditions on the lot. We're going to be putting green where it belongs. We're going to be building an attractive building. The property is going to become useful and functional and viable. Those are all beneficial, um, ben -- beneficial elements of the project.

As far as the environmental conditions, the fact that we're going to propose to land bank parking -- we're having parking in the front yard, but we're having a reduced amount of parking. We added some green space in the front yard to break up the parking as requested, um, by the Conservation Board.

So we don't see any, um, adverse, um, impact on the physical or environmental qualities or conditions of the neighborhood.

Whether the alleged difficulty was self-created. This is not a determinant factor, but is a factor to be considered by the Board, and again, we believe that variances are really dictated by the fact that we're proposing to develop this property. It has some physical limitations, as it does -- as does most property. We have to deal with the size of the parcel, the location of the parcel, the existing cross access points, the location of Weidner Road, and we are asking for the minimum relief necessary to allow this project to go forward.

So with that, I would ask if you have any questions for me?

MICHAEL NYHAN: I do. The green space in the front of the building, with the parking on Scottsville Road, what is the dimension of that?

MS. BRUGG: I believe it is six parking spaces.
MR. GLAZER: The island?
MICHAEL NYHAN: No. The dimension from Scottsville Road, there is green space and then there is parking space. What is --
MS. BRUGG: You're talking about --
MICHAEL NYHAN: The length of the property.
MS. BRUGG: This whole length? (Indicating).
MICHAEL NYHAN: Yes. How wide is that? Not the length, the width.
MS. BRUGG: From here to here (indicating).
MICHAEL NYHAN: From Scottsville Road to the parking space.
MS. BRUGG: Here to here (indicating).
MICHAEL NYHAN: Yes.
MS. BRUGG: That (indicating) --
MR. GLAZER: About 30 feet.
MS. BRUGG: About 30 feet.
MICHAEL NYHAN: Is that just grass or is there some sort -- I see plantings everywhere else. Is that just --
MR. GLAZER: We actually can't plant over there. It is in the right-of-way.
MICHAEL NYHAN: So what will that be? As green space, what will it be?
MR. GLAZER: It's grass. We can't go above -- we can't go beyond that line.
MS. BRUGG: But we were asked to put some in -- a variety -- I think there is low plantings and there is trees.
MICHAEL NYHAN: Any elevation on the green space?
MS. BRUGG: Um, on the elevation on the green space? I don't believe on Scottsville Road.
MICHAEL NYHAN: Then the cross access, you're talking about cross access to the adjacent properties. Does that permit the -- the use of this property to use the signal light in front of the RG&E on Scottsville Road for --
MS. BRUGG: Yes. This -- there is an existing cross access here, and we are proposing to maintain it.
MICHAEL NYHAN: So that would give access to that signal light to --
MS. BRUGG: Hopefully.
MICHAEL NYHAN: So that -- it won't be, or -- or -- you said hopefully.
MS. BRUGG: Unless they change anything on their property, but yes. The intent is to provide access. And there is access through here, as well.
MICHAEL NYHAN: Okay. Thank you.
PAUL BLOSER: Um, the only thing I have a question on, if you -- have you gone far enough into this, if you know your need for signage?
MR. GLAZER: Yes.
PAUL BLOSER: There will be a variance for that.
MR. GLAZER: No. Just one sign on the building. If they a request monument sign, they will be back to let you know.
MS. BRUGG: We have actually tried to request the minimum number of variances, so there was an issue with the height of their fence. They have reduced the height of the fence to avoid requiring a variance. We discussed signage, and their intent is to avoid requiring a variance for signage if possible. So we have actually tried to minimize and require only those variances that are necessary for development of the site.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

HEATH MILLER, 69 Bellmawr Drive

MR. MILLER: I have a couple -- a couple points to make tonight. The first I want to talk about the signage -- or the public signs for the hearing tonight. And then I will talk about whether -- just ask if there were some other variances needed for the project.

I drove by the property this afternoon, and I saw that there were signs advertising a Public Hearing and there was one sign posted about here (indicating). And the other sign was posted here (indicating). And both signs were for the Public Hearing for preliminary subdivision -- preliminary subdivision approval for last Tuesday's Planning Board meeting.

There was a -- a sign for the variances that were being requested. Oh, I have it. The property here at 1382 Scottsville Road (indicating), that is currently vacant commercial property. It's owned by Precision Properties CNY, LLC. There was a notice sign here (indicating) for the variances that were being requested tonight, but the date of that Public Hearing was listed as June 12th and not tonight.

I have a picture of it, as well. That is the public notice hearing, (inaudible) the setback and about the variances and front parking for warehouse/distribution building. 7 p.m. June 12th, 2012.

So that appears to have been a mistake made by the Building Department, but it was posted on property that -- well, it was posted on this property (indicating). Wrong property.

There was another sign here (indicating), again. It had been posted for the preliminary site plan approval for the -- for the Planning Board meeting last -- last Tuesday, as well. So my only point is that as far as the public being notified by the time for the hearing tonight, no one would know that there was a Public Hearing for the variances tonight if they saw -- if they happened to

see this sign that was here (indicating) on 1382 Scottsville, it said it was for last Tuesday.

PAUL BLOSER: Planning Board meeting.

MR. MILLER: Planning Board meeting. So perhaps this, the Public Hearing could be kept open until next month and signs could be posted that then would advertise these variances in a manner that lets the public know that, you know, the correct date and are also posted on the property itself. Because if you -- you wouldn't have known, if you saw the one Public Hearing notice for the variances that this was the property (indicating). So those are my comments about the signs.

There are some -- I have questions as to whether or not they need a couple other variances.

With regards to the parking, do they need a variance for the number of parking spaces? It's been -- obviously I don't have a problem with the fact that they're requesting, um, the number that they are. Under -- this is Section 500-43C, number 7 under Industrial Use. It does list for storage warehouses under minimum requirements one space per employee on the maximum shift or one per each 400 feet of gross floor area, whichever is greater. This is a facility that is 124,850 square feet. So if you divide that -- I'm sorry. I have -- by 400. I think that number is wrong then.

At any rate, do they need a variance for the number of parking spaces? I will point out that in other Zoning Board meetings, there have been variances requested not only for front parking but also for the number of vehicles.

For example, when Target was coming in, proposing their building, there were variances for front parking and for the number of vehicles to be less than what was required.

Also, more recently, at the January 25th, 2011 meeting, um, there was a FedEx was coming in, looking for variances for front parking, as well as for the number of spaces. And that was also in a GI zone.

So I'm just wondering whether they need a variance at all for the number of spaces that they're proposing. Again, I don't have a problem with the number, but I am thinking that it would be beneficial to the applicant to make sure they get all of the variances that they need.

The second question I have with regards to variances is the buffering plan that is being proposed, they say they need variances between 6 and 60 feet. On the west side of the property here, they're adjacent to Comfort Home & Windows, which is General Business. So typically, they would need 100 foot buffer here (indicating). But it looks like they're not providing any buffer; is that correct?

MS. BRUGG: No. There is a 6 foot buffer.

MR. MILLER: Okay.

MS. BRUGG: You don't see it in green because it's a drainage swale and it's a stone with -- where the green grows through the zone. It's impervious. The engineer doesn't draw it as green. It's a drainage swale.

MR. MILLER: I do wonder whether then that that swale is really considered buffering. In the code, and this is Section 500-21E, Number 2, it says, "Wherever a permitted use in a GI District is located adjacent to any other district with the except of LI, Limited Industrial District, a fully landscaped buffer 100 feet in width must be provided along the full length of the adjacency. This buffer area shall be planted and perpetually maintained with live trees and shrubs at least 6 feet in height and shall have such other grading and landscaping as necessary to visually and audibly screen the industrial activity from the adjacent district.

So I wonder whether a rip-wrap 6 foot wide gravel area really meets that definition of a buffering area where you're planting live trees and shrubs. So I'm wondering whether the variance requested shouldn't be 0 to 60 feet. And if that is the case, would that require notice of that since the variance is going to be actually greater than that -- than that which was asked for.

The third question I have with regards to variance is this appears to be -- this is the loading dock area here (indicating).

On the site plans that I looked at, it showed the width of this area as 55 feet. The code requires loading births to be 60 feet wide. That's Section 500-43A 1.

Are they planning to do 60 feet wide, or do they want only the 55 feet?

This is this part of the code here. 500-43A 1, 60 feet in length.

The last thing I was going to mention was this fire access lane, Miss Brugg mentioned that it was 10 feet wide and that there are plans to put in a hammerhead at the end of it so that the trucks can turn around. I was looking at the fire code for New York State that is part of the Uniform Construction Codes, and typically a hammerhead has to be -- I think it was 120 feet long.

Is there room enough to actually put in such a turnaround? Obviously hammerhead is not --

MS. BRUGG: It may not be a hammerhead. It's actually not for -- the Fire Marshal has not required it for the fire trucks. It has been requested for the snowplows. So it doesn't need to be as large.

MR. MILLER: Well, it's -- I just wanted to bring that up, because when I was looking at the fire code, it looked like for an access road this long, I believe the code requires there to be a turnaround for -- for fire apparatus like a fire truck. That was all.

Thank you.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: First to address the signs. I also noted wrong date, wrong location, which I think also with the continuation with the Planning Board, that this Public Hearing should also be

left open accordingly.

Also, is -- as we're trying to address some of the issues here with this Public Hearing, um, for the zoning, I think we got the cart before the horse which we have seen before with Zoning before Planning Board.

I don't normally necessarily publicly disagree with lawyers, but when they say that quote/unquote, "this was received well by the Planning Board," there were many issues before the Planning Board. One being, as pointed out, the request and requirement for a full EAF environmental form for the SEQR, which is a process for coordinated review with all of the necessary agencies.

So when I hear a statement that there is quote/unquote, "No need for a buffer," end quote, again, I beg to differ with the attorney because, as Mr. Miller pointed out, in regard to other issues before the Planning Board, I will also point out that we made Microtel jump through hoops and logically and reasonably so to have a fire lane around their entire facility. Fire lanes have not been finalized before this -- before the Planning Board, and therefore, it does affect and can affect the zoning regulations here.

In regard to the fire lane on the east side of the building, um, there was discussion at the Planning Board, and any of you can go and listen to the hearing or read the testimony before the Planning Board as they are also keeping this -- they are also keeping an open -- open hearing under the circumstances.

But I heard quote/unquote from the attorney, "No other way," end quote in regard to the way the building is laid out, the facility is presented. Um, my comment is, a smaller square footage. This is a self-inflicted hardship. We should understand that.

And we should address that. I have no problem with a well-designed facility complying with the codes and the laws, and that's what we need here so we need some additional hard look at this facility. 6 foot from a property line is too close. Firefighting is an issue. This -- this has not been resolved before the Planning Board. It might be that it's stated to date that there have been no major issues, but the Public Hearing is still open. The issue is still open before the Planning Board for that full environmental assessment form, and the Public Hearing here should also be left open accordingly, as there are many issues as Mr. Miller pointed out, the front parking lot, parking spaces, parking space numbers and other issues with setbacks that this Board can more readily and reasonably address only after you get a final plan from the Planning Board that has been totally approved, including all of the agencies, Fire Marshals, um, Monroe County DRC, et cetera. So there are some -- this are some big issues yet to be resolved and the comment that -- before this Board it's -- I'm using my own term, "closed issue," I beg to differ. So I would -- first of all, I would request that this Public Hearing be left open accordingly.

Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I would like to begin by saying again, this process is backwards. It is always bad when you hear a Zoning Board appeal before you got Planning Board approval. And again, we have this situation now. Also, if this sign was illegal, we have to deal with that. I never heard of putting a sign on somebody else's property when you're advertising a Public Hearing on a Zoning Board issue. It has to be on the property that is going to be built on. This -- I don't know how these things are happening here. This is really a sloppy process. I don't know who is doing what, but it's a sloppy process. That sign should be fixed. It ought to be put on the right property, with the right dates.

As far as the setbacks go, I don't see any exception in the codes for what a developer just quote, "doesn't like."

It's ridiculous to think that you can build this kind of a -- this size building, this kind of a building, size of the building, 6 feet from a property line and then fill it with rock. Read the code. There is no exceptions for people in the code that just don't like the code, and that is all I am hearing.

It is ironic that the applicant wouldn't have had a problem with 100-foot buffer requirement if they hadn't been so doggedly following up on getting a zoning change. Well, be careful what you ask for, because they got their zoning change. Now they got a buffer to deal with, and they can't just forget it. And neither can this Board. Neither can the Planning Board.

The comment that this was -- this plan was well received by the Planning Board, I was here. I didn't take that take at all. Read the minutes -- read for yourself. They had a lot of issues. And there is more now.

As far as the statement that this applicant just has to deal with the size of this property, that is -- that is just plain silly. There was room in an industrial park in this Town for this project. And they chose not to take it. They want to be on Scottsville Road. Well, what you want doesn't get you necessarily just being forgiven from the law because you want to be a certain place. An industrial park was the place for this, not where they're putting it. So they wouldn't have had all these problems if they had gone to the proper place to build.

The bottom line after you listen to Mr. Miller, and Mr. Rettig, the bottom line for all these problems is they're -- they're trying to put too big a building on too small a piece of land. Really easy.

I don't see why you can't reduce the size of the building to fit the lot and comply with the law and give -- give a little credence to our codes in this Town.

I don't -- I haven't seen any place where it says a tire distribution warehouse has to be 124,850 square feet. It could be smaller and you wouldn't have all these issues. This is a

self-inflicted hardship because they're trying to put a quart in a pint bottle, and it is not your job to make it easy for them to do that. It's your job to protect the Town.

I would like to see the codes followed, and I certainly haven't heard any hardships here that would indicate that you should just forget our codes for them.

The Public Hearing on this should be kept open. There is a lot of issues here to think about, and the Public Hearing has been left open for the Planning Board, and this hearing should be kept open for more comment later, as well.

Thank you.

MS. BRUGG: Can I respond to some of those items?

PAUL BLOSER: Yes.

MS. BRUGG: When you're ready.

I was not at the Planning Board meeting so let me start by saying that. My comment about there not being issues, we have to step back. This is a -- see-the-forest-through-the-trees type of a thing.

I do understand the Planning Board meeting there was a lot of discussion. There is a difference between procedural or technical issue. There was a SEQR issue. There was a notice issue. But as far as substantive issues with the site plan, whether the site plan works, traffic, landscaping, all of the things that the Planning Board goes through, we have not received any comments that we have not been able to address. So to this point, we don't have any functional issues with the site plan that have not been able to be addressed. So that is what I am talking about. I'm talking about the actual site itself. I'm not talking about notice signs and procedural requirements.

You know, any project that requires multiple Board approvals will be tricky to go through the process and occasionally somebody will put a sign in the wrong place; forget to take down the Planning Board sign. I think meeting date was actually changed. I think it was supposed to be last week. Um, and I think that -- I believe the meeting was changed because of Primary Day or something, so -- so there have been a number of things. There is reasons.

We apologize if the signs are incorrect. They can be corrected. I personally haven't gone to see them. I don't know if the Building Department has. We can certainly correct that. That is frankly not a big deal. It's a requirement; we'll comply.

So that's the procedural kind of things and we have the substantive things. We have a national company that is interested in this site. They are -- they want to be in this location. They're a national tire distributor. They have certain requirements when they chose a location.

While I appreciate that you might want to fill some space in your industrial park, they are choosing to relocate to Chili because they want this particular site. They like its location. It allows them to provide a service and -- and engage in the business activity that they are in. They need to be a certain distance from the expressway. They have their own requirements in choosing a site.

They're not here to negotiate with us. They -- they are just a tenant. Buckingham owns the property. This business wants to relocate. They want to be part of Chili. They want to do business in Chili. They're a good-sized company. This is the type of facility they require.

Honestly, we can't go to them and say, "You can have a building, but it is will be 30,000 square feet."

They're going to say, "Bye-bye. We'll go to some other Town."

So while I appreciate the concerns with the code, there is a reason that State Law specifically allows -- whenever a municipality has a zoning ordinance, you must have a Zoning Board of Appeals for the purpose of hearing these types of applications.

When an applicant can meet the standard -- and I will go back to, this is a balancing test. The benefit to the applicant, the detriment. I again go back to there is no detriment. You have to look at every case. I hear the word "precedent" and things thrown out like that. This is not a case of are we setting a precedent.

What we're talking about is in these particular circumstances, with the conditions of this particular location, this particular neighborhood, take a ride out there, do these variances make sense? Will the community benefit from this development going forward, and is there any detriment to the granting of these variances? I will leave you with that thought on that.

As far as any other variances, we have gone through these with the Building Department. The Board does not have to deal with that. I will go through it with them again. If there is anything else, they can certainly add it as an additional item. I will double check that -- I will check that with Mr. Lindsay, the Building Department and we will deal with it.

As far as the loading, I don't have my scale with me, so I can't tell you, but if it does not comply with code, a variance will be requested or it will be modified to comply. I'm not the Project Engineer. I will consult with the engineer. It looks to me like if we had to add a few feet, we have the space to do it. But again, I'm not the engineer.

Um, I appreciate the concerns for fire safety and firefighting as an issue. Frankly, we're just responding and dealing with the comments from the Fire Marshal. They're in charge of that department and we'll provide whatever is required to satisfy the Town in that regard.

And basically our approach to this project has been to respond to comments, the Conservation Board, Planning Board, staff, you know, we have -- we have yet to receive comments that we haven't been able to comply with.

I used the word "hammerhead." It might be some other kind of turnaround. To be honest with you, I am leaving it to the engineer to design it. We will satisfy whatever the requirements are of the appropriate fire officials for the Town.

Um, let's see.

The buffer, um, yeah, stones with grass growing through them do tend to be considered green space as odd as it may be. It's a drainage swale and drainage is just a mandatory part of any site these days.

I certainly don't have any problem if you're putting a notice in and you want to change it to 0, you know, feel free. Um, again, I'm trying to look at the forest through the trees. Is this a good project? The variances that we're asking for, are they reasonable? Do they make sense and do we meet the legal standards? And I think we do, whichever way you look at it.

Let's see. As far as coming to the Zoning Board before going to the Planning Board, there is always a chicken-and-the-egg question. The code does not require one Board to act before another. These things should happen in sequence. They have a natural progression. Um, you know we went to the Planning Board to present the project to them first because I think that feedback is always beneficial to the Zoning Board. It is not required. Um, so I don't think we have a chicken and the egg or -- or what was it? Apple --

MICHAEL JONES: Horse and cart.

MS. BRUGG: Horse and cart. We don't have any legal issue as far as a horse and a cart.

Um, let's see. Many towns prefer or require you to get your variances first because without the variances, you may not have a site plan. On the other hand, some Zoning Boards want to hear that the Planning Board likes the site plan before they act on variance, so you know, it is 50/50. This is no answer to that one.

Let's see. Um, I think that's -- I think I -- did I -- I don't know if I missed anything. You know, I just go back, again, please look at the forest through the trees. There are a lot of technical issues this Board does have some legal standards. My job is to address them. You know, you're talking about building this building, being a self-created hardship. By definition, every application you get would be a self-created hardship. Notwithstanding the point, this is an area variance application, not a use variance application. I'm not saying it is self-created, but even if it was, it would preclude granting of any variances.

So what I ask you to do is to look at this, look whether we have met the standards, look at whether this makes sense, whether there is any detriment. I have still not heard anybody say that there is any detriment to any neighboring property owner or the neighborhood. So far I think we have nothing but a good project. It fits. This is not in some other commercial industrial part of Town.

If you drive down this corridor and you look at the properties that are there, look how they're developed, look at the adjacent uses. We're across from the airport. It makes sense. And I hope you can see that. And I believe we have met our legal standard -- our legal burden. So with that, I appreciate if the signs were in error, we'll put up new signs. I haven't found out that.

I don't know, Ed (Shero).

ED SHERO: I have not seen them.

MS. BRUGG: If that is something the Town would like us to do, you know, that's -- I haven't gone out there so I can't say that I -- I was out there a couple weeks ago. I don't know if you have been out there.

FRED TROTT: Yeah, I -- I was just telling him I thought it was all one piece of property.

MS. BRUGG: To be honest, I thought we had the signs correct, but I didn't post them.

MR. GLAZER: At the request of the Town, they requested we put the signs down on that corner because you're supposed to have three signs and we couldn't have three signs. They said to put it down there so more people could see it. That was the instruction, so that is what we did.

MS. BRUGG: This is a -- this is a very visible site. However, I -- I can't -- I can't tell you first hand that the signs are correct, so.

MR. RETTIG: Just some brief comments. As Miss Brugg has just mentioned for now, okay. I just mentioned number one, the EF -- the full assessment EAF requires a coordinated review, so there will be and should be additional agencies involved.

Number two, um, as the Planning Board reviews that, and goes to the Zoning Board, there can be changes, and therefore, changes for this Board to review.

And number three, as far as responding to the Town Boards and agencies, um, that is appreciated. Talking about Conservation, et cetera. But there is also a review to listen and hear what the citizens and public is saying.

ADAM CUMMINGS: Open or closed.

MICHAEL NYHAN: I think public comment should stay open.

ADAM CUMMINGS: Until we have more information from Planning on how it progress.

JAMES WIESNER: Not all of the information is in right now I don't think.

PAUL BLOSER: I guess I have a question. This one I have questioned for a lot of years.

Our code and policy calls for full display of these signs with the correct information on them for the correct amount of time. Without that, it kind of makes this whole process unofficial. It is a requirement, and some of these meetings I have been to, you talk to other towns, and they look at me like a deer in headlights, "Why would you do that?"

But it's in our code. Um, with that said, I feel we have to allow adequate time for public notification and comment.

MICHAEL JONES: I don't disagree that. I think -- yes, the Public Hearing should be kept open and that -- I do, however, want to remind the Board that there is still the issue of this Board consenting to Planning Board acting as lead agent, so that --

PAUL BLOSER: Absolutely. I agree with that. I don't have any question of that. You know, I think I made that clear up front. That they have started that process. So -- so -- you

know, I wouldn't want to take a final vote tonight because of that -- can't.

MICHAEL JONES: You can't. You can't. But I think the Board has to vote to say you want to agree that the Planning Board shall assume lead agency status.

PAUL BLOSER: Yes. So I -- so I am going to put that out to the Board right now. I am making the motion that we do leave SEQR in the hands of Planning Board on this, that they taking the lead. Do I have a motion to declare that?

ADAM CUMMINGS: I will second that.

MICHAEL NYHAN: I will make the motion and you will second it.

The Board was unanimously in favor of the motion.

PAUL BLOSER: As far as Public Hearing goes, um, I think in -- in lieu of the information that given tonight with the signs, I don't have any choice legally but to leave this open so that those signs posted properly next time. So with that, um, I believe we will table this.

MICHAEL JONES: Sure.

PAUL BLOSER: Do I say to next meeting, next month? Or do I --

MICHAEL NYHAN: Well, will they be prepared for us to hear this next month?

MS. BRUGG: Yes.

MICHAEL JONES: What is the date of the next meeting?

MS. BRUGG: The 24th, I believe.

PAUL BLOSER: The only question, we're early this month. It will put it over the 30 day.

MICHAEL JONES: Yes. So -- I think the timing will work. So what I would suggest to the Board is that at the -- that the Public Hearing hearing be adjourned to the next meeting so that way people have shown up tonight in response to the notices that were at least in the paper correctly know it will be heard at the next meeting and we'll work on the sign issue to make --

MS. BRUGG: We can make sure to take care of that and work with staff. Sometimes these things are messy, so.

PAUL BLOSER: I will put a motion out that we adjourn until -- table this until the next Zoning Board meeting.

ROBERT MULCAHY: So moved.

JAMES WIESNER: Second.

DECISION: The Board was unanimously in favor to table the motion by a vote of 7 yes to table for the following reason:

1. Pending SEQRA coordinated review process with the Planning Board.

Note: Applicant to obtain new signs at the Building Department to post/maintain as per Town regulations.

MS. BRUGG: Thank you very much for your time.

The meeting ended at 10:05 p.m.