

CHILI ZONING BOARD OF APPEALS  
June 24, 2008

A meeting of the Chili Zoning Board was held on June 24, 2008 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: Jordon Brown, David Cross, Adam Cummings, Tracy DiFlorio, Robert Mulcahy, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Ed Shero, Building & Plumbing Inspector; Keith O'Toole, Assistant Town Counsel.

Dennis Schulmerich, Town Board Liaison, was also in attendance.

PAUL BLOSER: I apologize for starting a little late this evening. I had some details I had to finish up with Counsel beforehand.

We do have a long agenda tonight. We are charged with hearing every case, every application tonight thoroughly and completely. We'll go through them one by one as they're listed on the agenda.

PAUL BLOSER: For the sake of saving a little bit of time, as far as signage goes, first let me go through introductions.

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: Starting with signage first. I'm looking at all 14 applications tonight. Do any of the Board members have any problems with any of the signs that were put up?

Paul Bloser made a motion to hear all of the applications listed on the agenda, and Robert Mulcahy seconded the motion. The Board members were unanimously in favor of the motion to hear all of the applications on the agenda.

1. Application of Anthony Pipitone, owner; 140 Stottle Road, Churchville, New York 14428 for conditional use permit to allow an office in home for a heating and air conditioning business at property located at 140 Stottle Road in PRD and FPO zone.

Anthony Pipitone was present to represent the application.

MR. PIPITONE: Good evening.

PAUL BLOSER: For the record, please state your name.

MR. PIPITONE: Anthony R. Pipitone.

PAUL BLOSER: You appeared before us last month for the building. I know this was a conversation at that time, that you were going to be looking at this. At the time of the application for the building last month, you had stated that the garage or the barn that you were putting up in the back was not to be used for the business. That was a statement of condition.

What portion of the home or how many -- I guess you will use an office in the house?

MR. PIPITONE: Yes, basically a 12 by 12 area.

PAUL BLOSER: Are you going to have any employees there?

MR. PIPITONE: No employees come to the home, no. Or customers --

PAUL BLOSER: Hours of operation?

MR. PIPITONE: -- or customers or anything else. Or traffic or anything else. There is no traffic in the home other than our family.

PAUL BLOSER: Any deliveries?

MR. PIPITONE: No. UPS maybe. That's about it.

PAUL BLOSER: Where are you going to be storing building materials.

MR. PIPITONE: Planned spec work, everything is stored, stored at job sites. If we have to do any storage, we usually rent a trailer to store it and then it's installed and we don't stock anything.

DAVID CROSS: So it is just you and your wife working in the house?

MR. PIPITONE: Yes.

DAVID CROSS: Two employees really.

MR. PIPITONE: Yes. We have 12 employees total. Everybody is pretty much service technicians.

DAVID CROSS: All off site?

MR. PIPITONE: Yes. Nobody is at the house.

JORDON BROWN: Just a question about vehicles. Any number of vehicles for the business there?

MR. PIPITONE: I have one service van there that I use for myself, for travel and for the business use. The rest are all personal vehicles.

JORDON BROWN: Business, do you usually park inside or --

MR. PIPITONE: It's usually in the driveway. It's a van with a ladder rack on it. We don't have any big delivery trucks. We don't have stake body trucks going in and out, nothing causing any traffic or inconveniences for any neighbors or anything. I don't know of any complaints from my neighbors. All my neighbors know I have the business and everybody is good, to my knowledge.

BOB MULCAHY: Your wife had a business. Are you part of that business or does she have her own business?

MR. PIPITONE: My wife owns the business. I'm the manager of the business.

PAUL BLOSER: Before I open this up to public comment, I guess first, any comments from the side table?

ED SHERO: The only question we had was what was being stored there. We have already given a permit for this. We did it as a utility building, or as -- as a type of use. So this being stored in there would probably be changed to an S1 or S2 storage facility. That may change a little bit as far as the firewall or what is being in stored in there. We ask with a new business we have a fire and safety inspection done on a three-year basis.

PAUL BLOSER: Of any structures on the property?

ED SHERO: Not any structures, but this building.

PAUL BLOSER: The garage? The detached building?

ED SHERO: The detached building, yes.

MR. PIPITONE: Which was part of the permit in the beginning.

PAUL BLOSER: That was a condition of approval, that it be inspected periodically. So you're looking for a three-year?

ED SHERO: Fire Marshal does it on a three-year basis.

PAUL BLOSER: Or upon complaint from --

ED SHERO: Correct.

PAUL BLOSER: The other thing that we have done on past applications on something like this, when we have a building of this size that's put on the ground, we do have an in-home business -- we have required that any commercial vehicles be stored in that garage rather than in the driveway. You know, it eliminates -- it is a residential area. We don't want vehicles being advertising from the road. This is a good sized barn that we did grant before. If we're going to put an in-home business authorization, I would like to have a condition that the business vehicles be stored in there, whether it be trucks, trailers, anything that would be of an advertising instrument.

ED SHERO: One other comment. I'm looking at the plan. There is offices in the basement?

MR. PIPITONE: Yes.

ED SHERO: So you have a finished basement?

MR. PIPITONE: No.

ED SHERO: Not finished space.

MR. PIPITONE: Not finished space, but it's down in there, yes. What do you consider finished?

ED SHERO: You're -- it is habitable space.

MR. PIPITONE: We're down there with the office.

ED SHERO: Do you have a second source of egress?

MR. PIPITONE: Do we have second source of egress, no.

ED SHERO: Would you be willing to have one? Any habitable space in the basement has to have a second source of egress.

MR. PIPITONE: Isn't that part of the process of going through the whole application permit? We don't have traffic in through other than the people that live there now. How does it change -- if I had people or customers --

PAUL BLOSER: It doesn't, but if I may, Mr. Shero, in any residence, a basement is a basement. If you convert that to any type of habitable space, whether a living room, bedroom, or an office, any space where you spend any amount of time other than putting a load of laundry in, it is required you have a secondary method of egress from the basement, whether it be a window well that goes out or a walk-out basement door, Bilco type doors. Most people put in a window with some type of well pit around it that -- the window has to be 6 square foot?

ED SHERO: 5.7.

PAUL BLOSER: So I was close. But that would be a requirement to have any type of habitable space in a basement. That's a building code. But, you know, part of the variance is that you meet all building codes.

ED SHERO: I think you explained it pretty well.

PAUL BLOSER: You're okay with that?

ED SHERO: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

TERESA CROZIER, 21 Shrubbery Lane

MS. CROZIER: I drive by Tony (Pipitone)'s house almost every day. My whole family lives out there. My brother lives next door. He would have been here, but he is working. He has no objections. You would never know there is a business there, an office. Very well kept property. It's beautiful and I would just like to speak in favor of it. Thank you

PAUL BLOSER: It is a beautiful property. He has done -- at this point, I will say, it's very nice looking out there. It fits in well. What we, as a Town, don't want to see is that turn into a commercial advertising --

MR. PIPITONE: Nor do I. I own a home.

PAUL BLOSER: So if we sound hard, it is for a reason.

MR. PIPITONE: I understand. If it was to what I know you were looking out for, I wouldn't be at my home.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Did I understand that this inspection that was mentioned would be by the Fire Marshal?

PAUL BLOSER: Fire Marshal, yes, but I believe -- I don't know if I have the minutes in front of me for that one. Is it last month or the month before?

MR. PIPITONE: Two months.

PAUL BLOSER: I don't have that one.

I believe the condition of that application was that -- that was in agreement with Mr. Karelus, that the Building Department would be also inspecting for code enforcement, but then the Fire Marshal would be above and beyond at this point.

MS. BORGUS: If the -- the Fire Marshal is great as far as it goes, but this is a building, this is a variance, it really should be an inspection by the Building Department and I certainly would like to see it done more frequently than three years.

PAUL BLOSER: With Mr. Karelus, I believe we talked about I think yearly -- Ed (Shero), you weren't in that conversation. I believe going back to the minutes, I believe that is how we set them up.

DAVID CROSS: It was yearly.

PAUL BLOSER: When we do an in-home business, we always start those up for one year, and then it's reevaluated and reinspected.

MS. BORGUS: The one thing I haven't heard mentioned is expansion of the business. Does this applicant expect this is going to stay the same size business forever, never grow?

PAUL BLOSER: I will allow you to comment on that.

MR. PIPITONE: We have been in business for a few years. We have grown every year, and knock on wood, it's been good and I haven't had any need to move out of the residence at this point. At some point that's coming. I'm hoping that is coming. That's why I'm in business. But as of today, we're -- we'll suffice with the office space we're using.

PAUL BLOSER: Do you have rental space any place where you store tools or equipment?

MR. PIPITONE: No. Everything goes to the job sites, so...

MS. BORGUS: I don't know how many tools are involved in this business, but they are stored at the job site?

PAUL BLOSER: Depending on the size of the job, they are sometimes, and they're moved in job boxes from job to job or on-site trailers. Not knowing the nature of his business or the size of it.

DOROTHY BORGUS: I guess I'm getting at where are the trailers stored? I just have a problem with this, that there is just a truck. It's really hard to operate a business of any size and have one truck, period. I question this -- this. You know, if there is going to be job trailers and, you know, tools and everything, then I can see where this -- this building that you have already approved will be more than for the toys that were mentioned at the time. I -- I just foresee that this is a -- it just doesn't sound right.

Another thing, it seems though this gentleman has been before this Board more than a -- in April and today. Is -- has he had more variances than the two?

PAUL BLOSER: There was a variance in 2005 granted for an in-law apartment over proposed attached garage.

MS. BORGUS: Well, it just seems to me that our zoning law, the way it is set up, five acres, if you have a five-acre lot, you shouldn't be back in here over and over for variances. With five acres you ought to be able to comply with the law. I don't like spot zoning and personally I think that's what this is.

PAUL BLOSER: Okay.

MS. BORGUS: Spot zoning is a very, very bad thing. It negates everything we try to do to make our Town look great, make it attractive to other people, and I think this is spot zoning. I -- I have a problem with the fact that these people have lived in this Town, I don't know how long, years, obviously, and have run a business and just now because they have been found out, they're in here to get a variance to do what they have been doing illegally for years. It doesn't -- it just doesn't sound good. And I hope that if you -- if you pass this, that you keep him on one-year conditional uses for a long time because this is the way this goes. It's a year, then you get your foot in the door and then pretty soon it's five years and then it's out of control and the Zoning Board has been ineffective. So I still maintain it's spot zoning.

Thank you.

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

TRACY DI FLORIO: In terms of what you said in regard to expansion, so if I understood you correctly, if the business grows to a certain point, you will then move out of the home and rent office space somewhere else?

MR. PIPITONE: That's the intent, yes. Absolutely.

BOB MULCAHY: Do you have an emergency number that people can call if there is a --

MR. PIPITONE: We have an answering service that dispatches our 24-hour service technicians, yes.

BOB MULCAHY: How many of those do you have?

MR. PIPITONE: We have the two of them on the road full time. And they're in the other vehicles that belong to the business, and they go home with the gentlemen. That's why I don't have any trucks at the home.

TRACY DI FLORIO: So your technicians keep their own vehicles?

MR. PIPITONE: Yes, they do.

ADAM CUMMINGS: During down time when the project is maybe not going on, say off season or whatever, where do those trucks get parked? At those technicians' --

MR. PIPITONE: Technicians are year round, so they are always in their trucks and with them.

PAUL BLOSER: Are there trailers? I mean you mentioned that once before.

MR. PIPITONE: When we use trailers on projects that are large projects and require them, they get leased and rented and then they get returned immediately after. Low overhead.

PAUL BLOSER: You're having supply companies on a just-in-time delivery service for the jobs?

MR. PIPITONE: Yes.

BOB MULCAHY: Would you say that you store all your tools in your trucks?

MR. PIPITONE: Most of the tools go into the trucks, yes. The rest go job to job in job boxes.

BOB MULCAHY: When you say "job boxes," what do you mean?

MR. PIPITONE: Gain boxes. Rolling toolboxes that are roughly 4 foot by 3 foot, maybe 3 foot high.

TRACY DI FLORIO: Where are those stored?

MR. PIPITONE: On the job sites.

TRACY DI FLORIO: But when you're in between jobs?

MR. PIPITONE: They usually go job to job. We usually have more jobs going than the number of boxes, so they kind of roll from the service trucks let's say to the next job site.

JAMES WIESNER: Any other conditions we'll place on the application?

PAUL BLOSER: There will be conditions. I will do SEQR first and then we'll go through that.

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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

David Cross made a motion to approve the application with the following conditions, and Jordon Brown seconded the motion. All Board members were in favor of the motion. SEQR

The Board discussed the proposed conditions.

Paul Bloser reviewed the list of in-home business conditions.

Paul Bloser reviewed the proposed conditions with the Board and applicant.

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

1. Applicant must comply with standard conditional use requirements.
2. Approved for one year with renewal /review required.
3. All commercial vehicles and trailers to be stored in garage or barn. No street parking or construction vehicle parking allowed in open drive.
4. As business (office) is located in basement, a means of egress is required. Building Codes and Fire Codes to be inspected by the Town.
5. NO business products to be stored in approved barn (i.e. supplies, heaters, furnaces, hot water tanks, boilers, etc).

The following findings of fact were cited:

1. Application complies with conditional use requirements.

2. Application will not create an undesirable change in the character of the neighborhood or nearby properties.
2. Application of Alan Rifkin, owner; 6 Towpath Trail, Rochester, New York 14624 for variance to allow existing 10' x 12' utility shed to be 7.25' from rear lot line (8' req.) at property located at 6 Towpath Trail in R-1-15 zone.

Deborah Rifkin was present to represent the application.

MS. RIFKIN: Deborah Rifkin, 6 Towpath Trail, Alan (Rifkin)'s wife.

PAUL BLOSER: First of all, I will make a comment that I appreciate your putting the sign on Chili Coldwater Road, otherwise it might have been a little difficult to find. It is not a standard street sign at the corner, so it made it easier to find.

Based on the Town records, this was applied for -- a shed was applied for back in 1987, and that was granted. Wasn't a shed applied for. It was to put a shed within the setback of drainage, because there is a 20-foot drainage easement back there.

MS. RIFKIN: Yes.

PAUL BLOSER: And this shed sits right in the drainage easement. So a previous Board did grant them permission to put it there.

However, there was never a permit applied for for the shed.

MS. RIFKIN: Which we just found out it wasn't. My father is the one who put the shed in, and we just bought the house last August. When we went to put a pool in, we found out about the shed, so none of us knew.

PAUL BLOSER: So the shed has been there since?

MS. RIFKIN: 22 years. Actually, was it 22? '87? Did you say '87?

PAUL BLOSER: March of '87.

MS. RIFKIN: 21 years.

PAUL BLOSER: Is this sitting on the slab or does the shed go up to the slab?

MS. RIFKIN: It is sitting on a slab.

PAUL BLOSER: It is kind of deceiving how the print shows.

MS. RIFKIN: It was also moved up because the slab was too far back to the lot line, so he moved it up and thought it was far enough from the lot line. Apparently, it is 8 inches too close.

PAUL BLOSER: You're not doing anything with the shed right now as far as rebuilding it or replacing it?

MS. RIFKIN: No. It's just storage for gardening and pool supplies.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: For public hearings, could we please have drawings put up?

PAUL BLOSER: Yes.

STEVE GINOVSKY, 19 Hubbard, North Chili

MR. GINOVSKY: First of all, this was 1987 it was given permission to do, and no building permit was done. Also, it's in an easement section. With a slab there. If you had to get in there, you can't get in there with a slab. It's not a portable shed. I just don't know how the Town can allow something like this to go on from '87. It's unacceptable. Especially with our assessments that have gone through. We did full assessments and everything else. Why wasn't it caught beforehand?

If the Town had to go through there with a slab, the added cost, it's totally unacceptable.

Thank you, sir.

GARY BRESSLER

MR. BRESSLER: My name is Gary Bressler. I built the shed. I applied for the variance, went before the Board. It's a drainage easement. That drainage easement, if there was ever water in that drainage easement, ever flooded back there, the water would be running out of the house, the upstairs windows in Coldwater Road. So, you know, it's kind of crazy that it's an easement back there for drainage. It was approved to build it there. At the time I didn't know that -- you know, I figured the permit, that was all part of getting the approval and that's as far as it went, I built the shed. That was 22 years ago.

MS. RIFKIN: There is never any water back there. There is never anything back there.

PAUL BLOSER: We don't have any complaints on file at this point, do we, Ed (Shero)?

ED SHERO: No.

PAUL BLOSER: The fact that a previous Board allowed the variance, this Board does not have the authority to rescind that?

KEITH O'TOOLE: No. The only thing before the Board is a variance for a grand total of 9 inches.

PAUL BLOSER: Right.

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

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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

Jordon Brown made a motion to approve the application with the following condition, and Adam Cummings seconded the motion. All Board members were in favor of the motion.

The Board discussed the application.

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

1. Any modifications, and/or replacement of existing structure subject to Town of Chili codes and regulations. No changes without Town approvals.

Note: A building permit is required.

The following findings of fact were cited:

1. Placement of shed in the town drainage easement was granted by previous Board.
  2. Shed is in character of neighborhood and variance requested is minimum.
  3. In 18 years, no reported problems.
3. Application of Mr. & Mrs. Jay Diedreck, owner; 31 Stover Road, Rochester, New York 14624 for variance to erect a 12' x 16' utility shed with a 16' x 4' overhang to be a total of 256 sq. ft. (180 sq. ft. allowed), variance for shed to be 13' high (12' allowed) at property located at 31 Stover Road in R-1-15 zone.

Jay Diedreck was present to represent the application.

MR. DIEDRECK: Jay Diedreck, 31 Stover Road.

PAUL BLOSER: It's hard to tell from the street. Is this a new shed going up?

MR. DIEDRECK: Yes. This is a new shed to replace a shed that was torn up in a wind storm.

PAUL BLOSER: What size was the previous shed?

MR. DIEDRECK: I think it was about 8 by 10.

PAUL BLOSER: No vehicles being stored in this?

MR. DIEDRECK: Correct. Except for a lawn mower.

PAUL BLOSER: Not an issue with setbacks. Just strictly the size we're looking at for the shed. It is pretty secluded back there, wooded area.

JAMES WIESNER: It appears you're attaching some sort of deck on the side of the building?

MR. DIEDRECK: I'm sorry?

JAMES WIESNER: Is there some sort of a deck you're attaching? A porch?

MR. DIEDRECK: Yes.

TRACY DI FLORIO: Are you removing trees on the corner?

MR. DIEDRECK: There was a tree that took the shed down, so that was removed. Other than that, it's -- we're not going to be taking any more trees down.

TRACY DI FLORIO: It looked wooded back there. I was trying to figure out how that big shed --

PAUL BLOSER: It says here from the original permit you're putting the electric, just putting it up back where it was?

MR. DIEDRECK: There was no electric originally, and I'm having electric put -- I'm going to put electric back there for lighting, and I have had the -- we'll have the Fire Board of Underwriters inspecting that.

PAUL BLOSER: Okay.

DAVID CROSS: For the record, the applicant has letters of support from two neighbors.

MR. DIEDRECK: Total of three neighbors.

PAUL BLOSER: What is the construction of this shed?

MR. DIEDRECK: Wood frame.

PAUL BLOSER: Siding?

MR. DIEDRECK: Vinyl siding.

PAUL BLOSER: To match the house?

MR. DIEDRECK: Pretty much is what you can get at Chase Pitkins.

PAUL BLOSER: You can't get anything at Chase Pitkin.

(Laughter.)

MR. DIEDRECK: That's right. Home Depot. You know, it's like a tan color or --

PAUL BLOSER: It will blend in nicely?

MR. DIEDRECK: Yes.

PAUL BLOSER: Is this something you're making yourself?

MR. DIEDRECK: Yes, sir.

PAUL BLOSER: You will be required, you know, for the permit to get blueprints issued or drawings issued to the Town, Building Department.

MR. DIEDRECK: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Paul Bloser reviewed proposed conditions 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 Tracy DiFlorio seconded the motion. The Board all voted yes on the motion.

Bob Mulcahy made a motion to approve the application with the following conditions, and Jordon Brown 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. No storage of motorized vehicles/tools/implements/boats/ladders or items other than lawn furniture under overhang.
2. All Building Department codes and permits to be applied for/adhered to, and inspected.

The following findings of fact were cited:

1. No adverse or environmental conditions exists.
  2. Fits in with character of the neighborhood.
4. Application of Mr. & Mrs. Jeffrey Spring, owner; 51 Clifton Road, Churchville, New York 14428 for variance to allow a maximum of 15 assorted fowl on property with. 50 acres (5 acres req.), variance to allow building housing fowl to be 22' from rear lot line and 28' from side lot line (100' req.) at property located at 51 Clifton Road in RA-1 zone.

Jeffrey Spring was present to represent the application.

MR. SPRING: Jeffrey Spring, 51 Clifton Road.

PAUL BLOSER: What type of birds are you looking at putting in here?

MR. SPRING: Chickens, possibly a couple of ducks.

PAUL BLOSER: Any ornamental or special birds, Peacocks or anything like that?

MR. SPRING: Not to my -- no, we don't plan on it.

PAUL BLOSER: The chicken coop is not there?

MR. SPRING: Correct.

PAUL BLOSER: So this is something you would have to install also?

MR. SPRING: Yes.

PAUL BLOSER: You're talking about a 6 foot by 8 foot coop?

MR. SPRING: Yes.

PAUL BLOSER: This is going to be at the rear of the garage, correct?

MR. SPRING: Yes.

PAUL BLOSER: These will be year round?

MR. SPRING: Yes.

PAUL BLOSER: You will have heating and electric put into there?

MR. SPRING: There is a GFI on the back corner of the garage. I was actually going to just put an extension cord.

PAUL BLOSER: You will have to check with the Building Department on that. I don't know if that would be allowed to run an extension cord to a separate structure. It might have to be a hard line, and that would be subject to inspection.

MR. SPRING: Okay.

PAUL BLOSER: We can't discipline that, but I don't think that's going to work from a Building Department standpoint, but that's him (indicating).

JAMES WIESNER: What is the purpose, your main purpose for wanting the fowl?

MR. SPRING: The kids want to raise them and have some eggs. They want to show them at fairs, too.

TRACY DI FLORIO: It looks like in your drawing here the coop is 6 foot by 8 foot, and then the fenced-in run is going back another 20 feet, so you're going right to the lot line.

MR. SPRING: The run is along the back of the garage. 6 feet out from the garage.

TRACY DI FLORIO: Oh, okay. I got you now. I was misunderstanding that.

DAVID CROSS: How far away is the nearest house to the east? I can't picture it.

MR. SPRING: To the east? Probably 100 yards maybe. It's an open lot right behind us.

DAVID CROSS: There's an empty lot there.

TRACY DI FLORIO: Is that a building lot, though?

MR. SPRING: It actually belongs to the house up on Hosmer or Chili Riga Town Line Road.

ADAM CUMMINGS: Do any of the other neighbors in the area have chicken coops?

MR. SPRING: Honestly, I -- not that I'm aware of. I don't know.

BOB MULCAHY: How many chickens will you have in there?

MR. SPRING: Probably a dozen.

BOB MULCAHY: Any more than that? Is that your limit?

MR. SPRING: 15 would be the limit.

KEITH O'TOOLE: You might want to consider a condition of perhaps prohibiting roosters and rather than have a variance that reads assorted fowl, let's be specific about what we're permitting. I believe the applicant has said chickens and geese or chickens and ducks.

PAUL BLOSER: Chickens and ducks.

JORDON BROWN: If those conditions are specified and someone else purchases the land, that same limitation would apply, prohibiting other animals on it?

KEITH O'TOOLE: Yes.

TRACY DI FLORIO: Is that something you can revisit in a year in terms of complaints?

PAUL BLOSER: Typically a condition, if it is put in place, it would follow with the property. It could be inspected, you know, in a year.

Counsel, do you want to comment on that? Did you hear her question?

KEITH O'TOOLE: I didn't.

TRACY DI FLORIO: I didn't know, like with home businesses, we give them like a one-year permit or whatever and then we revisit it to make sure there are not any complaints or compliance issues. I didn't know if there was a clause or anything like that that we could put into this so if there was a problem in a year, we could...

KEITH O'TOOLE: Yes. Basically doing it on a trial basis, yes.

JORDON BROWN: Just clarification. This is half an acre, and for something like this, it usually is five acres required. So just clarification. It's quite a substantial variance that is being requested.

DAVID CROSS: It's not only the area, but the setback.

JORDON BROWN: Yes, the setback, as well. Thank you.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I don't know if anybody on this Board has ever kept chickens. What is this man going to do with the manure? Where is he going to store the bedding? Where is he going to store the feed? And I will tell you something, feed and chickens, the whole -- the whole scenario draws rodents big time.

I wonder, has he got any letters of support from his neighbors? He does?

PAUL BLOSER: No, none that I see.

MS. BORGUS: Well, then I think they're pretty smart people. I can't imagine that this Board wouldn't turn this down flat out. Would you want to live 22 feet from -- from a chicken coop with everything that comes with it, the ammonia odor, the manure, the feed, the rats? And when I say "rodents," I mean rats. I don't mean mice. That draws rats. I can tell you. We had chickens when I was a child, and -- and now, no -- no way would that be allowed today. It was in Chili, but that was many years ago. Today, this -- this is a ridiculous thing to even consider. Thank you.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: I agree totally with Dorothy (Borgus). A half acre lot. Five acres are required. Then you've got a lot next door. Someone may buy that and build a house and they have to smell the back end of a chicken? Come on. I think we have learned from that before.

Also, not only the rodents, but you do get the foxes and the whole nine yards and they do get in the coops. Do we really want to get into that? I don't think it's the best thing for Chili, and I wish these people -- I will give them the money if they need some eggs. I will buy them at Wegmans for them, please.

Thank you.

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

PAUL BLOSER: My own input is I have experience, limited experience with chickens myself. I also a couple years ago had a friend in the Village of Churchville that had fowl brought on the site and as Counsel said, roosters tend to be very obnoxious at the very early hours of the morning, so that would be a condition I would want to put in for the sake of the neighborhood, not to have roosters.

I do have concerns with the bird feces, what is going to be done with it. Do you have plans for it?

MR. SPRING: It will just be bagged and thrown in the garbage.

PAUL BLOSER: You will have to check with the Health Department to see if that is allowed.

MR. SPRING: No?

PAUL BLOSER: There may be requirements on that, I don't know, as far as the disposal of it. It's not typical garbage. It is waste, and probably will have to be handled somewhat differently. I can't speak for that, but it would have to be checked into.

The feed is another issue. They do draw rodents, other rodents. It is a residential neighborhood. It is a small lot. Driving by it the other day, there were a lot of kids around. It just -- in a neighborhood like that, close, it's --

BOB MULCAHY: I think 12 chickens will produce a lot more than a bag full of waste.

PAUL BLOSER: Well, it's a smell issue also. I mean it's not -- it is a residence. We have to be -- neighbors may not know what it is like. If we were to put a condition on this of review it in one year, I think it would be very appropriate, so under conditions I would put review in one year.

I think also a waste method would have to be investigated and submitted to the Town for approval.

BOB MULCAHY: I wonder who is going to take care of the chickens? Are the children going to take care of the chickens?

MR. SPRING: Some of them, but with our supervision, of course.

TRACY DI FLORIO: Who will the plan be submitted to?

PAUL BLOSER: I think it would have to be submitted to the Town to be looked at. I don't have experience with this. The Building Department is buildings. It's not fowl.

I'm just concerned about this being a residence. We'll have to look at that, and maybe at that point we'll have to come back.

TRACY DI FLORIO: I'm wondering if we should table it --

PAUL BLOSER: Until it is looked at more. It's a --

JORDON BROWN: I'm ready -- I'm ready to vote.

JAMES WIESNER: I think we're in a position to vote.

The Board decided they would vote on 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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

James Wiesner made a motion to approve the application with proposed conditions, and Jordon Brown seconded the motion. All Board members were opposed to the motion.

DECISION: Unanimously denied by a vote of 7 no for the following reasons/findings of fact having been cited:

1. Negative physical and environmental impact of neighborhood.
2. Application is significant in size request and setback request.
3. Not consistent with neighboring properties.

PAUL BLOSER: Mr. Spring, the Board has unanimously voted no. We'll send a letter to you with our findings and you will have that.

MR. SPRING: Thank you for your time.

5. Application of Mr. & Mrs. Jeffrey Berger, 5477 E. Avon Road, Avon, New York 14414; property owner: Mr. & Mrs. John Berger; for variance to allow four horses on property with 2.7 acres (5 acres req.) at property located at 51 Clifton Road in RA-1 zone.

Jeffrey Berger was present to represent the application.

MR. BERGER: Jeffrey Berger, 5477 East Avon Road.

PAUL BLOSER: I'm assuming the John, Carol Berger are relatives?

MR. BERGER: Yes, my parents.

PAUL BLOSER: This is where you want to store the horses, at their property?

MR. BERGER: Oh, we're going to be buying their house shortly. It is going to be our property.

PAUL BLOSER: Do you currently have the horses?

MR. BERGER: Yes. Two.

PAUL BLOSER: You have two horses?

MR. BERGER: Yes.

PAUL BLOSER: You're looking for a variance for four horses?

MR. BERGER: Yes, just in case, in the future, going by what the neighbors have.

PAUL BLOSER: It's hard to tell from the house. Is it land clear out in back?

MR. BERGER: Yes.

PAUL BLOSER: From the road, it's kind of hard to see back there.  
MR. BERGER: It's a long way back.  
PAUL BLOSER: Where are they currently being stored?  
MR. BERGER: Up at Riverview Stables in Scottsville.  
PAUL BLOSER: Are you looking to put up a building also?  
MR. BERGER: No. Maybe in the future, a -- not permanent shed.  
PAUL BLOSER: Will you have any coverage for them now?  
MR. BERGER: At this point -- not at this point.  
PAUL BLOSER: So year round they will be stored outside?  
MR. BERGER: They are now. Where they are now, they're stored outside year round.  
DAVID CROSS: I don't know a whole lot about horses, but where do they go when the weather gets bad?  
MR. BERGER: You blanket them and they stay outside.  
JORDON BROWN: Are there other horses in the area?  
MR. BERGER: Yes. There's two neighbors down the road, the exact same acreage as us -- or as my parents. They have horses. There is horses across the street. There is at least four neighbors that have them, have horses on the property.  
JORDON BROWN: A question from the side table. All -- all of the -- in the area, do we know if -- if they've properly received variances if needed or what the situation is?  
ED SHERO: I know 155 received a variance. I think the one across the street is five acres and didn't need the variance. Those are the only two I know of offhand.  
MR. BERGER: I believe right next door to 155 is another property with horses. Joe Roland -- I'm not sure what one he is at, but his neighbor also has them.  
TRACY DI FLORIO: In the letter from your vet, it says that you described plans for fencing and modifications from already existing stand and structure for stabling horses as needed.  
MR. BERGER: That was something we discussed, but we're not going to do --  
TRACY DI FLORIO: So there is no -- you are not planning on any kind of shelter or overhang?  
MR. BERGER: I was thinking about putting a run-in shed eventually, just for wind break type of thing.  
DAVID CROSS: Which that would need a variance. Because that would have to be 100 feet from the property line.  
MR. BERGER: I don't think it is possible -- is that required for a non-permanent structure also? It wouldn't be a permanent structure, something that you could drag with a tractor if need be.  
PAUL BLOSER: The shed for the horses would have to be 100 foot from the side lot lines.  
MR. BERGER: Right. I understand that. Even with a non-permanent structure that is required? I would have to address that at the time.  
TRACY DI FLORIO: You're planning on putting up a four-sided fence without --  
MR. BERGER: I believe you have it on the plans. It would be almost like two, two separate pastures that could be broken up.  
TRACY DI FLORIO: I guess my point is -- is the shed within the fencing?  
MR. BERGER: It would be up to it.  
ADAM CUMMINGS: So if there is not going to be a shed, where are you going to store the feed for them?  
MR. BERGER: That would be the existing building that is already down there.  
BOB MULCAHY: Is that the 10 by 17 foot shed?  
MR. BERGER: The smaller one. There is two of them down there.  
TRACY DI FLORIO: So there is actually two sheds now on the property?  
MR. BERGER: Existing, yeah.  
PAUL BLOSER: No previous applications for the property are listed.  
The letter was submitted by Steve Krenzer to accept all of the manure produced by the horses for fertilizer for his property.  
DAVID CROSS: At what frequency would he come to pick that up?  
MR. BERGER: Being that they would be out in the pasture, I don't think they would be producing very much, but he said wherever need be, he would come whenever.  
PAUL BLOSER: You're putting an electric fence in there.  
Ed (Shero), are there any requirements on electric fence in this type of application, location?  
ED SHERO: Not to my knowledge.  
PAUL BLOSER: Can you talk to us about this fly predator system that you mentioned in here? What are those?  
MR. BERGER: My wife knows more about it than I do, to tell you the truth.  
MRS. BERGER: Kelly Berger. The fly predator system is shipped to you in packages. They have small flies themselves that eat the other flies that cause problems to animals. They don't affect humans or other animals at all. That is if it becomes a problem, we would use those. That is usually in a closed-in area that is not large enough for the horses to roam and it probably wouldn't be necessary, but if it is, we would use those.  
PAUL BLOSER: For the record, there is a veterinarian who has submitted a letter stating basically, without reading the whole letter, there is ample clear lane on the property for about two acres of pasture which would be acceptable for up to four horses housed there year round. The

horse bays being considered does not involve any of the front road -- road front. The vet also put in the statement that said, "I found the property to be suitable for keeping a limited number of horses. It is perhaps more suitable than some of the properties on Morgan Road already housing equines."

So that letter has been submitted and accepted by the Board. For the record, there are six neighbors that have signed a letter of support for it.

TRACY DI FLORIO: I guess I'm still concerned about the shelter issue. Do your other neighbors have barns or shelter?

MRS. BERGER: I'm not sure. The one place we almost looked at buying had an indoor arena with stalls, but I don't know if they kept the horses in stalls.

TRACY DI FLORIO: I had horses growing up and --

MR. BERGER: Mine does not like to be inside. My daughter has a mare. She is outside most of the time. We have trees she goes under. We blanket them. We're thinking about a temporary moveable structure in the future, you know, a couple years down the road when we can afford it, but right now they're happy. They don't like to be inside. They paw. They prefer being out. We have a system of blankets for heat and cool weather and flies, and freezing weather, they get triple blanketed.

DAVID CROSS: Do you have electric blankets?

MRS. BERGER: No. Pretty close.

ADAM CUMMINGS: Along with that shelter, I know not only the horses' well being, but other neighbors that take concerns with animals, we want to keep them happy, too, so a shelter from my experience is something that is required at a house that is housing animals.

MR. BERGER: To keep them away from the neighbors?

ADAM CUMMINGS: Just to keep it sheltered, a concern that you're providing shelter.

MR. BERGER: Oh, so they don't think we're abusing the animals.

Our horses are dressage show horses, so they're pretty much sissies and babied. That's why they have so many blankets. They're probably over-blanketed at times for what they really should be required for animals that live outside year round.

I don't know what the neighbors have or how they treat their horses. Most horses are, like I said, blanketed as much as ours, and our lot is in the -- in the back of the house it's far back in. Our neighbors to both sides, the one lot doesn't even go back as far as our horses will be. They have a cornfield back there and then the neighbor next door, they had ducks and other animals that brought in rodents, which horses don't tend to do that. She doesn't have any concern. She is one of the ones that signed the letter of acceptance and agreed to it. She has animals, and I don't think she would think we're abusing our animals if we didn't have...

As long as we keep the trees clean so nothing is going to fall on them if there is a storm, they're pretty safe. They like to be under the trees. And even mine stays outside sometimes. There is a shed where they're at, he doesn't go in. He likes to be out.

MR. BERGER: We'd be more than happy to put a shed. We're trying to keep it --

MRS. BERGER: If you want to, we'll come back with another application for a shed.

MR. BERGER: We have also been trying to buy land from the neighbors that would make it a lot easier so we wouldn't be encroaching on that 80 foot or the 100 foot. They have been kind of hesitant to sell at this time. That is why I was going for the variance.

PAUL BLOSER: That would be my concern right now, that -- for lack of a better word, we're putting the horse before the cart. In a couple months you will be in here applying for variances for a shed. Because of the regulations that we do have in place in the Town right now, being 100 foot from all lot lines, um, for some type of structure for a horse, it would be clear it would not be possible, it appears, with this land.

MR. BERGER: Well, it would be -- it would be not totally impossible to use the existing structures. They just would need some modifications.

PAUL BLOSER: For -- and replacement? I mean you would have to move it.

DAVID CROSS: You would need a variance.

PAUL BLOSER: You would need a variance for it or it would have to be moved. It would require 100 foot from any lot line. Do you follow what I'm saying?

MR. BERGER: I guess, yes.

TRACY DI FLORIO: The variance requirements are different for a regular shed versus a structure that houses animals. So there are different rules.

MR. BERGER: Okay. Like I said, they -- they spend all year outside now. If that is what would be an issue -- we understand it would be.

PAUL BLOSER: Feed, now, how is it stored? In bags?

MRS. BERGER: Garbage cans with sealed lids, tight.

PAUL BLOSER: How are you currently storing those? Are they outside in a shed?

MRS. BERGER: They're at the barn where they're boarded now.

PAUL BLOSER: They're being boarded?

MRS. BERGER: Yes.

ED SHERO: You pretty much addressed the concern the Building Department had as to the condition that those two current sheds can't be used to house the horse.

MR. BERGER: That's fine.

PAUL BLOSER: What are those sheds currently being used for?

MR. BERGER: Actually, they're empty now because we're in the process of moving, but just storage of lawn mowers and such.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DEBORAH WHALEN, 112 Morgan Road

MS. WHALEN: I currently live directly across the street from the property in question, and the neighbors to the east of me have several horses that are out all winter long, even though there is a barn for them. Sorry, I'm not good at public speaking. And they are blanketed during the winter with snow piling up on their backs, and to my knowledge, there has never been any complaints or issues with that.

PAUL BLOSER: Just the type of horse it is?

MS. WHALEN: Yes. The lot they're talking about is very well sheltered with trees, so the kind of wind break is naturally there at this point. So as far as the neighbors being concerned about the horses being out, that would not be a concern.

CAROL THOMS, Stryker Road

MS. THOMS: I will date myself, but I have had horses -- I probably owned 50 horses in the last 50 years and I raised 30 horses, and I have always had shelter for my houses, and they're show horses, as well, Morgan show horses. I think if a horse has an option and they choose not to use it, that's fine, but I think they need the option. That's my opinion. I wouldn't want any of my horses out in a rainstorm.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: We talked about how this feed was in containers. 2.7 acres I don't believe will be enough land to maintain four -- certainly the four horses they're asking for. They're going to have to subsidize that with hay brought in.

MRS. BERGER: That's on there.

PAUL BLOSER: That was noted in the vet's letter.

MS. BORGUS: Where will that be stored and how will that be obtained?

MRS. BERGER: Probably from Steve Krenzer who is going to take our manure.

MS. BORGUS: I didn't hear that.

MRS. BERGER: Probably from the vendor, we'll buy the hay from him or a farmer that is local. We know a lot of people that store hay and most likely it will be stored in the top of the barns that are existing.

MS. BORGUS: I have a question about the two sheds that are there. Are those a legal distance from the property line?

MRS. BERGER: They have been there for 40 years, so I don't know.

PAUL BLOSER: They are, based on the plan that I am looking, they are 10 foot in, so...

MS. BORGUS: So they would be acceptable for storage of feed, but not to -- not for the --

PAUL BLOSER: Livestock.

MS. BORGUS: -- horses.

I can -- about the shed. I can only say that my son-in-law raises pure-bred Haflingers. He shows them. He treats them very, very well. I believe right now he has 13 or 14. He doesn't live in Chili, but he is close to the line in another town. And he had two of them on the opposite side of the road from where he has his shelters for the other horses, and I have to tell you that last winter the sheriff showed up at his door. One of the neighbors had turned him in for cruelty to animals and the sheriff had his citation book right ready.

Now, my son-in-law is -- he treats those horses like children, and this just broke him up that anybody would turn him in for cruelty to animals, but you can see the problem. You can see the problem.

Now, he put the horses immediately over. He has a run-in shed. It was crowded, but he got them in. All his horses, all of them have something to get under or in. And I don't know what the law is. I can't speak to that, but I think it's cruel to leave animals out to the weather. I mean we get -- you know the weather, the wind we get here, the snow, below -- below 0 temperatures. Not to mention the lightning that has been mentioned. I think it's cruel. If you're going to have horses, you treat them humanely.

I also think in view of what we're hearing about other horses in the area and chickens and everything, that maybe the Building Department maybe better go over there and go up and down the street and see just what in the world is going on on Morgan Road.

Thank you.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Dorothy (Borgus) said an awful lot again. Also here I see it is 2.7 acres. Five is required. There is a home here (indicating), so you take that part of the equation where you're going to live, and you're -- you have got two horses right away. Then you're going to add two more. Horses do a lot of depositing, let me put it that way. I don't know of any farmer that will take that much residue away.

I do have a good friend of mine that does live over on Bangs Road that does have a stable there, that does have horses, and I will guarantee you it is over five acres. And the horses do have a choice of being out in the snow, ice, whatever, lightning, and you bring them in. Otherwise they're going to get struck. I don't think we want that to happen.

Well, the last applicant about the feed and the such, take that all into consideration. I think a five-acre requirement minimum is required. I think if it was and if a structure was up for these animals, I think it would be more applicable for the Town and let's put everything to bed that

way.

Thank you very much.

MR. BERGER: In response, um, horses naturally are out on the free range. You know, I mean it's not like a dog or a cat where, you know -- I could understand that. Like Kelly (Berger) said, when you put those horses inside, they go crazy. They can't stand it. They kick and they break things. I'm more than happy to put up a shed if that is required. We have been boarding them at a, you know, reputable business for years, and there is run-in sheds out there. They're never in them. They stand outside constantly.

As far as the feed goes, I mean I have been many, many places and I never seen an issue with that as long as you keep it contained properly.

Steven Krenzer has hundreds and hundreds of acres of land. It is no issue at all to get rid of manure with him.

And I guess that's really about it.

PAUL BLOSER: I have a question. I have two prints here, one being displayed here, showing two sheds. I also have another one that appears to show -- this map here (indicating). Do you want to step forward and explain what this one is?

Is this the house (indicating)?

The applicant explained the map to the Board.

PAUL BLOSER: The only other thing I want to read in the letter from the vet, "There is an ample clear lane on the property for about two acres of pasture which would be accessible for up to four horses housed there year round. Commonly described plans for fencing and modifications to an already standing structure for stabling the horses is needed."

I guess that's going back to what you said. If we do -- if those are being used for any type of stabling, variance would have to be approved for them.

MRS. BERGER: When we were looking at the property walking around with -- Amy Leibeck is the vet -- she said, "Are you going to use these?"

I said, "Possibly, I don't know."

We were going to find out what the rules were and regulations were before I used them for the horses. I mean they would need to be redone if they were to be used for anything. We would be applying for things if we needed to use those.

PAUL BLOSER: Building Department, I have a question. A freestanding, like a lean-to, just a roof, a shed roof, no sides, is that considered a structure? Would that fall in this 100-foot clearance?

ED SHERO: Yes. We already set a precedent out on Stottle Road, doing a five acres and she has a couple of those. We did require them to be 100 foot.

PAUL BLOSER: So one of those, with side curtains, temporary side curtains, seasonal.

ED SHERO: Yes. I think she has two of them, they're three-sided, two- or three-sided.

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

The Board discussed the application.

PAUL BLOSER: This Board, it's not within our power to enforce animal care or animal rights. We're certainly looking at permitted use of having the animals on site in an agricultural area. We do have neighbor support, veterinary support of it. They have obviously been doing this for a while, just renting the space out from somebody else.

Going into this, we would have to put a condition on this that the buildings could not be used for the stabling of any livestock of any type.

JORDON BROWN: Right. Makes sense.

ADAM CUMMINGS: Real quick, Jeff (Berger), how much is the ball park to rent out those spaces where you say -- Riverview or wherever you house the horses?

MRS. BERGER: It's about \$250 a month, per horse.

If I could say one more thing, we didn't plan on having four horses and we're not planning on having four horses. Mine is a senior horse and might not be rideable in the future. So the vet said we could have four. We said if he is not rideable, he may be a pasture mate, and I might get another show horse for myself or my daughter might get another horse, but we never planned on getting four. That is just what the vet told us.

MR. BERGER: That is what our neighbors have with the same lot size.

MRS. BERGER: Half their lot is unusable.

MR. BERGER: 2.7.

JORDON BROWN: Yours is 2.9?

MR. BERGER: Yes.

ADAM CUMMINGS: 2.9 is the other one.

MRS. BERGER: It's all long, straight back to the back of the property. It's flat and usable.

PAUL BLOSER: How often are you proposing to remove manure?

MRS. BERGER: I would say maybe once every two months it would be necessary, but it decomposes pretty quickly with the feed they're on and when they're not standing in one spot going, it's spread out and it's its own fertilizer. We break up the pastures into two. You would trade them in from one half to the other half and it would be growing grass on one part while they ate the other half and we would hay them. It wouldn't be a lot of accumulation quickly with two

horses.

MR. BERGER: I don't know how you would actually --

MRS. BERGER: Weigh it?

MR. BERGER: How would you?

JORDON BROWN: We would send Ed (Shero) out there to check it out.

(Laughter.)

MRS. BERGER: We'll fill a wheelbarrow and see, I suppose.

MR. BERGER: The normal time you see manure removal is with stalls.

TRACY DI FLORIO: Or if you have a shelter there.

MR. BERGER: Or something confined.

MRS. BERGER: Or if you hay them in the same spot every time, but you don't do that.

Paul Bloser reviewed the proposed conditions 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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

Jordon Brown 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. Existing structures cannot house any type of livestock.
2. Manure to be picked up as described in supporting documents.
3. No additional structures to be created or altered without Building Department approval.

The following findings of fact were cited:

1. Requested variance will not have an adverse physical or environmental impact.
  2. Horses are consistent with neighboring properties and area.
6. Application of Joseph Pula, owner; 3 Lawnsbury Drive, Rochester, New York 14624 for variance to erect addition to garage to be 5' from front lot line (60' req.) at property located at 3 Lawnsbury Drive in R-1-15 zone.

Joseph Pula and Michele Cook were present to represent the application.

MR. PULA: My name is Joseph Pula, and I live at 3 Lawnsbury Drive, and I would like to add something, sir. I'm hard of hearing.

PAUL BLOSER: Okay.

MR. PULA: I just thought I would tell you that in advance.

PAUL BLOSER: So am I. So you speak up, too.

MR. PULA: Oh, I will.

PAUL BLOSER: Go ahead. What can you tell me about the garage? In going by there, you do have a one-car garage on there now?

MR. PULA: Yes, sir. I'm going to add on to my existing garage, and I got one problem with RG&E, that my garage measures at the present time 26 feet long, and I was cutting it short by 4 feet, so the electric would be able to put in that without building all of the way out, but I talked to my electrician, and he told me that if we were able to get a pole, a riser and swing, that -- a meter and everything on the back side, then we wouldn't -- I could utilize the 26 feet.

PAUL BLOSER: Okay. So you would be going deeper with the addition instead of 22 foot?

MR. PULA: Yes, sir -- in, it's going to be 26 feet. 16 by 26, if it gets approved.

KEITH O'TOOLE: I believe the gentleman is indicating he is going for a larger structure than what is advertised.

PAUL BLOSER: On the print. Because the proposed -- it says 16 by 22.

MR. PULA: Yes, sir.

KEITH O'TOOLE: Which doesn't affect the variance.

PAUL BLOSER: Correct.

The existing garage, is that still going to be used as a garage or what is it going to be used for?

MR. PULA: Yes, sir, it's going to be used for a garage. I asked for the 16 by 22, but if I get that pole okayed by RG&E, I would like to go to 26 feet because it's 4 feet wasted.

DAVID CROSS: What are you going to put in the proposed garage addition? What are you going to put in the addition, the garage? Do you have additional vehicles?

MR. PULA: What am I going to put in there? Oh, I found a motorcycle in the garage -- the garbage and I restored it last year. I lost my wife, and I used it as a -- to keep myself busy so it -- I wouldn't be thinking about the situation, and now I need a little more room. I got a box trailer I will put in there, and, you know, how things are. You get toys. I've been meaning to do it for 43 years.

TRACY DI FLORIO: Is there a deck off the back of your building?

MR. PULA: Yes, ma'am.

PAUL BLOSER: Will the wall be taken out between the garage?

MR. PULA: Pardon me?

PAUL BLOSER: Will the wall come out between the garages to make one roof line on the whole -- on all three structures?

MR. PULA: Yes, sir. It's going to continue from my existing garage out 16 feet, sir.

MS. COOK: I'm Michele Cook. I'm -- he is my dad. That drawing isn't correct. When the house was built, the garage was actually pushed back, so I don't know if you have driven past the property, but when you look on that drawing there, it looks as though the house and the garage are flush, as you look at them from the street. Well, the garage was actually moved back probably 8 feet.

MR. PULA: For the variance. And then it was pushed -- the house was pushed north and it --

MS. COOK: I don't think it shows properly on that drawing.

MR. PULA: To get the proper variance. So actually speaking, everything is pushed back already if it goes according to the line of the garage.

PAUL BLOSER: But we're still looking at a 5 foot setback.

MR. PULA: Yes, sir.

TRACY DI FLORIO: Even pushing that back the 8 feet, it will still make it 5 feet from the road?

PAUL BLOSER: Yes.

KEITH O'TOOLE: I have some concerns. Certainly utility easements are often within the front yard of residential properties. I don't know how old this development is. It may not be an issue there, but oftentimes you will find a 10 foot wide easement in a front yard, so it looks like potentially you could be building a corner of your garage on the side of a utility easement, which is never good.

Generally speaking, one would never permit any structure to be this close to a right-of-way, typically a substantial structure such as an attached garage. I mean this is not a shed that is going to rot to the ground in 20 years.

I understand the gentleman's concern. He probably would prefer to have an attached garage during our cold winters, but there is one there at least for one -- one stall already and there is adequate land to perhaps have a detached garage elsewhere if he needed additional storage. I also understand from the memo from the Building Department they have concerns with this variance request, as well.

ED SHERO: It is pretty close to the lot line, and being so close, you don't have really an accurate map -- apparently it was done when the house was done 27 years ago, and we would request that one of the conditions be that we have an accurate survey that is professionally marked out. Because 5 feet is awful close.

I think we would have to have some better mapping and professionally staked out for that.

KEITH O'TOOLE: Yes. Just to build on that, an instrument survey map which depicts the locations graphically of all of the easements, including the utility easements, would be helpful at the time of the issuance of the permit certainly, and then they can have a stakeout which would keep them away from the easement areas.

Thank you.

PAUL BLOSER: I would be concerned about utility easements myself. There is nothing shown on here. I don't know if there is any underground line, gas, water, sewer under there. Sewer is usually in the road. But it would be a concern of mine, whether there was any utilities there.

The driveway, it did seem to be fairly level, but -- but, you know, with the Town, at that point, if the Highway Department wanted any type of drainage going under the driveway -- is the driveway going to expand?

MR. PULA: I had it put in last year, and it's right where it is supposed to be.

PAUL BLOSER: Okay.

MR. PULA: I might have a -- a 4 foot -- you know, from the side, to bring it out, to get -- to get the room to turn in there. Besides, I'm taking two trees down, but I don't think it's going to be necessary, but you don't know.

KEITH O'TOOLE: If I may add to that, as well. With the 5 foot setback to the corner of the garage, I don't see how one could possibly park a vehicle in a driveway in front of that garage as is customary during the warm weather months. And we certainly don't approve that type of encroachment on the public right-of-way.

Thank you.

PAUL BLOSER: Again, I have several issues myself on this. The easement issue is the biggest thing that I see, all along the road.

The visual impact, there is a bend up there in the road. There's a bend coming in from Chili Avenue. It's slight, but it's there. For visual, there is a lot of shrubs that come right out to the road on the south side of the road. They're a natural blinder now. Just coming from the other

side, what would be there.

Another concern I have is snow blowing. When these guys come through, especially in a bigger storm, they need that frontage to push snow. In a heavier storm we could be blocking his garage door in, and that could be a concern of mine to be able to have access to those garages at that point.

Just from a safety standpoint.

I don't think that the map we have before us has enough information, particularly from the utility side, for me to make a good decision on a setback. I think it's awful close to the road. It's the main line going back into Hillary, and all -- all back up in there.

So there is a lot of cars to come in through here on a daily basis and all kinds of weather, so that would be a concern of mine.

And I guess I would like to say to the Board that we can either vote on this tonight, or table it for further information to look at it properly, especially in the utilities. I would like comment from the Highway Department also on the setback, being it is attached.

DAVID CROSS: I would be more apt to table it than deny it, based on questions of accuracy of the map.

ADAM CUMMINGS: Sure.

JORDON BROWN: I don't think it's a bad idea.

BOB MULCAHY: I agree. Not a bad idea.

PAUL BLOSER: I will move -- motion to table?

BOB MULCAHY: So moved.

TRACY DI FLORIO: Second.

Bob Mulcahy made a motion to table the application, and Tracy DiFlorio seconded the motion. All Board members were in favor of the motion to table the application.

PAUL BLOSER: Mr. Pula, what I would like to do, if you understood what I'm looking for here, is we're going to table this. What I would like you to do is get us more information. I would like a better lot map with the stakes showing where everything is right now, but I would also like to get the utility map to show utility easements on where gas, electric sewers are so that we can see where those lines are and what --

MR. PULA: Whatever you want. Whatever you want to do.

PAUL BLOSER: Okay. For the safety of the Town and protection of yourself --

MR. PULA: I agree.

PAUL BLOSER: -- it would be the best way.

MR. PULA: I agree.

PAUL BLOSER: So I will table this application. When you get the information together, I would ask that you bring it to the Town Building Office and they will put you back on the agenda to be heard. Okay?

MR. PULA: I hope I'm around.

PAUL BLOSER: So do I. You will be getting a letter from us describing what we're going to require. Okay?

MR. PULA: Okay.

DECISION: Unanimously tabled by a vote of 7 yes to table, pending further submission, for the following reasons/findings of fact having been cited:

1. Applicant needs to bring in updated tape/survey map drawings showing exact locations and dimensions of requested structure and all existing structure locations. Also need highway department input in writing on setback issues as related to road activities.
2. Need utility locations (overhead and underground locations for street and property).
7. Application of Keith Vogler, owner; 106 Christina Drive, North Chili, New York. 14514 for variance to erect a 16' x 24' two-story utility shed to be a total of 768 sq. ft. (180 sq. ft. allowed), variance for shed to be 16' high (12' allowed) at property located. at 106 Christina Drive in R-1-15 zone.

Marla Vogler was present to represent the application.

MS. VOGLER: Marla Vogler, 106 Christina Drive.

PAUL BLOSER: So your proposal is to put the shed in the same position that it's in now, just going back farther backwards?

MS. VOGLER: Correct.

PAUL BLOSER: On the drawing that you've submitted, the shed that is shown there, is that the proposed one or is that the existing one?

MS. VOGLER: That's the existing one that will be removed.

ADAM CUMMINGS: Real quick, what is that addition off the back side of the house? Is that a new addition put on?

MS. VOGLER: 2002, I believe.

PAUL BLOSER: It's not a deck, though; it is an addition?  
MS. VOGLER: It's an addition.  
SUPERVISOR DUNNING: Ed (Shero), is a requirement with the addition in the back, how many feet from that addition to a shed requirement for clearance between two structures?  
ED SHERO: The Town requires 8 feet. There is also a deck. Where is the deck on this?  
MS. VOGLER: It is on the other side of the room addition.  
PAUL BLOSER: I'm sorry, the other side of?  
MS. VOGLER: The addition. Not on the shed side. On the other side. Between the house and the addition is just a 12 by 12 area.  
PAUL BLOSER: Open space?  
MS. VOGLER: Yes.  
DAVID CROSS: It is kind of difficult to tell if we have that 8 foot of clearance if we don't see the location proposed.  
PAUL BLOSER: You would have 5 foot to do the 8 foot setback -- 8 foot setback from the garage, 8 foot setback from the side lot line, going to the addition, you're left with 5 foot of clearance.  
The existing shed is 11 by 16, correct?  
MS. VOGLER: Correct.  
PAUL BLOSER: You would have 5 foot?  
MS. VOGLER: We could move it up -- or back away from there if we needed to. It wouldn't be a problem.  
PAUL BLOSER: Farther to the back, you're saying?  
MS. VOGLER: Right.  
PAUL BLOSER: What will you be doing with this? It is a pretty good sized structure for the neighborhood.  
MS. VOGLER: The existing shed is packed full. I would like to clear out the garage also and be it an area for our kids to play. We have three kids with a lot of stuff. And I would like them to be able to be contained into the garage so I can watch them from the house and have everything out of the garage and the shed, which has been over run by mice.  
PAUL BLOSER: So you're going to have -- what is going on the second story of the shed?  
MS. VOGLER: Storage. Just storage.  
PAUL BLOSER: Is this going to be heated?  
MS. VOGLER: No.  
PAUL BLOSER: Water, electric?  
MS. VOGLER: No.  
PAUL BLOSER: What will you side it with?  
MS. VOGLER: It's a Duro Shed, so it -- however they build them. I believe it's -- it's like a composite siding.  
PAUL BLOSER: They build them oversized to what they say they're going to, by 4 inches, I think it is? That's another application.  
(Laughter.)  
PAUL BLOSER: Is there an overhead door proposed on the new one?  
MS. VOGLER: I believe they said that it wasn't -- there wasn't enough clearance, so no.  
PAUL BLOSER: Windows?  
MS. VOGLER: Two windows. One on top and one on the bottom.  
PAUL BLOSER: So would it be a wood sided Duro Shed, not like what the house is with the vinyl siding. Because your existing shed --  
MS. VOGLER: Vinyl sided.  
PAUL BLOSER: -- matches the house?  
MS. VOGLER: It's a composite. It will be a neutral. They have several colors, neutral colors, so you don't have to paint it. They said it is 30 years.  
ADAM CUMMINGS: I'm kind of curious. When I drove by, one of my main concerns is businesses in homes. I noticed your husband or maybe somebody who was working on your house, I'm not sure. There was a contractor's truck and trailer out there. Is there any plans of doing business out of this storage space?  
MS. VOGLER: No. We have a variance for an office in the home for our mobile air-conditioning business.  
PAUL BLOSER: Will you be storing business equipment in there?  
MS. VOGLER: No. He keeps it in his enclosed trailer and any parts he needs he just picks up at the parts places and brings them to his jobs.  
PAUL BLOSER: You also had a -- with a camping trailer on the side of the garage?  
MS. VOGLER: Yes.  
PAUL BLOSER: It's a tow-behind, though. It wasn't a driving one?  
MS. VOGLER: Correct. We just looked at putting that in the Chili self-storage parking area. We want that out of there, too.  
BOB MULCAHY: What type of material is going to go in the shed?  
MS. VOGLER: Our tractor, snowmobile, snow blower, all of the household toys.  
BOB MULCAHY: How will you get to that shed?  
MS. VOGLER: There is a man door. It will be regular doors.  
BOB MULCAHY: There is no driveway back to that?  
MS. VOGLER: No. It's just -- it's just in the -- in the backyard.  
BOB MULCAHY: So you -- the trailer with the snowmobiles, will you drive that back

there?

MS. VOGLER: The trailer won't go in there. Just the snowmobile.

BOB MULCAHY: How will you get the snowmobile back there?

MS. VOGLER: Drive it.

ED SHERO: This is very similar to the first applicant where we had in-home business, and my only concern is that the shed and garage aren't used for any of the business supplies because that would again change it to utility storage and that means certain requirements under the fire code and distances from the building. But I would hope that the Board would consider restricting that, that it is only used for general household items and nothing to do with the business.

And the other issue was the existing shed, that that be -- 11 by 16 shed is there now, that that be tied into that if this is approved, so the use of the other shed can be -- have a C of O on that.

Thank you.

PAUL BLOSER: To clarify that again, to be removed before C of O, or before construction?

ED SHERO: Well, the problem with removed before construction, they probably have stuff in it, and where are they going to put it?

PAUL BLOSER: That is what I thought you were leaning towards, but that presents a problem with placement of the new one because it is the same placement.

ED SHERO: Then it has be done to put a new one. You will have to do something, find temporary storage.

PAUL BLOSER: The other thing then is an issue of -- we got a setback issue that would have to be addressed on placement from the shed to the house, so that shed is going to have to be relocated farther to the rear to allow your clearances of 8 foot from any other structure.

ED SHERO: You're talking about from the corner of the house?

PAUL BLOSER: The corner of the house, of the addition. You got 8 foot now. If we go to 16 foot wide, that will give you 5 foot clearance, and you said that we have to have 8 foot minimum.

ED SHERO: Correct.

PAUL BLOSER: So that would be the -- would require another variance for -- or it's got to be moved farther back and placed on the lot, in which case --

ED SHERO: They have the room to move.

PAUL BLOSER: So we have two issues here. It can't go where it is proposed.

JORDON BROWN: Let's ask the applicant if they have a plan or need more time to develop one.

PAUL BLOSER: Do you understand what I'm saying?

MS. VOGLER: Yes. I don't think he -- I don't know if that was all in his thoughts in doing -- in where he said he was placing it. There is no problem with moving it back. There is plenty of room back there.

PAUL BLOSER: Well, it would have to go back probably another 11 foot or so, 11, 12 foot. It would have to be -- we would need a tape map and it would have to be staked out and approved by the Building Department.

ED SHERO: We need an updated map to show the addition and the deck on it.

PAUL BLOSER: Yes.

ADAM CUMMINGS: How tall did we say the two-story shed would be?

MS. VOGLER: 16 foot.

PAUL BLOSER: Falls below the roof line of the house, but...

ADAM CUMMINGS: If we're moving it back, the neighbors will get to see more of it.

PAUL BLOSER: You will blind everything from the neighbors, to the southeast, by moving that out.

The Board discussed the application.

PAUL BLOSER: You have the room, but it is just going to be a big structure back there. How he is going to get back there? It's a Duro Shed. Are they building it on site?

MS. VOGLER: Yes.

PAUL BLOSER: Is this going to require footers, or are they -- is it a roll-off?

MS. VOGLER: We'll put in a concrete slab to keep the mice out, which is what happened to the current one.

PAUL BLOSER: That would require footers, wouldn't it?

ED SHERO: No, not necessarily.

PAUL BLOSER: For that kind of height?

ED SHERO: I don't think there is anything that says on height, that would require it.

PAUL BLOSER: I mean that wouldn't concern us, but it is something that you're going to have to look at with the permit.

JORDON BROWN: The prospect of having moved the shed, the size of it, I'm just wondering if this should be put off and give the neighbors a chance to see what is being newly proposed.

PAUL BLOSER: And the location of it?

JORDON BROWN: Yes. It's a good size here. Like you say, it would have a visual impact.

PAUL BLOSER: It has a big impact visually.

JORDON BROWN: I don't know how much scrutiny.

DAVID CROSS: It's large. It doesn't fit into the character of the neighborhood.

JORDON BROWN: You mean just on the size itself?

PAUL BLOSER: Does the Board want to continue to hear the balance of the application at this point?

TRACY DI FLORIO: Yes.

PAUL BLOSER: So we're choosing not to table at this point and we'll continue with the hearing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: 16 by 24, two-story building. You have got to go over your height limit from 12 to 16-foot. This is a pole barn. Come on, let's get real with this. It's in an R-1 area.

And then just so the kids can put their toys inside a garage? I don't buy that. Come on. This just isn't real. You have got to get -- get together more on this.

I think it needs to be tabled and the residents really need to have some say in the matter. This is totally unacceptable. It's a pole barn. It's as simple as that. And you're being hoodwinked. Please don't let it happen. Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I don't live in that area, but it's a very pretty street and it's a very nice area. I cannot imagine a building this size and this height there. I just can't even feature this.

So whether you want to just deny it or table it, I don't know, but this needs more look and people should know what they're going to have to look at. I'm assuming that those are lots on the bottom of that drawing, that those are other home sites that back up to this lot; am I correct?

PAUL BLOSER: Yes.

JORDON BROWN: Yes, you are.

MS. BORGUS: Boy, I can't imagine those people want to look at that. I don't see why anybody needs a two-story building of this size in a residential area. It's just out of place. Totally wrong.

Thank you.

MS. VOGLER: If I may. I'm -- I'm close to all of my neighbors. We have talked in great length with all of them about it. Everybody talks about what is going on, what you're doing. Everybody thinks it -- if they could have one, they would too. We went to look. It's what they had. We thought maybe we should scale it down. It's what they have. It's not a bad price. We looked into extending the garage. It was double to do so. It -- it's -- we just have stuff. We have a lot of stuff.

PAUL BLOSER: I understand.

MS. BORGUS: Thank you, Mr. Chairman.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just one additional comment. I really think that you need a map that depicts the true picture. Evidently this map does not. Am I to gather that this does not show a deck or an addition?

PAUL BLOSER: That is correct.

MS. BORGUS: Well, I think you need to have an accurate depiction of what this -- the present situation is.

Thank you.

PAUL BLOSER: Thank you.

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

PAUL BLOSER: Basically what we have got is we have covered it, the issues, the height and size are going to be a situation. The map does not show proper placement. I mean if we were to proceed with the vote and it was approved, we would require a new map to show location of the thing to the Building Department because there are potentially other variance issues here.

JAMES WIESNER: It would be nice -- if it's going to be an imposing structure, what is it going to look like? That would be a nice detail to have.

JORDON BROWN: I agree with David (Cross). I can vote on this just based on the size that is being proposed. I was suggesting tabling so maybe that could be rethought, as well. Just so that -- because I think it's, you know, clear the direction it's going to go. But I don't know for sure. But anyway, it -- if the Board wants to vote, I'm ready to vote.

PAUL BLOSER: If the Board chooses not to go this route, the applicant would have the opportunity to present something of different size but at that point, you know, I would hope a map would come in with better placement, with updated showing where a deck is.

MS. VOGLER: The deck is under construction. That is why it is probably --

PAUL BLOSER: I did see that. There were still loose boards sitting on top of it.

MS. VOGLER: Yes.

PAUL BLOSER: Has there been a permit pulled for that?

MS. VOGLER: Yes.

PAUL BLOSER: Just checking.

We would need to see that on there also.

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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

James Wiesner made a motion to approve the application with proposed conditions, and Adam Cummings seconded the motion. All Board members were opposed to the motion.

PAUL BLOSER: Based on the applications presented, we're voting no unanimously. If you want to present this in a different configuration, size -- we're basically voting on the size is substantial for the neighborhood and the placement. You could present an alternative plan to the Building Department and if a variance was required at that point, you would have to come before the Board with that, but I would ask if you do that, that you submit something, what the building is made of, color of materials and exact placement where it is going. It might also be a benefit to yourself and your neighbors to put four stakes in the ground, approximate location where it would be and even some height poles so neighbors could really see how high it is going to be, and you know, you're covering yourself that way also. Okay?

MS. VOGLER: Okay.

PAUL BLOSER: You will get a letter from the Town about this in the mail in a week or so. Thank you for your time.

DECISION: Unanimously denied by a vote of 7 no for the following reason/findings of fact having been cited:

1. Size is uncharacteristic with nature of neighborhood and too significant in size.
  2. Requested variance is substantial in nature and character.
8. Application of St. Pius X Church, owner; 3202 Chili Avenue, Rochester, New York 14624 for variance to erect an 8' x 4' double-faced freestanding changeable copy sign to be 64 sq. ft. (40 sq. ft. allowed) at property located at 3032 Chili Avenue in R-1-12 zone.

BOB MULCAHY: Mr. Chairman, I'm going to recuse myself.

PAUL BLOSER: Yes.

Bob Aman and Jeff Cohen were present to represent the application.

MR. AMAN: I really don't live at St. Pius, but I do live in Chili. I'm the Facilities Director at St. Pius, so I got this job to come over here.

What we want to do is replace our existing sign that is out at Chili Avenue with a larger sign that is there now, and, of course, we got -- have a setback. The other one is pretty close to the boundary line. I brought Jeff Cohen here. Jeff (Cohen) is a Scout that is going for his Eagle Scout and this is his project, is to build this. So I'm bringing him along so he can see all of the steps that are involved in a project.

PAUL BLOSER: My understanding of this, it was brought to my attention you had assistance in the design of this and the layout?

MR. AMAN: He did all of the brick work that is shown on this sketch. I did the computer part to fit that in after coming for the application. I would like to see what the sign would look like. We envision at the bottom just having the mass times and two lines that we can adjust for special events, Christmas, Easter, whatever.

The color doesn't show up very well. The color is really a green with sort of a tan -- I will show everybody.

PAUL BLOSER: Gold inlay.

MR. AMAN: Gold inlay letters. These are typical. If you drive into the property, you will see the other signs at church are all this color scheme. It's not a bold color. The letters probably would be black on the sign. I'm sure they would give us some red letters, too, if we want something to stand out.

The second drawing that you had shows the setback. It sits pretty close to where the original sign was.

You had it up here before, James (Wiesner).

It sits -- we got to move it a little bit further to the west so it -- when we set it back 15 off the property line, it has to move a little bit to the west. You can see that circle there (indicating), that is where the new sign is, and you can hardly make out where the old sign is.

If I come up, I will show you where the old sign is. The old sign sits -- that little dot right there (indicating). That is the only sign.

PAUL BLOSER: You're going deeper into the lot?

MR. AMAN: We have to. We have to. We have to -- we got to be 15 feet off the property line.

PAUL BLOSER: That is correct, yes.

MR. AMAN: This one, as you can tell, sort of sits on your land. My land. I live in Chili, too. This has been there for 50 some years. We will go by the rule, setback. We envision setting it back 20 feet off the property line.

I guess I'm open for questions.

PAUL BLOSER: Are the Boy Scouts doing any plantings around the base?

MR. AMAN: Right now we're not going to put any planting there, and the main reason we're not is access of water. Anything that we put too far away from where water is just dries up and dies. In the future, if we want to put a shrub or something, we may put a shrub on the end. But we're trying to make it decorative enough that it doesn't really need any plantings.

PAUL BLOSER: Is there any electric or illumination of it?

MR. AMAN: It will be electric. There is electric already out there.

PAUL BLOSER: For the existing sign.

MR. AMAN: This will be illuminated.

PAUL BLOSER: How will it be illuminated?

MR. AMAN: On from dusk to dawn it's on a photo cell.

PAUL BLOSER: Back-lit, down-lit, up-lit?

MR. AMAN: Back-lit.

PAUL BLOSER: So the light is internal to the sign?

MR. AMAN: Yes. The lights are internal, preroughed in as we build it. There won't be any exposed conduit. There is what they call -- not a manhole, but a hand hole opening out there with electric already there.

PAUL BLOSER: So the overall height of this, at the very top, appears to be 9' 6".

MR. AMAN: 9' 6". Part of that reason is the ground drops off quite a bit there. In order to bring the bottom of the sign up to 4 foot, which we feel we ought to have it at 4 foot from the road height, we had to go add another foot to that. It was either that or bring a bunch of topsoil in. We decided we would leave the terrain alone and just make it a foot taller.

PAUL BLOSER: The changeable copy portion is the lower half?

MR. AMAN: The top half. The part that says masses to be changed. The masses are changeable, too, but we haven't changed masses in 15 years so I don't envision them -- you never know what the Bishop is going to do. We could have less priests or more people at our church, so we don't know that. So we don't want to cast those in concrete.

PAUL BLOSER: So the lower where it says mass and times, will that still be changeable copy?

MR. AMAN: Yes, it will. There be four lines of changeable copy. We envision the bottom two not to change.

PAUL BLOSER: Are these behind glass?

MR. AMAN: Yes. Protective glass, semi-shatterproof.

PAUL BLOSER: Both sides, I'm assuming?

MR. AMAN: Yes.

PAUL BLOSER: The brick, is that going to be similar color to what the church is?

MR. AMAN: The brick will be identical to the brick. We have bricks left over from the last addition, so we'll use those same bricks.

PAUL BLOSER: What about the top caps?

MR. AMAN: That is up to my designer here. They will probably be the stone type. I'm not sure what the material is.

PAUL BLOSER: Then it is arched underneath, it appears.

MR. AMAN: Yes. We're trying to make it a little more decorative by making an arch in that part. We envision an archway at the bottom.

PAUL BLOSER: How thick is this?

MR. AMAN: It's going to be -- the pillars are going to end up 20 inches, so they're going to be concrete blocks as a main support, and then the archway will be -- have to be wood, pressure-treated wood or something to make that. His dad is a tile man and his grandfather was a mason, so they're going to be coming up with the actual way of making that archway, but that's our hope, is to put that archway in there.

PAUL BLOSER: On the street side of the column, are you going to have a street number?

MR. AMAN: We chose not to put a number because those three items carry three unique numbers, okay? It is 2998, 3010, and 3000 Chili Avenue and rather than put the number, we thought just the word would suffice for that.

PAUL BLOSER: Ed (Shero), any comment from the Building Department on that?

ED SHERO: On the numbers or the sign?

PAUL BLOSER: On the street numbers?

ED SHERO: I know in the past we have always required numbers.

MR. AMAN: We --

PAUL BLOSER: Is there one number for the St. Pius Church?

MR. AMAN: Yes, there is for the church. There is one number.

DAVID CROSS: We ran into this with Target, didn't we?

PAUL BLOSER: We did. One number up -- we had one number on there.

DAVID CROSS: Average them all.

(Laughter.)

The Board discussed what they should do with the address sign.

PAUL BLOSER: From a safety standpoint, the Town requirement, I think it is something I would like to see on it, at least one of the numbers, for the main entity.

MR. AMAN: That's doable. No problem.

PAUL BLOSER: Are they required to be lit?

KEITH O'TOOLE: No, they're not.

ED SHERO: The only other thing I want to see -- we didn't get any -- at least in my packet, I don't have any design of the sign at all.

MR. AMAN: Any what?

ED SHERO: The only thing I have is the top, that without any of the masonry unit around it. It is just the -- (indicating).

PAUL BLOSER: The supporting structure. The building only has the sign information, not the structure itself.

ED SHERO: I would just ask, so we don't have too many plans out, that the Board approve the whole overall sign as to its appearance.

PAUL BLOSER: We're looking at the print on this, which is the 8 by 4?

MR. AMAN: Yes.

PAUL BLOSER: So 60 -- so 64 square foot is what we're looking at, as opposed to 40 foot allowed?

MR. AMAN: Correct.

PAUL BLOSER: The street number. That would be incorporated into that, so we would have to add that as part of it, Counsel?

KEITH O'TOOLE: The requirement is that the number be posted. The Board, as a matter of custom, has incorporated that into its sign permits. There is no requirement as to how it should be posted, just that the size of the lettering meet Town Code. They could find that out at the Building Department and it has to be clear and concise.

PAUL BLOSER: Okay. We did get many of these changeable print boards before us. Certainly our code is we don't allow any banner signs or electronic reader board signs. This is not one of them. Our code, based on 115.34-6(A)(2), these signs are allowed by churches. They are permitted for religious or charitable organizations. So the sign itself is -- for the print, is an allowable thing, so we're not looking for any type of variance on that. So it is allowed for churches and not-for-profit organizations. Just so the Board -- I'm sure you all looked that up, but that is very clear in the code.

So we're just looking at the size on this one. Any other comments on the size or the sign?

JORDON BROWN: Well, the code allows changeable copy at 40 square feet, so I mean the Board would have the option of approving the size, but not the changeable copy. I just want to point that out. I'm not suggesting it, but I want to point it out.

PAUL BLOSER: The changeable copy itself is less than the square footage being asked, yes.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I'm assuming that that sign message portion is just a computerized print.

PAUL BLOSER: It's not computerized print. It's letters that get changed.

MS. BORGUS: No, no. I mean the font. Is it going to look like that, or is it going to be -- I'm not familiar with what other signs are there on the premises. I guess my question is, is it going to be that kind of a font? Or is it going to be something a little more decorative?

MR. AMAN: We plan on having something very similar to this so everybody can read it. I don't want fancy letters that people can't read what it says.

MS. BORGUS: It just looks kind of harsh. That's just my opinion. It's just not pleasing. I realize they can have the sign under the law, and we're -- I understand that, but I -- it just seems to me we could make it look a little better than that if we're going to approve it.

Thank you.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: First of all, I did go to school there. It is 3000 Chili Avenue. It was from day one with Father Murphy, school of straight truth, so I want that to be real straight up with you.

In the front part of this, if you do have the sign in the front, along the Chili Avenue on the roadway, that's for the Fire Department to come in. It takes care of the whole tax number. 3000. That would probably take care of what you wanted to do.

Also, you did make mention that it's not a digital. Thank God for that.

Changeable type on there. It's hand done, not go up there and program it in. And I do really think a 4 x 8 sign there compared with what was originally there is a little bit much. I think it can be reduced considerably to a smaller size.

As you're reading there, you said not-for-profit. The last I knew, the credit union was a profit.

Thank you.

KEITH O'TOOLE: If I may, just briefly -- no, never mind. Thank you.

GARY JOHNSON

MR. JOHNSON: Just by the looks of the archway, I just would have concerns about proper foundation for that amount of mass and weight and brick and concrete so the sign doesn't tip over in wet times. That's all.

PAUL BLOSER: They are showing a 42-inch footer. The actual layout and the footer would have to be approved by the Building Department for structural purposes. We would probably ask that the drawing be enhanced with some structurals. That would be required by the Building Department anyway. That's not of this Board to decide the structural integrity as far as the footers go. That would be the Building Department. But it's so noted.

Thank you.

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

JAMES WIESNER: Who will be building the sign itself, I take it? You will be subbing it out or doing it yourself?

MR. AMAN: The actual sign?

The actual sign is a boughten unit.

The Board discussed 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 Tracy DiFlorio seconded the motion. All voting members of the Board voted yes on the motion.

David Cross made a motion to approve the application with the following conditions, and Adam Cummings seconded the motion. All voting Board members were in favor of the motion.

The Board discussed the proposed conditions.

PAUL BLOSER: Street number, appear on the sign or the street side?

KEITH O'TOOLE: Board's pleasure.

The Board further discussed the proposed conditions.

DECISION: Approved by a vote of 6 yes with 1 abstention (Bob Mulcahy) with the following conditions:

1. Building Department approval on structurals, footings, and placement.
2. Street number to appear on street side of sign.

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

The following findings of fact were cited:

1. Will replace pre-existing sign and will conform to code setbacks and easements.
  2. Will serve church/public assembly functions as allowed by code.
9. Application of Mr. & Mrs. James Brasser, 170 Hillary Drive, Rochester, New York 14624, property owner: Mr. & Mrs. Kevin Wehle; for variance to allow the total square footage of garage area, including a new 24' x 42' detached garage to be a total of 1,618 sq. ft. (900 sq. ft. allowed), variance for detached garage to be 24' from side lot line (50' req.) at property located at 652 Chili Scottsville Road in A.C. zone.

Jim and Jill Brasser were present to represent the application.

MR. BRASSER: Jim Brasser, 170 Hillary Drive.

MRS. BRASSER: And I'm Jill Brasser, 170 Hillary Drive. Jim (Brasser) also has trouble hearing a little bit, so I'm going to tag team him.

PAUL BLOSER: Okay.

So you're looking to buy this property on Chili-Scottsville Road?

MR. BRASSER: (Mr. Brasser indicated non-verbally.)

PAUL BLOSER: Is this a prefab building you're looking at?

MR. BRASSER: Probably not. It would probably be built on site.

PAUL BLOSER: But by Finger Lakes as proposed here?

MR. BRASSER: Yes. That's the proposal.

PAUL BLOSER: So this would be a steel-sided building?

MR. BRASSER: Quite possibly.

PAUL BLOSER: That's how it is described here in the literature.

MR. BRASSER: Right.

PAUL BLOSER: Are you looking at something else for siding on it?

MR. BRASSER: There is always that possibility.

MRS. BRASSER: We're looking at possibly matching the house siding. The colors would be consistent irregardless what it was.

SUPERVISOR DUNNING: It looks like you're just going to be storing personal automobiles and personal items in the building?

MR. BRASSER: That's correct.

PAUL BLOSER: At this time I will open it to public comment.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: What in the world do we have to have these huge buildings for? I don't understand what anybody needs with a building or garage space of 1618 feet. That's as big as my house.

Again, I point out, it isn't what these people do with it, it's who they sell to in a few years. We invite the businesses -- you sit here monthly and try to keep under control. How big is this lot?

TRACY DI FLORIO: Six acres.

MS. BORGUS: With six acres then, why in the world can't -- why do we need a variance for the side lot line?

PAUL BLOSER: Based on the location of where the septic system is, the septic field, and the taper on the land, without bringing in fill to build it up, they have chosen to put it on the driveway side of the house and that would be bordering up -- I believe, is there a road that goes down beside that?

MRS. BRASSER: No. There is like a 52 foot wide driveway, a huge concrete pad that is currently being used to have a large motor home parked on it by the current owners.

PAUL BLOSER: What is just to the south of you?

MRS. BRASSER: There's a farm.

PAUL BLOSER: I was thinking you were on a corner, but...

DAVID CROSS: There's a house. Pretty open field in the back.

MS. BORGUS: I guess that makes my point. If it is so open, and you got six acres, you should haven't to come in here looking for variances. And these big buildings that are put in for no reason but to put our toys and whatever is just asking for trouble. Month after month these are on this agenda. You had how many tonight? You're just looking for trouble when you approve these. Maybe not right away, but it won't be long in coming. You will find most of the people that are buying these, some of these are older people. They're not going to be staying here long. They will be moving on. Give them a few years. The average house turns over what, every four years? In four years you will be having another business looking to move in. There will be a very active situation for somebody who wants to put a business in a residential area. These large lots present their own problems and this is one. I think this is too big. There isn't sufficient reason to have a building this big except "I want it."

And I have a steel-sided barn, two of them on my property, but I own a 107-acre farm. They belong there. Finger Lakes steel buildings do not belong in residential areas.  
Thank you.

JILL GREEN (phonetic)

MS. GREEN: Jill Green, the listing agent of this property at 652 Chili Scottsville. There is no other good place for that building. It is 5600 square feet of concrete pad. The property slopes down, way down. There is no reasonable way to put it down below. You would have to have too much fill, too much driveway on the north side. You have the septic system. You do not have room there. It is the only place to put it.

MR. BRASSER: If I lived in this town, I would want people to build as much as they want to build because they're going to be paying more in property tax, which helps out the rest of the Town.

MS. BRASSER: I would also like to comment that we have been in our current house on Hillary Drive for 40 years, so I don't think -- we're not anticipating a quick turnover. We're planning on spending our days out here, because this is Jim (Brasser)'s dream.

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

PAUL BLOSER: In driving out there, I will make a comment, that probably more of the houses out there have these than not at this point, for the same sized lots. This particular lot at this point has been meticulously maintained. Based on surrounding lots, my own opinion is that it would not be out of character with the neighboring properties. They all appear to have barns with an agricultural type look to them. Certainly a stipulation we can put in on conditions of approval, no business to be run out of this. That sticks with the property at that point, even if a transfer of sale, that's a condition of property that you put on there. You know, no commercial vehicles stored on the property.

Paul Bloser reviewed the proposed conditions with the Board.

ADAM CUMMINGS: I'm just curious, how far does it slope on the east side of the property past the house? It is a low elevation.

MRS. BRASSER: It's a 12-course basement, and from the front of the house to the back, the back is totally exposed.

ADAM CUMMINGS: Okay. Because that would be a pretty big drop to extend that driveway down --

MRS. BRASSER: We wouldn't be able to afford it.

PAUL BLOSER: It would be significant fill and permit to bring that --

ADAM CUMMINGS: I'm just wondering how much the land tapers down.

Paul Bloser discussed proposed conditions 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 Tracy DiFlorio seconded the motion. The Board all voted yes on the motion.

David Cross made a motion to approve the application with the following conditions, and Tracy DiFlorio 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. Not to be used for any type of business ventures.
2. No commercial vehicle storage.
3. No signage.
4. Building permits required.

10. Application of Darlene Quaranto, owner; 2886 Chili Avenue, Rochester, New York 14624 for variance to allow existing 10' x 12' utility shed to be 7' from rear lot line (8' req.) at property located at 2886 Chili Avenue in R-1-15 zone.

Darlene Quaranto was present to represent the application.

MS. QUARANTO: Darlene Quaranto, 2886 Chili Avenue.

PAUL BLOSER: This is a little house.

MS. QUARANTO: Little tiny house.

PAUL BLOSER: The shed was tucked behind it?

MS. QUARANTO: Right, right behind it.

PAUL BLOSER: This is why I made the comment about Duro Sheds build oversized.

MS. QUARANTO: Did you, yeah. I asked for a 10 by 12 shed. They came in and installed it. When Ed (Shero) came out to measure it, it was actually I think 10.4.

ED SHERO: About 4 inches larger.

MS. QUARANTO: 4 inches larger. I guess I got more than what I bargained for.

ED SHERO: It went a little crooked, too. That is why we went for the 1 foot variance, not the 4 inches.

MS. QUARANTO: So I need an inch, please.

PAUL BLOSER: Otherwise the shed falls within the Town requirements of 180 or less. I don't really have any questions on it.

ED SHERO: I did grant a permit. That is the only reason this is here. It was a tight fit, but it came larger.

PAUL BLOSER: I can see where it was out there.

ED SHERO: Right.

PAUL BLOSER: It was a good read.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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.

Jordon Brown made a motion to approve the application with no conditions, and Tracy DiFlorio seconded the motion. All Board members were in favor of the motion.

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

findings of fact were cited:

1. The requested variance will not create an undesirable change in the character of the neighborhood or nearby properties.
11. Application of James Gizzi, owner; 20 Ambush Lane, Churchville, New York 14428 for Land Use Variance to convert two-story addition on existing commercial building to an apartment at property located at 4348 Buffalo Road in G.B. zone.

James Gizzi was present to represent the application.

PAUL BLOSER: Area variances for sheds and such, because this is a use change, we want to make sure that they have -- we go over -- there are certain conditions that we have to follow on these. What makes this a little different on the use variance criteria, we have to show that all of the following are considered. It's not a -- not as much of a weight balance on these, so we have to make sure that we do this in accordance with the law.

MR. GIZZI: James Gizzi, 20 Ambush Lane.

PAUL BLOSER: Thank you. Just going on previous applications on this property, there have been three over the years. Two back in the '80s. One was a Land Use Variance for two-family dwelling with TV repair shop with conditions. That was 1988. '89 was a double-faced freestanding sign. 2002, preliminary site plan approval to erect a 15 by 30 addition for video repair shop. So we're taking this from a commercial use to a residential use on this?

MR. GIZZI: Just the back portion.

PAUL BLOSER: The back building?

MR. GIZZI: Right. The wood structure.

PAUL BLOSER: Can you tell me at this point the state of the structure, what is it being used for right now?

MR. GIZZI: It's empty right now.

PAUL BLOSER: Is it still commercial inside? Has it been changed?

MR. GIZZI: When I purchased it six or seven months ago, it was framed. It looked like an apartment.

PAUL BLOSER: Okay.

MR. GIZZI: The front block building, it is what it is. It's a block building. Empty, concrete floor. The front is a duplex, in the front also, rented out.

I also own the land from this -- this area (indicating) all of the way to the new Walgreens. The two -- the block building is separated by 10-inch block, so there is a firewall already there.

TRACY DI FLORIO: So is the proposal for one apartment?

MR. GIZZI: That's right.

TRACY DI FLORIO: Not two separate apartments.

MR. GIZZI: Just one apartment in the back. There is really no way to rent that commercially, so it's a pure loss right now, the back building.

PAUL BLOSER: Right now, I can certainly see it in the notes, current -- this is a finished apartment at this point?

MR. GIZZI: Yes.

PAUL BLOSER: It doesn't have legal permits for occupancy?

DAVID CROSS: There was no building permit?

MR. GIZZI: No building permit.

TRACY DI FLORIO: It was like this when you purchased it?

MR. GIZZI: It was. That is where I made a mistake. It was framed, and I finished it. I went in and dry walled it and put some tile floor and a carpet.

PAUL BLOSER: Additional plumbing work done?

MR. GIZZI: Yes. I'm trying to backtrack now because of the errors that I made. It was advertised when I purchased it as a fourth income for residential, but it was only advertised that on the sheet that you get.

PAUL BLOSER: Fourth income meaning two incomes out of that building?

MR. GIZZI: Two out of that and two out of the front.

PAUL BLOSER: They were advertising it as being two apartments in the back?

MR. GIZZI: Yep. They were advertising as commercial in the front and potential third residential rental.

BOB MULCAHY: Can you rent that commercial piece of property?

MR. GIZZI: Yes. I have a tenant that we're talking to, an insurance company that I could rent -- the front block building I could rent. But that back building, I also -- I think you guys have photos, the actual photographs. You will see that there is really no way if I rented -- I could try to rent it commercially, but if I rented that commercially, I think you would have too much traffic with vehicles, two commercial rentals in there, and like I said, the front is rented. It's a rented duplex. We have two families in there. It's -- it would just get over-crowded.

BOB MULCAHY: Is there parking for the two families?

MR. GIZZI: There is enough parking for the front, for the two families, yes. I don't know who drove by, but I redid the whole driveway. It is all paved up. It's in very good condition right now compared to what it was.

JAMES WIESNER: So are these two structures -- there's -- they're actually -- you could

access the commercial right into the -- to the back apartment building?

MR. GIZZI: Yes -- no, not any longer. There was just a doorway going in. So it has been closed off.

JAMES WIESNER: It's been permanently sealed over?

MR. GIZZI: Yes.

JAMES WIESNER: Constructed or whatever?

MR. GIZZI: Yep.

JORDON BROWN: I'm worried about meeting the standard of evidence, can't realize a reasonable return on the investment. Do we feel we have enough hard data?

MR. GIZZI: I just don't know, if you look at the photographs, what I could probably rent that, even if it was just framed. It is basically an up and down studio. The tenant -- the person that I bought it from ran the videographer store that was there in the block building. She actually had the back part of it was like kitchen, couch in there. Whether she stayed there, I don't know, but it was basically at that level.

TRACY DI FLORIO: The kitchen was there already?

MR. GIZZI: There was some plumbing. I expanded that. Actually I had -- should take it back. It was drywall, the downstairs of this wood building. The upstairs I just dry walled and finished it off. Added carpet and tile. But realistically what could I possibly rent that commercially to?

Now long-term, five years or ten years I would like to develop both pieces of property that I own into something, you know, something more commercialized and actually take down these buildings.

ADAM CUMMINGS: You want to put residential next to even more commercial?

MR. GIZZI: No. I want to go all commercial, like the property I own on this side.

JORDON BROWN: You're saying long-term you would take down the building that we're talking about currently?

MR. GIZZI: Yes, but it's long-term.

DAVID CROSS: So you're losing potential gross income of 8,400 a year? Is that how I am reading it?

MR. GIZZI: I believe that is what I calculated.

TRACY DI FLORIO: That is based on the amount that you can rent it for per year?

MR. GIZZI: Yep. Yep.

JAMES WIESNER: What is this zoned right now? Is that commercial?

MR. GIZZI: Zoned commercial. Now, from my understanding, it will continue to stay zoned commercial even if we do allow a residential. I think that is what the duplex is in front anyways. It's on a commercial piece of property, but you're allowing me to rent the duplex as is.

There is also -- right across the street there is another duplex next to Jitters that is being rented, commercial downstairs and it is residential upstairs. I think that's fairly new also.

ADAM CUMMINGS: But yours is going to be residential downstairs?

MR. GIZZI: Mine will be residential all together separated by a block wall -- well, I feel it's a safer situation than upstairs/downstairs. Separate entrances. Parking for the block building will be in front of the block building where the residential can go off to the side of the driveway, so they have their own parking.

BOB MULCAHY: So heating and water is separate and the electric is separate?

MR. GIZZI: Everything has been separated. RG&E has separated all of the electric.

TRACY DI FLORIO: Is he looking into trouble at all, Keith (O'Toole), if we grant this at this point and then he wants to go back to all commercial on this lot?

KEITH O'TOOLE: No. It's in the GB District, so it would still be permitted.

TRACY DI FLORIO: I wanted to make sure he wasn't setting himself up for potential problems down the road.

MR. GIZZI: Thank you.

ED SHERO: We have no record of any plumbing in the addition. The plumbing was in the CNU building up front, but there was no record of any plumbing ever in this addition.

And where the Planning Board did give the approval in 2002 for this addition, but it was part of the video store -- or not the video store, but the repair shop.

PAUL BLOSER: It had no plumbing at that time?

ED SHERO: We have no documentation of any plumbing in that section.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: First of all, that was Ray's television repair shop before he moved over on Union Street.

And the old man lived, that repaired the TVs, he lived in the back there and he rented the front out?

MR. GIZZI: Where did he live, in the back?

MR. GINOVSKY: In the back where he had the couch. That is where he lived. He shackled in there.

And the house looks fantastic with the roof and the siding. I have to give that to you.

MR. GIZZI: Thank you very much.

MR. GINOVSKY: And knocked that --

MR. GIZZI: I took the sign down too.

MR. GINOVSKY: The tree things there, the bushes in the back. It looks 1,000 percent better. I'm glad someone is doing something with it. I live over on Hubbard.

MR. GIZZI: Thank you.

MR. GINOVSKY: Getting back to the building. If there is nothing with the plumbing and nothing with the electrical that has been inspected and it has been sealed, there has got to be smoke detector systems and a whole bunch of stuff that needs to be monitored on this. I don't know any inspection agency that would write off on it. They didn't see it. They will say tear it off.

MR. GIZZI: I have an electrical inspection. Sorry.

MR. GINOVSKY: I'm not getting in the middle of it. I'm just going by what was said here, and according to our Building Department, Mr. Chairman.

I would be looking at that real tight. And I'm glad he is doing work at it for this property. And the one next door.

But we need to look at a real hard stance on this, even for the duplex up front. I hate to see someone go in there and God forbid we have enough troubles here in Chili, or anywhere in the State. But that is a General Business area. I do understand that, and that is what was in there. Ray did have his shop in the front, or in the front part of the brick building, and he did live in the back. He was kind of like a hermit there, if anybody knew him.

Thank you

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: The Board I'm sure understands that the -- all of the criteria, all of them will have to be met before you can give this your approval. And I frankly don't know how this man can plead a hardship if he can rent three out of the four units he has there.

We're not talking about a hardship on one unit. We're talking about a hardship on the property. That's a big difference.

I agree with Mr. Ginovsky. How could this have been done without looking at fire codes? Without having any inspections, without having any permits and now it's all sealed up. You don't know what you have got there. Are the windows the right size? Are the windows big enough that somebody can exit if they had a fire up there? All these things matter and you don't want to worry about it after somebody has been killed or injured up there with a fire. This does not look very safe to me.

I don't know how in the world anybody can believe a realtor and just go on that and start remodeling a building, especially when they live in Chili as their residence themselves. They know we have zoning laws, they know we have building codes, they know we have rules.

And this man, I don't believe can say that that is a hardship. Don't forget a hardship has to be on the whole piece of property, not one unit. If he can't rent it, I think that's his problem. If he has to rip it apart to satisfy the Building Department, then that's the way it should be, but this is in the Town's control. It's time that we stopped this stuff and it should start with this Board. People come in here and they plead ignorance and they give all these sorry tales. Well, too bad. That's the way life goes. Let the buyer beware. Well, let the builder beware when they start building without permits in Chili. It's time to make your stand on this one.

Thank you.

MR. GIZZI: May I have another turn, please? This lady makes no sense. What -- most people are coming here and they're trying to put commercial, she doesn't want commercial in Chili. I'm trying to change it to residential, she is against residential. The building itself was there. I don't know what to tell you.

It's not closed up. I have a drop ceiling you can go in there. It has electrical inspection. You can still inspect everything we have done.

I will rent it commercially if you -- that is what you would like. I just have to find who is the right tenant who is going to rent an apartment commercially, you know? I don't know. Massage parlor maybe? I have no idea what could possibly rent that commercially.

PAUL BLOSER: Not knowing the facility, I don't know. I can't answer that.

MR. GIZZI: I didn't know either. That is why I made it into a nice apartment. Also a return on your investment, I'm losing 25 percent. 75 percent of the property is rented out. That's not a good return.

JOSEPH LIBARDI, 22 Ambush Lane

MR. LIBARDI: I guarantee everything is going to be according to the codes that -- what the Town wants for this apartment will happen, no matter what we have to do to be spent on it. These two people come here all of the time. They don't live nowhere near these properties and they're complaining about -- it is not affecting them. We're trying to do the right thing over here with this property. They come here and they complain about chickens and horses and all that. They don't even live in the area. And we're here one time before and I remember seeing her, she complained about something else. I mean we're talking about trying to do the right thing. They don't live in the area.

PAUL BLOSER: I would like not to do the personal attacks. Stay to the case.

MR. LIBARDI: Everything will be done in the way it is supposed to be done. I can guarantee you that.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Yes, I do live in the area. I live in North Chili. I am a licensed master

electrician and I'm a professional. I don't know what anybody else happens to be here and I could care less. I made a statement that we need to look at this as a safety point. You want to be held liable, the Town, so be it. But I do live in Town, I live in North Chili and I see this going on and I brought it to everyone's attention, and I commended this young man for cleaning the outside of that house up, roof and siding, which I happened to be sitting over at Jitters and see it being done and I gave him a compliment and I don't -- and I don't like being cornered as being a complainer. What's right is right and what is wrong is wrong. And without a building permit being pulled, how do you know what is there? Case closed.

PAUL BLOSER: Thank you.

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

PAUL BLOSER: As I go down the list, on the criteria, first item there is the applicant cannot realize a reasonable return on his/her investment. The item is substantial and compelling as shown by competent financial evidence.

The only thing I have in my package are purchase price for the building. I don't know what rents are. I have no other financials.

DAVID CROSS: Are we talking about loss of 700 per month, 8,400 a year?

ADAM CUMMINGS: Assuming that is the rent for that property.

DAVID CROSS: That's correct?

MR. GIZZI: Yes. I have a tenant that is willing to pay the 700 a month. I have a tenant that wants to rent the apartment, but is not allowed in right now. Yep.

PAUL BLOSER: Because of the --

MR. GIZZI: Yep.

PAUL BLOSER: -- occupancy? The second item on here, the applicant has demonstrated the alleged hardship is unique and does not apply to a substantial portion of the district or the neighborhood.

I wouldn't say that this is really unique. There are other similar situations across the street, neighbor, multi-use. This I would look more as a self-created position, as inherited position.

JORDON BROWN: You're suggesting it doesn't meet the criteria. I'm suggesting based on what I'm saying and what has been presented it's self-created as opposed to being inflicted on -- the same with the last one. The applicant has proven that the alleged hardship has not been self-created. Based on what is here, it is self-created. The applicant has proceeded to modify this or to continue modifying it into a residential as opposed to commercial without any proper paperwork or permits. That's self-created.

The third, the applicant has proven the requested variance will not alter the essential character of the neighborhood. I don't think that's an issue. I think we have these throughout. The two that I'm concerned with that I don't, you know, feel meet this are the second one and the third one in that they're both -- definitely the last one is a self-created situation.

JORDON BROWN: You described the second one as being the same as the last one.

PAUL BLOSER: Yes.

JORDON BROWN: It's really --

PAUL BLOSER: And we're charged with all -- all of the -- on a scale of weights. Like on area variances. We have to look at each one of these, and it's a definite "yes" or "no" across the board on all of them. If there is one or two that are not, it does not meet the variance criteria.

DAVID CROSS: Even if there is even one, it does not.

PAUL BLOSER: If there is even one.

JORDON BROWN: We have two.

PAUL BLOSER: I believe in my interpretation there are two based on what is being presented.

MR. GIZZI: How do I get away from that? It is always going to be self-created. You know?

JORDON BROWN: Can I say something? Can we just give the applicant an opportunity to maybe give some evidence that it is not self-created?

PAUL BLOSER: Absolutely. Maybe we can table this to create more evidence.

JORDON BROWN: Or just right now hear --

MR. GIZZI: What does that mean? I mean what would I need to present you guys?

KEITH O'TOOLE: If I may, Mr. Chairman, I'm not sure what tabling this application would gain us. If the gentleman purchased the property this January in its pre-existing state, having purchased the property in its current state, that means the hardship predated his purchase, which means he knew what he was getting or presumed or should have known what he was getting. So I don't see how you can change that in any fashion.

MR. GIZZI: But you know an important question still is do -- you want me to go forward and rent that whole back area commercially, two separate businesses in the back, of that little -- that driveway coming in and out? I mean -- I mean watch out what we're doing here.

KEITH O'TOOLE: I don't believe there is a requirement they be two separate businesses. The space is commercial. It could simply be one business. There are some uses of the property such as professional office which may require less parking, for example, and that may be an easier fit for that particular property rather than a high parking retail use, for example.

MR. GIZZI: That is creating a hardship because you're eliminating who I may rent this area to.

KEITH O'TOOLE: That isn't the type of hardship the code is referring to. The code does

not guarantee that any particular property could be rented out for an entire spectrum of uses. We do have zoning districts where the only thing you can do is office space, for example. It may be in General Business you could find a lower impact retail use. There are a list of uses you can do in a General Business zone, which this property is in.

One of the things the code permits, and I don't know if it is feasible on this particular property, is the code permits an apartment on the second floor. It may be that the gentleman could separate the living space such that perhaps he can put a one-bedroom or a studio apartment on the top floor, but I don't know if that is practical in this structure.

MR. GIZZI: It's not practical.

JAMES WIESNER: Why is it that the apartment is allowed on the front part of the property? How is that -- if it is commercial already.

KEITH O'TOOLE: I will defer to Mr. Shero on that.

ED SHERO: Those buildings are all prior nonconforming uses. They were duplexes for years and they were adopted in that state. That is the only reason why there is an allowed duplex out front.

BOB MULCAHY: Is that also GB property?

ED SHERO: Out front? Yes.

BOB MULCAHY: Yes.

ED SHERO: Yes.

KEITH O'TOOLE: You couldn't build those today, essentially, is the situation.

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

James Wiesner made a motion to approve the application with no conditions, and Bob Mulcahy seconded the motion. All Board members were opposed to the motion.

PAUL BLOSER: Based on the criteria presented and going down the list of our use variance criteria, in reading it, I'm going to ask now for a vote.

DECISION: Unanimously denied by a vote of 7 no for the following reasons/findings of fact having been cited:

1. Conditions, as presented by applicant, are self created in nature.
  2. Applicant purchased property in existing condition.
  3. Applicant provided insufficient evidence of financial hardship.
12. Application of Buckingham Properties, owner; 1 S. Washington Street, Rochester, New York 14614 for Land Use Variance to allow existing building to be used as a warehouse/distribution facility (Home Trends & M & E Warehousing) at property located at 100/102 Beaver Road in L.I. zone.
13. Application of Buckingham Properties, owner; 1 S. Washington Street, Rochester, New York 14614 for Land Use Variance to allow a retail outlet store in portion of building (Home Trends) at property located at 100/102 Beaver Road in L.I. zone.

JORDON BROWN: Mr. Chairman, I need to recuse myself from these two.

PAUL BLOSER: Could this be for both then?

JORDON BROWN: Yes.

Darryl Malbone and Larry Glazer were present to represent the application. Darryl Malbone, a Property Manager for the Buckingham Properties.

PAUL BLOSER: Currently this property is a General Industrial property and it's in a Light Industrial zone. This was done several years ago, I believe, for the original builder or Case Hoyt in an ADATOD area, so it was an enticement to build in Chili, they were given this privilege basically to have an industrial zone as commercial. We're now looking at this to be a warehouse and distribution center which normally is not allowed in Light Industrial. So...

TRACY DI FLORIO: Isn't that what it is? I mean they have been operating there --

PAUL BLOSER: It's zoned right now Light Industrial, but through the ADATOD, it was actually originally a General Industrial, is -- heavier industrial properties.

What we're looking at is changing the land use over to Light Industrial.

TRACY DI FLORIO: I guess my question, though, hasn't it been operating that way --

PAUL BLOSER: Well, because it was done as a General Industrial originally is what the facility was. We're looking at taking the zoning back to or moving to a Light.

Right now you're doing -- it's a mail order catalogue business and this is your distribution center for it?

MR. MALBONE: Yes.

PAUL BLOSER: There is no manufacturing that goes on there?

MR. MALBONE: Nope.

PAUL BLOSER: You still have trucks in and out like used to happen with Case Hoyt, you got deliveries, pick-ups, the distribution is happening out of there. You just -- no raw materials and goods processed, no emissions of any type, no chemical usages of any type?

MR. MALBONE: No.

PAUL BLOSER: Quite a bit different from the use, what it was, and what it was set up to be.

Normally there is not -- 12 and 13 goes together on this. They're doing the retail also. That is normally not allowed in the ADATOD also.

We did have a similar variance for retail use in an industrial zone, with the Amish Outlet Union Street. It was General Industrial. They were granted similar type thing. They're not doing any heavy manufacturing. They're strictly bringing goods in, assembling them and sending them out the front end as retail. So I don't believe there is much retail out the front as much as it is catalogue order.

MR. MALBONE: The outlet store is one percent of the building, just barely one percent of the building. There is hardly anything in there at all.

PAUL BLOSER: Based on information from the Building Department, we have received no complaints regarding the operations whatsoever, which is a good thing. It means it's not irritating the neighbors at all, it's not changed the traffic flow. If anything, I would say it is probably a little bit less than what it was with Case Hoyt there. Certainly they don't have the number of employees or any amount of tractor-trailer trucks going in and out of there. It is a lot lighter than it was. They have been in there for a few years. I go by it several times a day. Certainly the property has been kept up.

TRACY DI FLORIO: I guess I'm confused why is this coming before the Board now.

PAUL BLOSER: To change the zoning to straight up LI.

JAMES WIESNER: Is that covered by the Building Department.

TRACY DI FLORIO: Why wasn't this done when they first moved in?

KEITH O'TOOLE: We should clarify. This property is not in the ADATOD. It is in the LI District. However, were it in the ADATOD district, certain uses would be permitted such as warehouse and distribution. But this particular property is not. That's my understanding.

PAUL BLOSER: Okay.

TRACY DI FLORIO: Again, why is this coming before the Board now instead of when they first moved in?

KEITH O'TOOLE: That I don't know.

MR. MALBONE: I don't have an answer for you.

ED SHERO: That was B-E. Way B-E.

MR. GLAZER: Larry Glazer. My name is Larry Glazer. I'm the owner of the property. When Home Trends was going to move here from the City out to Chili, we went to see Tracy Logel before we moved here and said, "Is there any issue, any problem?"

She said, "I will call you back." They called back and said, "No, everything is fine. Just go ahead. It's industrial to industrial," so we just moved in. That's really what happened.

PAUL BLOSER: Okay. So now it's a formality of changing from GI into LI; is that correct?

KEITH O'TOOLE: No. It's -- it is -- it is LI today. There are aspects of the use that kind of squeak outside of that LI, and that's the issue.

PAUL BLOSER: It is kind of unclear in how I have been reading this.

KEITH O'TOOLE: Particularly with the second property, it's a mixed retail warehouse, which doesn't necessarily get you where you need to be, even if it were in the ADATOD. It's kind of a quirky use.

PAUL BLOSER: So we're going to manufacturing fabrication, strictly distribution?

KEITH O'TOOLE: I won't speak for the applicant.

MR. MALBONE: Yes.

PAUL BLOSER: Is that the differences in the labeling?

KEITH O'TOOLE: It's simply a question of whether they're on the list and they fit snugly within the list of permitted uses on the LI district. The aspects of these particular uses don't quite fit. They're very close in many respects, but not quite.

Zoning codes can only anticipate so much.

PAUL BLOSER: Are there any required building permits or occupancy permits required at this point?

ED SHERO: I don't believe we have had anybody in the building very recently, and we would ask if the Board does decide to grant the variance, that the Building Department -- be a condition that all building permit occupancy (inaudible).

PAUL BLOSER: Are there any that we know of now?

ED SHERO: Not that I'm aware. The change of use alone would trigger the C of O.

PAUL BLOSER: If we were to approve this, there would have to be a condition that that would be fulfilled?

ED SHERO: The C of O would have to be obtained, yes.

PAUL BLOSER: The only other comment that I see in here that we put in the notes for review on condition of approval, because if we were to approve this, that the Board and our conditions -- put on condition stating that any reuse of the property would require Planning Board review of site plan, so that this would go into a permanent change. If they were to move

out next year, any new use would have to be reviewed by Planning Board as a principal use for the property and structure.

I guess I would also like to say that possibly we put a one-year on this to make sure that everything is in place and we're not having any objections from certainly the neighborhood. It's on record that with change of occupancy, any permits needed are obtained and that everything is complete and in order. That would be a condition anyway that everything is complied with, the Building Department, at least that it's documented.

I don't see any interruption -- other than official labeling, there has been no interruption in the Town and I welcome that building to be used rather than sitting vacant and there is something in there, some activity now. I don't think it's been a detriment to anything I can see myself. And also it hasn't been reported to the Town, other than just proper labeling the use.

At this point the signs are in order. In front of the building there's going to be no change there. I know there were some issues with sandwich boards at the road. That has been addressed and taken care of. That's been quite a while back. I don't even see that as an issue. They are in compliance with sign regulations at this point.

I think the only thing I would want to do is just, you know, make sure we cover ourselves if they were to sell the property or move out, that the existing conditions, as they stand today, would still be in effect and anything changed would have to be approved by the Planning Board for site plan.

I kind of think we can hear both of these together. I'm looking at both of these applications. Same business, same everything. We're just looking at running a small retail outlet in the front.

I think you said one percent of your business is actually out of there?

MR. MALBONE: One percent of the building is used by the outlet store.

PAUL BLOSER: How many customers would you say are in and out of there on a weekly basis? Any feel for that that?

MR. GLAZER: About four a day, four people a day.

PAUL BLOSER: So it's --

MR. GLAZER: 25.

PAUL BLOSER: -- not a significant, by any means, as far as impact for traffic. It would be less than certainly what Case Hoyt had on a shift, and they were working around the clock.

Is this a 24-hour operation or strictly one shift?

MR. GLAZER: (Indicated one shift.)

PAUL BLOSER: I guess I would like to see both these applications put together as one and vote on it accordingly. Certainly we still have to bring it to public comment. But any questions?

ED SHERO: We have had no complaints that I'm aware of on the property, other than sandwich signs and that has been taken care of.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GARY JOHNSON

MR. JOHNSON: Gary Johnson, speaking on behalf of my mother and sister who live across the street from Home Trends.

There has been increase in traffic, not necessarily due to Home Trends, but because of traffic trends in Chili and Chili Avenue. There has been a traffic study through that area and they have proposed recently in the last year and a half potential turning -- turning lanes for people turning into Home Trends, which would have ended up in my sister's front yard. That was their proposal.

They also proposed another turning lane and potential road cutting across from Beaver Road to be Paul Road or Chili Avenue. Again, it's been a traffic burden, let's say, and as far as no damage ever being done, we did complain at one point in time there was a truck that had turned around in my mom's driveway, crushed the pipe underneath the driveway, and we had to have it replaced. We did call and I got really nothing -- got no satisfaction whatsoever. Never got a response basically after our call.

We replaced it at our expense, and to turn the tides, Home Trends has been a good neighbor, you know, through the years. We really haven't had any complaints with the exception of that driveway, but the traffic pattern has increased tremendously, and again, if you go back in history, you know, we came before the Town Board when the sign issue came up. We had a brief discussion. At that time we also spoke about the traffic pattern and were told we were going to get a letter describing the results. Got no response for that either.

In reading an article recently in the latest Democrat & Chronicle proposing the Town potentially moving the Highway Department next door in that general vicinity, again, there's an environmental impact. There's a traffic impact. Whether there needs to be a light or a road, please consider all of that when you're considering these applications at the same time, because it will affect not only the Light Industrial zone, but there's people living across the street who have been in the Town for -- since 1877. My family -- my great great grandfather is up on the wall. Just please consider all of these options when you're taking these applications into consideration.

PAUL BLOSER: Are you saying that you feel the Home Trends has increased traffic?

MR. JOHNSON: I don't feel that Home Trends has increased traffic. The traffic on Route 252 has increased tremendously. It is not directly applicable to Home Trends, but in the same token, if I neglected to mention it in this forum, once again, we would not receive a letter back or

any other information back from the Town as a result for the traffic issue.

I did say there was a truck that turned around in the driveway. It did do some damage. We did complain and did not receive any satisfaction whatsoever. Again, we -- we're good neighbors, they're good neighbors. That's not the issue as much as it really did happen. We have been here a long time. We have seen a lot. You know, I don't know how many people on -- on the Board have lived in the Town of Chili for X amount of years. I can tell you I have been here my whole life and, you know, I'd like to see the Town grow, just intelligently.

MRS. JOHNSON

MRS. JOHNSON: It has grown. Beaver Road was a dirt road and I walked from Archer Road clear up to Chili just to get the school bus and home again at night to be carted all of the way to Churchville. Fun, fun.

MR. JOHNSON: So please consider the traffic issue, you know, and -- you don't live there, you don't see it, but --

PAUL BLOSER: I'm on it every day.

MR. JOHNSON: There has been studies. I sit in the driveway and it takes ten minutes to get out of the driveway at times.

MRS. JOHNSON: I'm sure it takes ten minutes to get out of Home Trends at times. I have seen it.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Nice to see you, Mr. Glazer.

In respect, Home Trends moving over there was Godsend for Case Hoyt. It was empty, nothing was going on over there. It was dead. We allowed it for them to get up on their feet and get going. They moved from Mt. Read Boulevard, Lyell Avenue. Much to be desired area to be in, needless to say. They moved out here. Thanks.

But on the same token, we lost a major industry that was here, and also with the manufacturing going, we filled a void. We filled a building, we did not leave it empty.

Now I see also on the second part here, retail outlet. Anybody in business would tell you it's just one percent, who in the right mind would do that? If it doesn't pay a return on asset, you scrub it and say the heck with it, you will put something in there, you will make some money at. One percent don't cut it. The point that I'm trying to make here is if they're making money as such, I think a little return for Chili being generous, to a point. We're all here living, trying to make it together. It might be an idea, a little bit coming back towards the community. And I would appreciate it.

And as being a businessman, I expect you, Mr. Glazer, to make the best business choices. That's business, and that's how it should be. But on the same token, I think we should get a little bit more -- instead of giving a handout, to give a hand up. Always on the same token. I'm not trying to get on him.

With the traffic, if you want to take the section on that, it's not Home Trends that is doing it. It's an increased from Ballantyne bridge. You think they made a four or five-lane just for the heck of it? And coming down Ballantyne to Beaver Road? It's a whole influx going all of the way up to Chili Avenue by the new church. I can't blame one or the other. It's the traffic flow and that's how it's going to be.

And that's another matter. But with Home Trends here, um, as a one percent deal, I don't buy that for a minute. I have been around business. I -- I've seen it before. I think it's a little bit more -- would be palatable for the Town of Chili to get a little bit back.

Thank you very much.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have a slight -- a big problem, I guess, with -- with considering these applications together because -- I don't have a problem with the use variance criteria being applied to Application 12, but I would -- I cannot imagine that it applies to 13. If you have got to apply all of that criteria to Application 13, it just isn't going to fly. So you may not want -- you may want to consider these separately.

PAUL BLOSER: Okay.

MS. BORGUS: Also, I would like to know -- what about signs? If you allow this retail store to continue there, this retail outlet, what kind of signs are we going to have? We have had illegal sandwich boards there for a couple of years or longer, and I know it has been a source of problem for the Building Department because they kept going down there picking them up and the next thing you knew, they were back out there. The law didn't seem to mean anything to these people when they wanted their sign out there.

I want to know what kind of signs we're going to be looking at if this retail outlet is left to stay there. I really would like to see the Board explain how they think that use variance criteria can possibly fit Application 13.

PAUL BLOSER: On the sandwich board, I think the only problem there is storage space. We're running out of places to put them.  
(Laughter.)

PAUL BLOSER: We do not have currently any application before us for sign changes. I'm not aware of anything being proposed, so I do understand that. If we leave Application 12 by itself, I will close public comment at this point.

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

PAUL BLOSER: Board discussion on 12?

MR. WIESNER: It's really been going on for quite a few years without any true impact, so I don't really see where it makes a difference, or any significant difference in that area.

PAUL BLOSER: I stated this before, condition of approval for this one. If so approved, condition be placed on the site stating any reuse of the property would require Planning Board review of site plan and any future reuse of the building should clearly be only to the principal permitted use.

Paul Bloser reviewed proposed conditions with the Board.

The Board discussed the application.

On Application 12, 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 voting members of the Board all voted yes on the motion.

Adam Cummings made a motion to approve the application with the following conditions, and David Cross seconded the motion. All voting Board members were in favor of the motion.

DECISION ON APPLICATION 12: Approved by a vote of 6 yes with 1 abstention (Jordon Brown) with the following conditions:

1. Any future change of ownership or reuse of the property would, and will require Planning Board review of site and site plan as per Chili Code.
2. Review in one year.
3. All building and occupancy permits to be obtained.

The following findings of fact were cited:

1. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
2. The requested variance will not alter the essential character of the neighborhood.
3. The applicant cannot realize a reasonable return on his/her investment.

PAUL BLOSER: Application 13. Certainly this is a new use, not been done on this property before under its current zoning. This is a variance to allow it, them doing what they have been doing for years. As stated before, we had granted this Amish Outlet on Union Street, a retail outlet. It's a small portion of their business, somewhat less than some of the in-home businesses we have granted or are equal to. I don't see it as a significant impact on traffic flow. It basically comes down to do we want a retail storefront there.

The other comment I will say on this, is we could put the same condition on this that if the store was to close up before anything else could happen, it would have to go for Planning Board and site approval. It does then become a secondary business for a principal use.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS 31 Stuart Road

MS. BORGUS: Could you please, if you're going to consider this as a Land Use Variance, could you please go through these -- these four criteria and realize again they have to all be in agreement?

Thank you.

PAUL BLOSER: I guess the first one in the package.

I know you said the building uses one percent of the space of the building, but what percentage of your business would you say comes out of that?

MR. GLAZER: Little over 1/10 of one percent. It's just an outlet store for employees and local people, but it's how return merchandise, one-of-a-kind, damaged goods get disposed of. What we don't sell at the store, we give to charity. It's 1/10 of one percent, but it's very important that we have that.

PAUL BLOSER: The store portion it has -- the store portion itself, has there been any investment into that as far as making it into a retail outlet?

MR. GLAZER: About \$150,000 was spent.

PAUL BLOSER: On the store portion of it?

MR. GLAZER: Yes. We had to demise it, bring mechanicals in, finish it off interior. It was the only -- this area was the old customer conference rooms, so we had to completely gut it

out and finish it off. Nothing on the exterior of the building. All internal work.

PAUL BLOSER: Cosmetically nothing has changed on the outside that I have seen?

MR. GLAZER: No. No.

BOB MULCAHY: This does not provide a lot of income to you folks?

MR. MALBONE: No.

BOB MULCAHY: It's very limited?

MR. MALBONE: Right.

PAUL BLOSER: As far as the three, it will not alter the character of the neighborhood. By sheer volume of customers in and out of there, it's less than -- probably less than what vendor traffic was in and out of Case Hoyt.

MR. JOHNSON: In the event that the volume changes or the percentage of sale changes, I have one request, is that if it goes from 1/10 of one percent to 10 percent or 15 or 30 or 50 percent, that a berm be created between, you know, the properties actually because of the difference of uses and parking spaces and all of. That's just a simple request.

MRS. JOHNSON: And if future development of the whole property way down to Archer Road, you want to consider that to make Chili look better.

PAUL BLOSER: There is a whole Master Plan being developed. Right now there is an ad hoc committee being formed to study the growth and how things should be laid out and what should be there, just to look at a lot of these things.

MRS. JOHNSON: I hope you get the right people.

PAUL BLOSER: It's been advertised in the paper. You're welcome to apply.

That would be a consideration we could put in as a condition.

TRACY DI FLORIO: I was thinking about usage change over time myself, but then I was thinking it has been there for several years and it doesn't seem like anything has picked up, so I don't know if that is feasible.

PAUL BLOSER: If you look at the type of business, what it is right now, Home Trends, it's catalogue order. You get a huge increase in local volume, I -- based on what global sales are on internet and catalogue, I don't think you would even come close to have a percentage increase that would --

MR. JOHNSON: I'm just thinking you could set precedent here for future businesses to come into the area.

PAUL BLOSER: Which is one of the things we're looking at, is if the zoning change was on it, um, any change of use or increase, it would have to go to Planning Board for site approval for total rezoning. That would be a stipulation, just like the other one we would add to this. So if they were to sell out, change ownership, whatever, business name changes, that it would be re-evaluated completely. So it would not follow the land in that case. So...

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Mr. Bloser, question to ask. Has this work already been done over at Home Trends, the office area as a retail? Has this already been completed?

PAUL BLOSER: This has been in operation for a few years.

MR. GINOVSKY: Has the Town got a building permit? Has this been inspected or anything? I'm just asking a straight-up question for my own curiosity because I don't believe I have ever heard of anything on it.

KEITH O'TOOLE: I believe there have been prior discussions with the Building Department that they have been up to date with all of their permits and we have had no objection (inaudible).

MR. GINOVSKY: Mr. Bloser, with the Building Department Inspector here, straight-up answer, has he been over there inspecting this or not? I was not asking for legal advice on it. I asked a straight question, are our buildings being inspected by our Building Inspector on a timely fashion and is this one of the applications that he has been watching?

PAUL BLOSER: The response from Counsel has been that the Building Department has, in fact, been in there and they're in compliance with all building permits at this point.

MR. GINOVSKY: Life safety and C of O according to New York State. That's the question I was asking. I don't -- excuse me, Mr. Chairman. Why Counsel has to butt in to make that statement made since we have our Building Inspector right here? I think he can answer for himself and he can talk.

Thank you.

PAUL BLOSER: Thank you.

KEITH O'TOOLE: We thank Mr. Ginovsky for his comments.

MR. GINOVSKY: Mr. Bloser? Mr. Chairman, may I speak again? I didn't ask anything from the Counsel. The Counsel can -- I'm directing my questions to the Chair, Roberts Rules of Order. I'm sick and tired of having people turn around and sidetrack stuff. I'm speaking to you direct in the questions and that's who I'm supposed to direct it to. You did not ask a question and I don't appreciate having that coming back. Please put it in order.

Thank you.

PAUL BLOSER: For the record, Mr. Shero, where are we at with building permits, occupancy permits, reconstruction inside the building?

KEITH O'TOOLE: Mr. Chairman, Mr. Shero is not here to be interrogated on these issues by members of the audience. Certainly the public is invited to offer their comments for the record and we welcome those comments. However, Mr. Shero has not been with the Town all

these many years issuing each and every building permit that has ever been issued in the Town of Chili. Certainly he does not conduct all inspections, so certainly we'll bring our records up to date and we'll confirm that all permits are in place. We'll confirm that the Fire Marshal, that all inspections are current, and again, we welcome those as conditions of this approval.

Thank you.

PAUL BLOSER: Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: If there were building permits for all this change in the building, it should be on the records of the Town regardless whether they predate Mr. Shero. Have there been building permits issued for these changes within the building? And have inspections been made per the record? Please.

PAUL BLOSER: For the record, I don't have anything here to say otherwise. I have no record of any building permits in what I have in front of me.

MS. BORGUS: I guess the assumption would be then, there aren't any?

PAUL BLOSER: I can't assume that. I don't know.

MS. BORGUS: I can't assume there are, either, so I think we need to look into that.

PAUL BLOSER: Okay.

Thank you for your comment.

One last, Steve (Ginovsky).

MR. GINOVSKY: As repeated before, there is nothing saying that there is approval, so it may on this Number 13, application, no building permits, so -- so as far as I'm concerned, it's nonconforming, has not been approved, has not been checked. How do we know it's safe for the general public as a retail? Period. And that's the end of it.

Thank you.

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

MR. WIESNER: How much square footage this retail store actually is?

MR. MALBONE: The retail stores occupies about 2400 square feet in the building.

MR. WIESNER: The whole building is like?

MR. MALBONE: 240,000.

The Board discussed the application.

Paul Bloser reviewed proposed conditions with the Board.

On Application 13, 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 voting members of the Board all voted yes on the motion.

Bob Mulcahy made a motion to approve the application with the following conditions, and Tracy DiFlorio seconded the motion. The vote on the motion was 5 yes to 1 no (Adam Cummings) with 1 abstention (Jordon Brown).

DECISION ON APPLICATION 13: Approved by a vote of 5 yes to 1 no (Adam Cummings) with 1 abstention (Jordon Brown) with the following conditions:

1. Retail square footage not to exceed existing 2,400 sq. Ft.
  2. Any reuse of the property (retail space) would require Planning Board site plan approval/review. Any future reuse of the building as a whole, shall not have retail use as a principal use, retail should clearly be a secondary use only to a principal use.
  3. Usage of space conditional upon the Building Department and Fire Marshal issuing building and occupancy permits, and inspections as required by code must be completed.
  4. To be reviewed in one year.
14. Application of Zaxis Architectural, PC, 4245 Union Road, Suite 210, Buffalo, New York 14225, property owner: Maude Development; for variance to amend approvals granted on 2/27/07 to allow 2- 10'11" x 4'2" double-faced freestanding signs. Applicant is now requesting that a portion of the freestanding signs be changeable copy, at property located at 4366 Buffalo Road in G.B. zone.

Douglas Hutter and Brian Maude were present to represent the application.

MR. HUTTER: For the record, my name is Douglas Hutter. I'm an architect with Zaxis

Architectural. We're located at 4245 Union Road, Buffalo, New York 14225. Up on the board we have a site plan. Also an enlarged drawing of what you have in front of you to the sign variance application and some building elevations.

I will kind of walk around. I talk pretty loud. If it is not loud enough, let me know. I can put one of these on the overhead if you would like, too, for folks who are still available in the audience.

I will be succinct and give my recitation. What we're here for today is a variance request changing what has already been approved for the Walgreens store at Union and Buffalo, for this small area here (indicating), just a manual reader board we would like to install.

Let me go on -- we started this project the end of 2005 with Maude Development and Walgreens. 2006, we began the Planning Board process and we had a lot more folks here in the audience. I think everybody is well aware of what is here at the site.

This is the old Stage Coach building that still exists (indicating). They have been doing some work to that currently with the construction of the Walgreens building which is planned to be open in November of 2008.

The sign locations as previously approved by the Board, there are two, and one is located here (indicating), off of Union Street, between the island -- or the drive lane and the neighboring property. The other is located on Buffalo Road, again, between the curb cut and the neighboring property. Each sign is proposed to look like this, again, which is what you have in front of you. It is 9 foot, 1 inches high and it's 11 foot wide for the actual reader board and we have 18 more inches on either side.

13 feet wide total is the masonry that's here.

I brought the material samples in front of you so the understanding of what we did originally is that the brick that is there is to match the Stage Coach Inn building. That was the intention and whole part of the process we went through with this.

What I would like to show you is the elevations of the building.

This is a non-prototype elevation for Walgreens. We took considerable time with the Planning Board in the original process. We sat down, talked to them about the building, what was inherent in local architecture to bring those components in. What we derived out of that is we have arched canopies you will see go up in a couple of months. The entry also has an arched feature rather than just a canopy. We placed a mansard all of the way around the building, which again is not prototype. That's all extra elements to the building.

Also the piers -- typically you see in the Walgreens these piers and some mass in here is cast stone. The building is all brick, as well. No EFIS materials are on here.

We have added these arched effects which mimic the canopy going all of the way around the building with the piers, as well.

This site has a lot of your compactors and totes and that is where your drive-through areas are.

What I wanted to point out to you is Walgreens has gone to an extra length to be here in this community and to really help be indicative and not just say, "Here is a prototype building, folks. Here is what we're doing."

So, that brings us to the sign, too. We have worked pretty hard to make sure we have a sign that both fits their needs and the compatibility of the community by being architecturally harmonious with the building and the materials. The top cap is cast stone. That has a little piece up there, the beige color. It comes in larger lengths and nice pieces. Very solid material. The base is all brick.

What was originally approved was the exact same sign you see here with this logo (indicating) for the Walgreens, and we would have the word "Walgreens" in here (indicating) with "drive-thru pharmacy." That's what we presented. A year ago we actually asked for electronic reader board. Folks would still love to have it, but unfortunately, your community is not looking forward to it at that point in time. We all understand it.

What we would like to have, though, is a manual reader board. Directly across the street is Family Video. They have a reader board that is back-lit. This reader board would be lit from the side with gooseneck lighting. There is no back-lighting with this at all, so it makes it a nice feature for you, as well.

The benefit of it? What's it going to do? Everybody realizes what these signs are for. I have a few items here. The signs advertising, I just want to make sure I don't miss a couple of things here. Product advertising is obviously on the forefront. What they're looking for is to make sure you know what is there, what they have, what services they also have: The pharmacy, photo labs, clinics. On occasion they come in and do blood pressure tests. They would put that on the reader board to let you know that that is going on in the store.

In the fall, flu shots. They have them available there. They want people to know that. I'm sure they advertise, but this also helps them to identify themselves with these items.

What the folks from Walgreens also indicated to us, and what we would have done with the electronic reader board is put community events up there. They're quite happy with Town approval only because they just don't want anybody to come in and say, "Hey, I have a charity event. Can you put that up on your sign?"

No, they won't do that, but they will do a community event that is pre-approved, such as there is parks down the way, if you have a festival there, go ahead and let them know and they will put it on the board.

VFW Post is having a chicken barbeque, very important to the Town, whatever the case may be, they're there do that to help the community, and that is part of what they want to do. So

what you would see then, these letters (indicating) are 8 inches high. That is the proposal, would be the maximum size.

It's only two lines, so they would have perhaps -- oh, it's right here. So perhaps the first line would say, "One-hour photo lab exposures, 6.99."

Who knows what the cost is right now with everything going crazy, but the second line could be perhaps that festival underneath that. That is what they're looking to do for the sign.

I think I have hit most of my important points. I just want to make sure that everybody knows this will help them long-term to be competitive and a community neighbor. That's what they want to be.

Is there anything else you want to add, you gentlemen?

MR. HUTTER: I can certainly answer any questions the Board may have.

TRACY DI FLORIO: Is this digital or letters you're putting up?

MR. HUTTER: These are letters that you would literally put up one at a time. It is not digital. It was not allowed. They would love it if you said, "Let them have it, go ahead. We changed our minds."

They would love to have it. They think it benefits them, but at this point in time, they think this would really help them beyond having just the logo sign there.

JORDON BROWN: The sign that we approved there was just supposed to say "Walgreens" in the same spot?

MR. HUTTER: That's correct.

JORDON BROWN: Personally, I think it's a move in the wrong direction. With the Walgreens up there, it fits better than having changeable text up there. I mean I just think it takes away from the look of the building. As an architect, wouldn't you agree?

MR. HUTTER: From a sign standpoint, we relinquish generally to the users of the building to find what they feel is the easiest thing. We know we have "Walgreens" on the buildings themselves. Let me point that out on the elevations. Again, these are all within standard ordinance. You will have "Walgreens" sign, "photo," "pharmacy." Those are standard signs they will have.

So what they're trying to implement is another component for signage usage on the building so they have some flexibility.

JORDON BROWN: Aesthetically I prefer what we already approved, as opposed to putting changeable letters up there. That's just, you know, my opinion. I would think as an architect you would, perhaps, agree with me.

MR. HUTTER: Well, at this point in time I'm representing Walgreens, and I think it's -- it is certainly doable for what their needs are. I don't think it will be a detriment to the community to have this there. You folks already have -- you guys are enjoying this over here. (Laughter.)

MR. HUTTER: In any event, you have in your community across the street a readable, changeable sign. They have three lines.

JORDON BROWN: I have seen it.

MR. HUTTER: You have a couple of others in your community. What I'm trying to point out here is very important. Our sign will not be back-lit. It will not be up that late at night. You will have these goose-neck lights. In fact, I have a little drawing that can help visualize that.

ADAM CUMMINGS: Is there a case in front of the letter or just the mounting strips?

PAUL BLOSER: In the specifications --

MR. HUTTER: You know, I believe you can certainly have a case, if you don't have something specific shown on here. We could have a covering on it. I would hate to have the idea on a windy day they would blow around or something like that.

Here is a side view of what it would look like with the goose-neck lights on top of it. You can see I have even put the curbing in the at entrance so we're trying to make sure we stay with the property lines of the property, the curb line. We have the nice goose-neck lights that shine down on top of it just to point out what is here.

TRACY DI FLORIO: Will there be messages on both sides?

MR. HUTTER: Yes.

TRACY DI FLORIO: Same message on both sides?

MR. HUTTER: I don't think that is necessarily true. Perhaps one street on Union could have one item and Buffalo Street would have another item or a community thing here or there.

TRACY DI FLORIO: I mean you have four signs total.

MR. HUTTER: Four total sides, that's correct. I don't want anyone to forget that. That's important.

TRACY DI FLORIO: So all four sides would have a different message?

MR. HUTTER: I guess it's possible. Is it probable? I'm not a marketing person. I would just ask that this Board would not restrict that.

BOB MULCAHY: Are these signs facing the street or are they --

MR. HUTTER: They're perpendicular to the street, so as you're driving down the road, you would see those signs.

PAUL BLOSER: Do you have a copy of the original approved sign with you?

MR. HUTTER: I was asked that question. I didn't bring it with me. I apologize.

PAUL BLOSER: How is the original as far as the stone structure?

MR. HUTTER: Everything is the same. The only thing we're asking for a change is in the manual --

PAUL BLOSER: Taking "Walgreens" off the front; you're adding two lines of print?

MR. HUTTER: That's right.

We -- you know, we certainly think it's within reason within your zoning ordinance. When I read your zoning ordinance originally, we didn't think you disallowed manual reader boards. Your zoning ordinance reads pretty specific to allowing them in public, charity and religious. Did I quote them currently? With a 40-foot maximum.

But it doesn't actually specifically deny the fact it is not allowed in commercial. Your zoning ordinance doesn't actually say it's not allowed in commercial. That's my interpretation.

I don't know if your attorney wants to say that, but when we asked for it, the Building Department said you need to come before you folks. We have that heard tonight, that it seems that is your interpretation of your zoning ordinance.

PAUL BLOSER: Our interpretation of reader boards is that we have allowed them -- this Board -- this Board has completely changed from what it was two years ago.

MR. HUTTER: Okay.

PAUL BLOSER: So I don't even want to, I guess, look at the video store. We're looking at this site.

KEITH O'TOOLE: Mr. Chairman, even if they're permitted, it doesn't matter because the size of the signs is such that they would exceed the code anyway.

PAUL BLOSER: We have found on -- which is why when we did the original design here, we spent a lot of time on what we would and wouldn't allow. That was March of last year --

MR. HUTTER: Yes.

PAUL BLOSER: -- when we agreed what we would allow on the site, and we have been trying to be very diligent and consistent across the Town with what we're doing with these at this point.

I know you're putting a store right down the street here. A few of the other places that you look for signs in the Town, we just -- it is something that the Town's people don't want to see, is reader boards of any type. The way the code is written, right now they're only allowed for religious, like what we had tonight, organizations.

I -- you know, my own personal thing on this is we're looking at something that we already made a decision on a year ago, and we would -- we were pretty adamant at that time what we wanted and how we wanted it. My take on this is the decision has been made. I am not myself really open to anything different. I think the -- with the architecture and aesthetics that we had and a building plan here and what is going into the corner --

MR. HUTTER: Mr. Chairman, if I may interrupt. As I can see your opinions coming out, we would like to ask that you either table this or pull it from the agenda for us to do further review so that we may -- if we so choose to come back in front of this Board within a short period of time with another evaluation on this. Is that acceptable?

PAUL BLOSER: It is certainly within your right at this point to pull it if you would like to.

JORDON BROWN: The night is young  
(Laughter.)

MR. HUTTER: We'll let everybody go home, if that is the case. This is something very important. I would like to close, this is something very important to our client.

PAUL BLOSER: I understand that or you wouldn't be here.

MR. HUTTER: What we think we would like to do is discuss this further with representatives so we can have a clearer understanding of this and perhaps reappear before this Board.

Thank you for your time this evening.

JORDON BROWN: Motion to table this.

TRACY DI FLORIO: Second.

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

DECISION: Unanimously tabled by a vote of 7 yes to table for the following reason:

1. Applicant requested that the application be tabled until further notice.

The 5/20/08 Zoning Board of Appeals minutes were approved as submitted.

The meeting ended at 11:30 p.m.