

CHILI ZONING BOARD OF APPEALS

July 25, 2006

A meeting of the Chili Zoning Board of Appeals was held on July 25, 2006 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: George Brinkwart, Dan Melville, Richard Perry, Peter Widener and Chairperson Beverly Griebel.

ALSO PRESENT: Dennis Scibetta, Building & Plumbing Inspector; Keith O'Toole, Assistant Counsel for the Town; Jeron Rogers, Director of Engineering & Planning.

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

BEVERLY GRIEBEL: Before we get to the agenda, the Board will discuss signs. Application 1, any problems with that?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 2, Schwingle? Any problem with that?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 3, Costanza. Any problem with that?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 4, Byer?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 5, Yaro Enterprises? Any problems?

BEVERLY GRIEBEL: The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 6, Kessler? That was all okay?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 7, it is for Pete Romeo, 3313 Chili Avenue. I was out Saturday the 15th in the afternoon and I did not see a sign there. Are --

GEORGE BRINKWART: I was out the 24th and I did see it. It was torn and stapled back up.

BEVERLY GRIEBEL: How about the rest of the Board?

RICHARD PERRY: I saw it the same day he did. I didn't go the -- I didn't go out the first day.

BEVERLY GRIEBEL: I was out then and did not see it. I actually drove by there today and noticed it was pretty tattered and falling down.

DAN MELVILLE: I noticed that, too. I happened to go by there the first day and I didn't notice it right away, but I had noticed it later in the week.

BEVERLY GRIEBEL: What is the Board's pleasure on this?

RICHARD PERRY: If it was not up the first day as it was supposed to, I guess we have to enforce it.

BEVERLY GRIEBEL: Do you want to table that -- the next meeting is August 22nd. A motion for that?

PETER WIDENER: So moved.

BEVERLY GRIEBEL: Anybody to second it?

RICHARD PERRY: I will second it.

The Board voted 4 yes to 1 no (George Brinkwart) in favor of the motion.

BEVERLY GRIEBEL: That will be heard on August 22nd. If you're here to ask any questions about that application, we won't hear anything on that tonight. The applicant will get a letter in the mail, and it will explain that they have to obtain new signs at the Building Department and post them as per Town regulation. They're supposed to be posted on the day before the required day, so they're up the whole time. For this meeting, the signs were to be posted on Friday, July 14th. For the next meeting, they would have to be posted by Friday, August 11th. Just to be sure that they're up.

That is tabled.

Number 8, the Open Door Baptist Church. I did not see a sign there either. I happened to go by there on another day after last Friday.

DAN MELVILLE: I did not see one.

GEORGE BRINKWART: I did not see a sign.

RICHARD PERRY: No.

DAN MELVILLE: Tabled.

BEVERLY GRIEBEL: Okay. Motion to table that to August 22nd at 7 o'clock? I will move it.

Do I have a second?

GEORGE BRINKWART: Second.

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

BEVERLY GRIEBEL: As I said with the other one, that is tabled and we won't be hearing anything on it tonight. They will get a letter in the mail stating the same thing.

Number 9, Metalico, any problems with that? The Board indicated they would hear the application.

BEVERLY GRIEBEL: Okay. So we are all right on that.

1. Application of Brenda Covill, owner; 2 Cornflower Drive, North Chili, New York 14514 for renewal of land use variance to allow an office in home with two employees at property located at 2 Cornflower Drive in RM zone.

David Harris was present to represent the application.

MR. HARRIS: I'm representing the applicant.

BEVERLY GRIEBEL: The application, I don't see that it changed much since last year. She is not operating a business. She's an in-home office, and it is due to the illness of her husband, and she does work for a company, small company. She does it at home.

MR. HARRIS: That was correct.

BEVERLY GRIEBEL: So she can keep an eye on her husband who is ill.

MR. HARRIS: Yes.

BEVERLY GRIEBEL: And I think one of the conditions -- I will make sure -- she is to keep us informed of his condition.

MR. HARRIS: That was correct.

BEVERLY GRIEBEL: I guess there has been no improvement?

MR. HARRIS: No. His condition is actually getting worse.

BEVERLY GRIEBEL: He was okay. She used to go directly to the company to do the financial stuff.

MR. HARRIS: They had another location in Naples at the time. But they had to move closer to the main office.

BEVERLY GRIEBEL: Question?

DAN MELVILLE: I guess you're familiar with the conditions on the last one, since you're representing her?

MR. HARRIS: The conditions on?

DAN MELVILLE: Her last approval?

BEVERLY GRIEBEL: Yes. It was granted for one year. Then applicant must make a new application. Approval ceases earlier if the need for home care of the ill husband ceases before

one year. No on-premises advertising. No on-street parking pertaining to the business. Hours of operation as per the application. Two outside non-family employees. Applicant to maintain any required State and local licenses.

DAN MELVILLE: Are those same conditions still in effect?

MR. HARRIS: Absolutely.

DAN MELVILLE: Two employees or more?

MR. HARRIS: No. There is only room for two. That is all there is.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

HEATH MILLER, 69 Bellmawr Drive

MR. MILLER: Good evening. I preface my comments tonight by mentioning that I am a third-year lawsuit student at the University of Buffalo Law School where I'm concentrating on environmental law. I have taken courses on property, enforcing environmental law, land use and zoning. I mention this merely to indicate my familiarity with the legal requirements for granting a land use variance.

The statutory requirements for granting a land use variance are found in Section 267(B) of the Town Law for the State of New York. A Zoning Board of Appeals shall not grant a use variance unless the applicant shows that the applicable zoning regulations and restrictions have caused unnecessary hardship. The test for unnecessary hardship is a four-prong test. In order to prove such a necessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, Number 1, the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence.

I pause here to ask the Board what evidence has the applicant provided to support the claim that she is unable to realize a reasonable return on this property for each and every allowed use in an RM zone?

BEVERLY GRIEBEL: Well, I think that is probably moot, because this was approved two years ago initially. And it was renewed a year ago. So that I don't have those records at this time. I don't know what it was, but --

MR. MILLER: Well, it is not moot because this is a new application.

BEVERLY GRIEBEL: It is a renewal. It says renewal of the Land Use Variance.

MR. MILLER: I understand that, but one of the conditions placed on the use variance that was granted was that it would expire within one year and that applicant must make a new application.

KEITH O'TOOLE: Chairperson Griebel, if I may, we appreciate Mr. Miller's comments and note them for the record. I would ask that the Board take judicial notice of the existence of the original approval, incorporate its exhibits as part of this record, and acknowledge the fact that the Board should remain consistent with the factual findings already accorded to this applicant and make clear for the record the only issue before the Board today is whether there should be an extension. Basically an amendment to the original condition. This is not a brand new application. Thank you.

DAN MELVILLE: Thank you.

MR. MILLER: Well, I respectfully disagree with Mr. O'Toole's advice. I believe this is a new application. There was nothing that this Board found in its findings of fact in previous applications that would support that the applicant had provided evidence to show that she was unable to realize a reasonable return using this property for each and every allowed use in an RM zone.

I will just mention, because I want this to be on the record, that the fourth prong of that unnecessary hardship test is that the hardship is not self-created. This is the classic example of a self-created hardship.

When an applicant purchases property that is already zoned and then desires to use the property in a manner which is prohibited by the zoning regulations, that is a self-created hardship. You might wonder when is the hardship not self-created, and I offer two examples. If someone purchases property prior to a Town enacting its zoning regulations, and then the Town adopts zoning regulations, then if the applicant has desire to use the property for a use which is no longer allowed, that would be an example of a self-created hardship.

I am sympathetic to Mrs. Covill's situation. I admire her willingness to stay at home and take care of her husband. But a Zoning Board of Appeals should not grant a Land Use Variance simply because you are sympathetic to the applicant.

When the Board grants a Land Use Variance without having the applicant provide evidence of unnecessary hardship, you are in a sense abrogating the zoning regulations. The Zoning Board --

BEVERLY GRIEBEL: Well, you know, I hear you, Heath (Miller), but at this point, it is probably moot because it was approved two years ago for a Land Use Variance.

MR. MILLER: I understand that.

BEVERLY GRIEBEL: As our attorney has commented, we -- we would incorporate the prior information and findings into it, so it is kind of moot at this point.

MR. MILLER: Well, okay. I will just end by saying that the Zoning Board of Appeals is subject to Article 78 proceedings, and --

DAN MELVILLE: We know that.

MR. MILLER: You know that.

Nothing further.

DAN MELVILLE: Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have been here I think every time that this applicant has appeared or somebody -- I believe she has appeared personally the other two times. I personally do not remember, ever remember ever there was proof of a financial hardship presented.

BEVERLY GRIEBEL: Well, I was in the hospital at that time, and so I wasn't here for that.

MS. BORGUS: I believe Mr. Melville chaired.

BEVERLY GRIEBEL: It was originally approved for a conditional use at the home.

MS. BORGUS: Right.

BEVERLY GRIEBEL: And then it became a Land Use Variance.

MS. BORGUS: She couldn't comply because she had to hire more people. One person was not sufficient. And then somebody came up with the brain storm to do this with this Land Use Variance, which the proof wasn't there then. It is a self-created hardship. I have all kinds of sympathy for this lady too, if she has a problem with her husband. But what if everybody in Town that has somebody they need to look after had the law just pushed aside for them? I mean -- this I know is an appeal board, but you don't have any basis to grant this. Just because you made a mistake years back doesn't mean you need to keep repeating it. Do we have to keep repeating it? You murder somebody and you don't get caught, you do it again?

RICHARD PERRY: That has nothing to do with it. There is no murder going on here.

BEVERLY GRIEBEL: It is a renewal.

MS. BORGUS: Of a mistake. It is a renewal of a mistake. So I am sorry, it's not right. And this Town has got one lawsuit against it for Planning Board actions that weren't proper. I wouldn't think the Zoning Board would want to get the same kind of lawsuit going.

RICHARD PERRY: Has a judge determined it is improper?

MS. BORGUS: What is that?

RICHARD PERRY: Is that final verdict it was improper --

MS. BORGUS: I was here.

RICHARD PERRY: I'm talking about the Planning Board.

MS. BORGUS: They're in a lawsuit. That's enough.

RICHARD PERRY: They have not come to a decision on it. So you can't say that they did something wrong, which you did.

MS. BORGUS: Do you want one against this Board?

BEVERLY GRIEBEL: Is that the way you want to waste your tax money?

MS. BORGUS: This woman is entitled to a conditional use permit. Give her one. But not this because you made a mistake. It was a mistake. I'm sorry. There was no financial evidence produced way back when when she got the first one. We just can't keep repeating a mistake just because we were -- I won't use the word "stupid," but that is what comes to mind, as to have done it in the first place. You can't keep repeating a mistake just because you made one long ago. It is time to stop. It is time to correct these things. Thank you.

RICHARD PERRY: Dorothy (Borgus), may I ask a question? Dennis (Scibetta), have there been any complaints with regard to this property and the situation?

DENNIS SCIBETTA: No, sir.

RICHARD PERRY: I rest my case.

MS. BORGUS: That is really immaterial if there have been any complaints. The law was not properly administered the last time. Just because somebody doesn't complain, doesn't mean that it is right. I'm not saying this --

RICHARD PERRY: Just because someone does complain doesn't mean that is right either.

MS. BORGUS: Is it okay if everybody does anything they want as long as they don't get a complaint? I don't think that is the way this Board should be looking at this.

RICHARD PERRY: Okay.

MS. BORGUS: Give her a conditional use permit if that is what you want to do.

BEVERLY GRIEBEL: Keith (O'Toole), this is -- the -- the published legal notice said renewal of Land Use Variance. So at this point, we can't change it to a conditional use.

KEITH O'TOOLE: It's not a conditional use. It is not so provided for in the code. You just can't invent a conditional use out of thin air. I seem to recall that from my law school classes.

BEVERLY GRIEBEL: So this is --

RICHARD PERRY: Must have been fourth year.

KEITH O'TOOLE: Could well be.

BEVERLY GRIEBEL: She has to apply each year, meaning that this goes not forever and ever. It is year by year.

KEITH O'TOOLE: That was correct. Or unless you want to give it a longer period of time.

DAN MELVILLE: No.

BEVERLY GRIEBEL: No, I don't think so. Thank you.

DAN MELVILLE: We are trying to help out a resident and a taxpayer of this Town so she doesn't have any financial hardship, but she can continue to work.

BEVERLY GRIEBEL: And it is an unusual circumstance in that many people who have jobs would not be allowed to do this at home, to watch a spouse or other family members. So she is very fortunate that she has a job that allows her to do this, because for many people in Town who work wherever, they have to go out to their job. It is not a choice. So it is a kind of special situation.

DAN MELVILLE: She could be out of work and collect off the Government.

BEVERLY GRIEBEL: No other comments? Any other questions from the Board?

I will close this part of the public hearing.

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

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Richard Perry seconded the motion. The Board all voted yes on the motion. Richard Perry made a motion to approve the application with the following conditions, and Peter Widener seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

- 1A. Granted for a period of one year; then applicant must make a new application.
- 1B. Approval ceases earlier if need for home care of ill husband ceases before one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. Two outside non-family employees.
6. Applicant to maintain any required State and local licenses.

The following findings of fact were cited:

1. A use variance was granted for a customary home occupation with two non-family employees.
2. Extra employee needed so homeowner can work at home and care for an ill husband.

BEVERLY GRIEBEL: Two applications have been tabled. Number 7, Peter Romeo and Number 8, Open Door Baptist Church. Those are been tabled until August 27th for failure to post the notification signs. Nothing will be heard on either one of those tonight.

2. Application of Bonnie Schwingle, owner; 62 Bellmawr Drive, Rochester, New York 14624 for renewal of conditional use permit to allow a beauty shop in home at property located at 62 Bellmawr Drive in R-1-15 zone.

Bonnie Schwingle was present to represent the application.

MS. SCHWINGLE: My name is Bonnie Schwingle.

BEVERLY GRIEBEL: Now, you have had the beauty shop into your home for how long now?

MS. SCHWINGLE: A total of six years.

BEVERLY GRIEBEL: Six years. The initial one year, and then a five-year --

MS. SCHWINGLE: Yes.

BEVERLY GRIEBEL: And you don't have any outside employees?

MS. SCHWINGLE: No: Just me.

BEVERLY GRIEBEL: Okay. Your hours, have they changed at all?

MS. SCHWINGLE: Um, a little bit. I have cut back on Saturdays and Fridays and added a little more on Tuesdays and Thursdays.

BEVERLY GRIEBEL: Changed the days, minor change?

MS. SCHWINGLE: Yes.

BEVERLY GRIEBEL: For the benefit of the audience, when people are allowed to do this at home, there are conditions that apply to that, and -- last time we granted it for five years. No on-premises advertising, no on-street parking pertaining to the business. Customers by appointment. No more than two customers at one time. No outside employees. Hours of operation as per the application. And the applicant to maintain required State and local licenses.

PETER WIDENER: How is -- are your licenses?

MS. SCHWINGLE: Up to date.

PETER WIDENER: You don't work for the government or anything like that?

MS. SCHWINGLE: No, I don't.

BEVERLY GRIEBEL: I missed that. Thank you.

PETER WIDENER: That is okay. I have no other questions.

RICHARD PERRY: Dennis (Scibetta), any complaints?

DENNIS SCIBETTA: No. In 1995, we did have -- there was a letter written in March 31st of 1995 to Supervisor Kelly asking why this was allowed, but it was unsigned. The applicant did bring in 38 signatures that were in favor of this.

RICHARD PERRY: I think an outside anonymous letter should have been put in the trash. It is obvious nothing in the last five years.

BEVERLY GRIEBEL: This was renewed in May of '01, so nothing since then.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Granted for a period of five (5) years.
2. No on-premises advertising.

3. No on-street parking pertaining to the business.
4. Customers by appointment.
5. No more than two customers at one time.
6. No outside employees.
7. Hours of operation as per application.
8. Applicant to maintain required State and local licenses.

The following finding of fact was cited:

1. Customary Home Occupation.
3. Application of Chris Costanza, 18 Portsmouth Terrace, Apt. 1, Rochester, New York 14607, property owner: Nicholas Costanza; for variance to create four undersized lots ranging from .48 acres to .75 acres (5 acres req.) with lot widths ranging from 110.86' to 135' (275' req.), variance for Lot #1 to have 30' road frontage (40' req.), variance to allow existing dwelling on Lot #2 to be 43.8' from proposed south side lot line (50' req.) variance to allow existing dwelling on Lot #3 to be 38.6' from proposed north side lot line (50' req.) and 27.6' from proposed rear lot line (50' req.), variance to allow existing garage on Lot #4 to be 6.5' from proposed south side lot line (50' req.), variance to allow existing dwelling on Lot #5 to be 34.8' from proposed north side lot line (50' req.) all as per plan submitted at properties located at 2113 and 2117 Scottsville Road in A.C. & FPO zone.

Nick Costanza was present to represent the application.

MR. COSTANZA: Good evening. My name is Nick Costanza. I'm the owner of the property. The application was made by my son who is an architect, who – I had misunderstood him. He is presently in Los Angeles to attend a wedding. I thought he was coming back today, but it is tomorrow, so here I am.

In any event, this was a piece of property that I had bought, the last section from the Wehle Estate, and these particular -- the -- the way I bought them, there were two tax parcels. One tax parcel was the 12 acres of vacant land, and the other tax parcel was these four dwellings, which, to my understanding, were all erected between 1920 and 1940.

In addition to the four dwellings, there are two existing -- well, I call them barns, but they're -- they're small barns, garages.

So what I had directed my son, in conjunction with the surveyor, was to parcel these -- try to parcel these out in the most equitable way, to split these so that each one of these dwellings would have a -- -- again -- some of them share driveways, but in any event, I directed both of them to come up with some sort of plan that would allow me to subdivide this as well as a right-of-way to have -- so that the 12 acres behind this property, once -- once it is sold, is not landlocked. Um, and I noticed here that on -- on that particular right-of-way, you know -- I had suggested 30 feet, but apparently there is a requirement of 40 feet. That is about the only thing I could change, because that particular right-of-way, um, goes right in between 2121 and 2117, and there is approximately, oh, I don't know, 500 feet of grass space. So that could be widened to a 40 foot, as -- as -- instead of the proposed 30.

BEVERLY GRIEBEL: To allow access to that large piece that is left out?

MR. NICK COSTANZA: Yes. Right now -- without having that, that right-of-way, um, that land would become landlocked.

BEVERLY GRIEBEL: Right. Presently, these dwellings, they're all on one lot. Is that --

MR. NICK COSTANZA: Yes. Incidentally, um, which -- which I think the Board ought to consider, um, I bought that property for \$235,000. The land is assessed at -- was approximately 100,000. The total assessment on the -- on -- the original total assessment was \$309,000. Um, if allowed to -- to subdivide these houses, as -- as I am proposing, the assessment for -- will just about triple for the Town of Gates --

BEVERLY GRIEBEL: For the Town of Chili.

MR. NICK COSTANZA: For the Town of Chili, excuse me. I don't know how that converts over when there is 30 or 40, 50 percent more in property taxes. I know the Town is always looking for more tax money. If this is broken up the way I am proposing -- I mean, I have buyers for three of the homes right now, and the assessment would go from 135 to about 350.

BEVERLY GRIEBEL: For houses on separate lots?

MR. NICK COSTANZA: Yes.

BEVERLY GRIEBEL: Because right now, it is going to be hard to sell them. If anyone wants to go up and look, please go look at the map. It is kind of confusing, talking about all those numbers.

MR. NICK COSTANZA: Incidentally, and I don't know if you people know this, but Wehles originally had something like 1800 acres, and 37 buildings on this 1800. This -- these particular four buildings, um -- of course, they raised horses as well as certain game, like special deer. But these houses, as well as some others, were built for the people that actually worked on this farm.

BEVERLY GRIEBEL: Oh, okay. So it didn't matter if they were on separate plots or all one plot. And the code allowed it.

MR. NICK COSTANZA: Well, back then I don't think there was -- that was almost like the Wild West back then. So that is what happened.

BEVERLY GRIEBEL: So 1800 acres, wow.

MR. NICK COSTANZA: Yes. This actually was the last parcel.

BEVERLY GRIEBEL: We had some others come in from that property, some other variances required in order to cut off a piece of property and be able to sell it. So it does get confusing.

MR. NICK COSTANZA: So, you know, I mean -- like a house number 21 -- if -- I get confused with the numbers myself. 2125, which is the on the south side, the house is where it is, and apparently, that is -- well, what is it? Well, 34.8 feet, as opposed to the 50 foot required. Um, and then on the north side, it also requires 50 feet, and that is only 43.8. As a matter of fact, there is a huge drainage ditch there. I know the property line goes right through that drainage ditch, which, of course, feeds into the Genesee River. So --

BEVERLY GRIEBEL: As it stands now, you can't sell off a house.

MR. NICK COSTANZA: No. As a matter of fact, I closed on this property -- I made -- I made -- the offer was accepted in February of this year. I closed on it April 27th, and I was hoping, and I had directed my son and the surveyor to -- as soon as I had closed, to survey, get this application in, and the surveyor held me up for a month, and then my son apparently, he wanted to make the application to the -- there is another process, a Planning Commission?

BEVERLY GRIEBEL: Planning Board.

MR. NICK COSTANZA: Had that scheduled for June 14th, and a couple days before that, he said, "Well, you got to go to the Zoning Board first."

So I have already lost a few months here, and -- time is money. I have got these people that are -- that are living in three of the houses --

BEVERLY GRIEBEL: They want to buy a house?

MR. NICK COSTANZA: Yes. These are folks that actually -- the only reason I bought this property, these folks live for me -- excuse me, work for me. They're employees. One guy is 48 and has a family. Another fellow is 38. Then there are two daughters. And without -- I'm trying to help them out to getting a place. Otherwise they would never be -- they would be renting for the rest of their lives.

BEVERLY GRIEBEL: Are they actually living in the houses?

MR. NICK COSTANZA: Yes. That was the impetus for me even buying the house. They're well-regarded employees, and it is really I am doing them a favor. But --

BEVERLY GRIEBEL: In order to sell them.

MR. NICK COSTANZA: That's right.

BEVERLY GRIEBEL: One house on one parcel.

MR. NICK COSTANZA: That is right. You make the application to the bank for a mortgage, forget it. You know how it is.

BEVERLY GRIEBEL: A little confusing.

MR. NICK COSTANZA: The properties need a lot of work, which we are addressing. The third -- fourth house -- the three houses were pretty -- well, one wasn't bad. Two were medium and needed a lot of cosmetic work, and the fourth one is -- you know, had been abandoned for approximately two or three years. It is pretty rough. So that is going to need a lot of work and -- but, nonetheless, none of -- none of the lots, as to where the buildings stand, comply with -- you

know, the regulations as they exist today.

BEVERLY GRIEBEL: But buildings were put up quite some time ago?

MR. NICK COSTANZA: Oh, yes.

BEVERLY GRIEBEL: 1920, 1940.

MR. NICK COSTANZA: Yes.

DAN MELVILLE: You obviously didn't buy these lots with any kind of a contingency to see if you could get this approved?

MR. NICK COSTANZA: No. I just took a chance.

DAN MELVILLE: You're asking for quite a big variance here. What happens if you don't get it?

MR. NICK COSTANZA: That is a good question. I don't know. If I don't get it, I guess I go back to these folks and say, "You know what, I goofed. You can continue to pay rent, or go look for a place."

DAN MELVILLE: What do you plan on doing with the rest of the property?

MR. NICK COSTANZA: I don't have any plans for it.

DAN MELVILLE: Why not extend those lines all of the way down? At least it will bring you in closer to compliance with the zoning code.

MR. NICK COSTANZA: I had thought of that, except -- I don't know if you have been out there, but there is a horse fence that if -- that has been up there God knows how long. I kind of used that as a -- for me, it was a natural boundary. I think the surveyor had put the lot line in front of that fence.

DAN MELVILLE: That fence is not on your property?

MR. NICK COSTANZA: That fence is on actual -- the vacant land portion, what I call Tax Parcel Number 1.

BEVERLY GRIEBEL: This big area -- I'm looking for acres.

MR. NICK COSTANZA: Can I point it out?

DAN MELVILLE: Are you planning on subdividing the rest of the property?

MR. COSTANZA: I don't have any plans for it. I don't have -- I am hoping that somewhere down the road, one of -- of -- of those three people approach me. They would like to buy the land for themselves. I don't have any intention. I have other land that -- other land holdings. I have got enough on my plate. But on the other hand, I certainly don't want to, you -- you know, things change and I certainly don't want to have that piece of land landlocked. That would make that land just about useless.

DAN MELVILLE: That is why I am thinking they should extend the lines all of the way down and get rid of it all. Then you could charge more money for the houses.

MR. NICK COSTANZA: There is a problem. I wish I could do that.

DAN MELVILLE: Why can't you? There is a real estate market. You could put it up for sale and sell them.

MR. NICK COSTANZA: I have made commitment to these people, and -- and I took a bit of a chance.

BEVERLY GRIEBEL: And -- even if you did that, you would still have the side setbacks.

DAN MELVILLE: Well, that is true, but at least they would be a little closer to what the 5 acres required, rather than -- rather than half an acre or third of an acre.

MR. NICK COSTANZA: Is it one acre or 5 acres per lot?

KEITH O'TOOLE: Five.

DAN MELVILLE: Five.

BEVERLY GRIEBEL: These are have -- these have public water?

MR. NICK COSTANZA: Yes. And public sewer.

BEVERLY GRIEBEL: And public sewer. Because at one point, that was a need for larger acreage, in South Chili, if there wasn't public water or sewer. I can --

MR. NICK COSTANZA: As a matter of fact, there is a sewer and a water main right-of-way right through the property.

DENNIS SCIBETTA: All of the properties are hooked up into this.

MR. NICK COSTANZA: Yes.

GEORGE BRINKWART: It indicates on the map you're in a flood plain, but the limits of the flood plain are not shown on this map. Do you know about where the flood plain is?

MR. NICK COSTANZA: I can answer that question for you, only because I got the answer from the bank who loaned me the money on this. Originally, they told me I didn't need any flood insurance. After I closed, they called and said, you know, you need flood insurance on the last house, which is 21 -- 2113.

GEORGE BRINKWART: Lot 5?

MR. NICK COSTANZA: I forget now how they're numbered. It would be the northerly most property.

BEVERLY GRIEBEL: It would be Lot 2.

RICHARD PERRY: Lot 2.

MR. NICK COSTANZA: Lot 2. Okay. I don't have those plans in front of me, but apparently, it -- it is in a flood zone.

GEORGE BRINKWART: Also, the side table can correct me if I am wrong, but I think if you're referring to a right-of-way, something that you could build a road that would be dedicated to the Town, I think you would need 60 feet. I think maybe what we are referring to is 40 feet, a flag lot.

KEITH O'TOOLE: That was correct.

MR. NICK COSTANZA: Again, that is not a problem either because the -- the amount of space between -- basically, it is two houses on one end of the property, and two houses on the other side. In between those is a grassy area that is probably -- it is probably -- you would have --

DAN MELVILLE: That would increase your percentage of variance even more, if you have to go -- 60 feet?

MR. NICK COSTANZA: Well, you know -- I don't know what to tell you. I mean -- I -- I guess my point at this particular thing was -- I -- I suggested 30. You're saying 40. Now you're saying 60. But all I am saying is, there is about 5 or 600 feet there, that -- you know, whatever width of the road or right-of-way has to be put in -- I understand what you're saying, the wider you go, it makes the lot even smaller.

PETER WIDENER: You have yourself quite a dilemma without contingencies on an offer before you close on properties like this. It -- it really raises my concern. That's a lot of money on an if, on a maybe. I have no other questions. I'm not trying to scold you.

BEVERLY GRIEBEL: This did go to Monroe County Planning and came back as a local matter with airport approval. That is all that they were looking at on that. There was no comment about wetlands or anything.

KEITH O'TOOLE: A couple. For one, just as an aside, I don't see why anyone would be willing to buy a lot unless they had subdivision approval, and they wouldn't get subdivision approval unless you granted them the variance, so it is not for the Town to get involved in contract issues, but I'm not sure that this -- that it is even an issue.

The other thing, building on Dan(Melville)'s comments, I noticed that with regard to Lot 3-R, the rear setback provided is 27.6. Code requires a 50 foot setback for the rear for things like decks, pools. As a practical matter, you need a certain amount of depth for that, even -- even in an area that does not require five acre minimums. In terms of Lot 1, it might not be a bad idea to see the applicant's developer lay out a proposed use for that. Even if you provided a 60 foot right-of-way under the current zoning with 5 acres required, you will not get more than two lots back there anyway, so what you're really talking about are two flag lots.

So I don't -- I'm not sure that having 60 feet is necessarily an issue, though certainly, if the applicant believes he can come back later and get even more variances for even smaller lots, well, I suppose he can take that risk, too.

I do have a question. There are these dotted lines running north/south through all of the propose the lots, the Lots 2 through 5. One of them is called out as a GCO easement. What are the other -- what is the other dotted line for?

MR. NICK COSTANZA: Well, I -- without looking at it, it is either the sewer right-of-way or the -- or the water main right-of-way. If I could take a look at that.

KEITH O'TOOLE: Why don't you.

DAN MELVILLE: Right down the board.

BEVERLY GRIEBEL: North/south, right through all of the four lots.

KEITH O'TOOLE: There are three dotted lines. One is called out GCO, the Gates-Chili Ogden sewer. But there is a parallel to that, another dotted line.

BEVERLY GRIEBEL: 20 foot width on that.

MR. NICK COSTANZA: I believe that is the sewer. Yes. As a matter of fact, there is a -- there is an easement --

DAN MELVILLE: One is a sewer. What are the other two dotted lines?

MR. NICK COSTANZA: I have no idea. I would have to imagine the other one is the water main.

DENNIS SCIBETTA: This is why it was referred back from the Planning Board to the Zoning Board first also. These things have to be cleared up before --

BEVERLY GRIEBEL: Your son is the owner? You're the owner?

MR. NICK COSTANZA: I'm the owner.

BEVERLY GRIEBEL: He is the designer, the architect? Does he know what they are?

These lines.

MR. NICK COSTANZA: No. Actually, that -- he got that from the surveyor.

KEITH O'TOOLE: Who presumably picked up something from the abstract, and he -- and he calls out this area to right-of-way, liber 10,289, deeds page 531. I'm not exactly sure what that is supposed to tell us.

MR. NICK COSTANZA: Well, I don't know what it is.

KEITH O'TOOLE: The other thing I was going to add, is that the back lot is 11 3/4 acres proposed. You could certainly pull off 1 3/4 acres right off the top and still preserve two lots at the minimum and create some depth on the frontage lots. As Dan (Melville) indicated, it is not like there is no room to do that. And lot lines don't stop the -- at fences. They keep going. So nothing further.

BEVERLY GRIEBEL: They could right over the fence is what you're saying?

KEITH O'TOOLE: Over, under, through.

BEVERLY GRIEBEL: Draw them out a little different.

So maybe this application needs more work.

KEITH O'TOOLE: Yes.

RICHARD PERRY: Yes. Definitely based on the lack of information.

BEVERLY GRIEBEL: It -- it needs at least a 40 foot road right-of-way; is that correct?

DAN MELVILLE: Or 60.

BEVERLY GRIEBEL: Well, if they want to go as a private road, is that 40 feet.

KEITH O'TOOLE: 40 feet, which would allow them to carve out two flag lots out of Lot 1 at some future point in time. Or for that matter, if they're planning on doing it, why don't they just do it now and be done with it.

BEVERLY GRIEBEL: So what they're going to do on that almost 12 acres.

KEITH O'TOOLE: That is right.

BEVERLY GRIEBEL: So this may need to be tabled while your son does some more work or somebody does some more work on this. Do you follow what he was saying?

MR. NICK COSTANZA: I think so. Let me just -- let me hear that one more time. What you're saying is, extend the rear of the lot line to meet the minimum requirement, in other words, go into the vacant land, right?

BEVERLY GRIEBEL: Well, he is saying there is 11 3/4 acres. So if you took off 1 3/4 acres, you still would have two legal lots, 5 acres each. And then put that extra acreage on the back part of the -- of these, the western side of these lots to increase their acreage. Typically that house with the rear setback, that is a problem.

DAN MELVILLE: You only have 27 feet, 6 inches back there. That is not enough.

RICHARD PERRY: If you want to do anything at all on the back of the house, you would be pretty reluctant.

MR. NICK COSTANZA: I can certainly do that. That is not out of the realm.

DAN MELVILLE: I don't think this will fly tonight.

BEVERLY GRIEBEL: Also, show how you will develop this other portion, because right now it is just a big vacant space.

MR. NICK COSTANZA: Well, if -- like I say, I wasn't -- I wasn't planning it, but -- but for the purposes of -- of -- for the next meeting, yes, I will just split it in half to two five-acre parcels.

DAN MELVILLE: We would rather know ahead of time what you might be thinking about doing instead of coming here a year later and trying to squeeze in ten lots maybe. We would rather know now.

BEVERLY GRIEBEL: And draw out this, instead of the 30 foot road, make it a 40 foot.

MR. NICK COSTANZA: Okay.

BEVERLY GRIEBEL: That would change some of your setbacks on these buildings.

MR. NICK COSTANZA: Okay.

Will I be getting a letter on this?

BEVERLY GRIEBEL: Um, yes. If it is indeed tabled. I don't know if this Board is ready to vote on this.

DAN MELVILLE: Unless you want us to go ahead with it and proceed. It is up to you. You're the applicant.

BEVERLY GRIEBEL: If -- if we vote on it, I don't know if it is going to be positive or negative.

MR. NICK COSTANZA: Yes. So I guess I -- I guess -- I don't know how to answer that question. If you're going to vote yes, then yes.

DAN MELVILLE: If you want to take your chances and it got defeated, you can't come back for a year, unless there is significant change.

BEVERLY GRIEBEL: Unless he makes the changes. But he has to reapply.

MR. NICK COSTANZA: I would rather go ahead with the changes that you're suggesting, and they're very reasonable. They make sense.

BEVERLY GRIEBEL: See what it looks like then. Apparently the Planning Board had some issues with it and that is why they sent it here for the variances first.

KEITH O'TOOLE: Truth be told, perhaps the Board could give the applicant some direction about how much acreage you want on Lots 2, 3, 4 and 5, or how far back you want them to go. This way, there is no misunderstanding. So we don't have to go 3, 4 and 5 feet every time we have an appearance before the Board.

BEVERLY GRIEBEL: Would you like a one-acre minimum on each one these lots?

DAN MELVILLE: If you do one acre minimum on each one of them, you can't get two lots

--

KEITH O'TOOLE: Or you shift the variances to those. It doesn't matter what you're varying. Try to get some sort of balance out of the whole thing.

DENNIS SCIBETTA: Would you have an easier time approving a 4 point something acre lot, instead of one less than --

DAN MELVILLE: Yes, actually you have a good point. I think I almost would prefer increasing the acreage a little bit of each one of those lots so -- to make one acre or three-quarter acre maybe on each one.

RICHARD PERRY: You have one -- the one that's the real setback problem is three-quarters of an acre.

BEVERLY GRIEBEL: But the house is so far back. Lot Number 5 is point --

DAN MELVILLE: Probably one acre. Should be one acre.

GEORGE BRINKWART: The order of magnitude from the required 5 acres is substantial. I don't know if I feel comfortable doing that from the required minimum.

RICHARD PERRY: Except all of these houses pre-dated the requirements. What are you going to do?

DAN MELVILLE: Years ago, when you had to have septic systems, you needed five acres. Now they're on water and sewer.

GEORGE BRINKWART: But that raises a good point. Would it make sense to go with the rezoning on this to make it more compatible with lots on sewers and public water?

DAN MELVILLE: Probably would, but the way this Town acts, it would probably take three years to do it.

RICHARD PERRY: There are an awful lot of other ones in the similar situation.

BEVERLY GRIEBEL: There are a lot of areas in South Chili that were carved off one-acre lots so the son could have the parcel, not take land away from the farmland, the 5 acres, to try to keep it a minimum sort of thing. It seems to make more sense than requiring five acres for everything, and take all of that farmland away when the son doesn't need that much for a house. Rather than an acre. I guess we want to, you know, have your son see what he can do with this, and as I said, it is easier for us to approve slightly less than 5 acre lots, to slightly under 5 acres, for this big portion, than one -- than one that is not -- but five is very small. It is .4. Another one is .6. Another one .7, .6.

DAN MELVILLE: You might be able to straighten the line, too, going all of the way down.

MR. COSTANZA: I understand what the Board is asking, and I will make sure that my son gets a new survey in. I guess we'll reschedule. Is that the procedure?

BEVERLY GRIEBEL: Yes.

DAN MELVILLE: We'll table this, and you -- you probably -- I don't know if you would be able to get it back for the next meeting.

RICHARD PERRY: After that.

DAN MELVILLE: I guess you could. You would have to really act quickly. When does it close out, this week?

BEVERLY GRIEBEL: It closed -- it already closed. Well, it -- the closing date was July 21st, for the -- for the applications. But if he gets this in a couple weeks before the next meeting --

DAN MELVILLE: We can get it on the next agenda.

BEVERLY GRIEBEL: How does that sound?

MR. NICK COSTANZA: That sounds great.

BEVERLY GRIEBEL: I don't know if there is any point in taking public comments.

RICHARD PERRY: Right. That way you leave it open for the public to make the comments when they see the revised paper.

MR. NICK COSTANZA: Keep the signs up?

DAN MELVILLE: You will have to get new signs.

MR. NICK COSTANZA: I have to get new ones?

BEVERLY GRIEBEL: Yes. The date would change. The weather, you can't leave them up. So we want him to try to come closer to one acre on each of these.

RICHARD PERRY: Right.

BEVERLY GRIEBEL: The 40 foot right-of-way.

DAN MELVILLE: Maybe you can clear up what those lines were on there that weren't marked on that map going through it. One was a sewer. I don't know what the other two were. One is probably water, but -- but it is not hard.

MR. NICK COSTANZA: I will have to ask the surveyor. I think it is the water main, though.

RICHARD PERRY: We need to be sure. We need to have as much accurate information.

MR. NICK COSTANZA: You need to know what the other dotted line is.

BEVERLY GRIEBEL: Yes. Does that have any impact on this, we don't know. It is funny it is not on there. So closer to 1 acre on Lots 2, 3, 4 and 5, 40 foot right-of-way clarified, dotted lines clarified.

PETER WIDENER: You may want to run a topographical map and flood plain so we know where the water is.

MR. NICK COSTANZA: Well, you know, I tried getting that and --

PETER WIDENER: It would help.

MR. NICK COSTANZA: I don't know how to do -- get it. I know even the insurance company, or excuse me, the bank missed that.

KEITH O'TOOLE: Your surveyor should be able to superimpose the burn data on top of the map.

MR. NICK COSTANZA: If he knows, has some sort of indication.

KEITH O'TOOLE: If he is a surveyor --

BEVERLY GRIEBEL: Somebody has a map somewhere. Or else, you know, how can they pull that out of thin air and say you're in a flood plain, you have to have insurance.

DAN MELVILLE: Your surveyor should be doing that.

MR. NICK COSTANZA: Well, you know, I was going to question that, except the problem was I -- I found out -- I'm trying to think. I don't know if it was before or after the closing.

BEVERLY GRIEBEL: Sometimes those things come up at closing.

MR. COSTANZA: I just sold -- the bank brought it up. I said, "Okay." I called the insurance company. You know, time was of the essence. I just --

BEVERLY GRIEBEL: You can't close unless you can get it. But get that clarified and show the flood plain limits. You will get a letter in the mail, but meanwhile, when your son gets home, you can describe to him what you need. Okay?

MR. NICK COSTANZA: Okay.

BEVERLY GRIEBEL: Table it to --

CHARLES RETTIG

MR. RETTIG: I think you owe the public the right to speak at a public hearing, hear the comments the same night as it is made.

BEVERLY GRIEBEL: This is coming back again.

RICHARD PERRY: Everybody will have their opportunity when all of the information is available.

MR. RETTIG: There are additional comments based on what has been discussed from the Board, from the side table, that the public has the right to make public comments at a public hearing.

BEVERLY GRIEBEL: Counsel?

KEITH O'TOOLE: A tabled hearing means just that. The comments will come later.

BEVERLY GRIEBEL: Okay. Motion to table that to August 22nd.

RICHARD PERRY: Was it August 22nd? I thought you said we couldn't get into it by then.

BEVERLY GRIEBEL: It is -- new applications are closed, but if he gets this in, two weeks before, we can hear it.

RICHARD PERRY: All right.

DAN MELVILLE: If you can't, let them know at the Town Hall so they don't put you on the agenda.

MR. NICK COSTANZA: It will be in.

PETER WIDENER: So moved.

GEORGE BRINKWART: Second.

DECISION: Unanimously tabled by a vote of 5 yes to table until August 22, 2006 at 7:00 p.m. if applicant has revised paperwork and information to the Building Department on or before August 8, 2006. If not, the applicant is tabled to September 26, 2006.

Applicant is to revise plans according to the following:

1. Lots 2, 3, 4, 5 to be close to one acre in size.
2. Lot #1 to have a 40' right-of-way.
3. Clarify north/south dotted lines on survey map.
4. Show flood plain limits.

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

4. Application of Robert Byer, owner; 925 Paul Road, Rochester, New York 14624 for variance to erect a 16' x 20' addition to garage to be 55' from front lot line (75' req.) at property located at 925 Paul Road in R-1-15 zone.

Robert Byer was present to represent the application.

MR. BYER: Good evening.

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

MR. BYER: My name is Robert Byer, B-y-e-r.

BEVERLY GRIEBEL: You're going to have this garage in front of the present one?

MR. BYER: Yes.

BEVERLY GRIEBEL: About the only place you can put it.

MR. BYER: Yes. I can't put it in the back because I have a beautiful silver maple there that I would have to cut down. It is over -- a 50-year-old silver maple.

BEVERLY GRIEBEL: The only way is to put it in front and have a pass through.

MR. BYER: It would protrude out past the house by 12 feet. I show a 16 foot addition to the garage, but my existing garage sets back 4 feet from the front of the house.

BEVERLY GRIEBEL: Okay. You're too close on the side to put it by your neighbor.

MR. BYER: Yes. The -- I have had that property surveyed several times, and it is -- they put the original garage a little bit too close to that side.

BEVERLY GRIEBEL: They don't think of it at the time.

MR. BYER: No. That is why I put that liber in there to show when the property was sold back in 1868, that particular piece.

GEORGE BRINKWART: Have you considered -- what about the location on the east side of the house?

MR. BYER: East side of the house is where my fireplace is, my living room. Um, it is one of the only accesses I have got to get around to the back of the yard, because I have no -- basically any access that is less than 6 feet wide on my west side to get to the back of the house, and on the side of my property, there is a 10 foot right-of-way also, which I might infringe on that.

MR. BYER: Plus I have got a real nice crab apple tree over there, too.

BEVERLY GRIEBEL: Hard to put years of growth into a tree and then cut it down.

GEORGE BRINKWART: Do you foresee any problem with stacking basically two garages end to end?

MR. BYER: Um, you mean lengthwise, the way it is?

No, I don't foresee any problem. My neighbor at 921 Paul Road, I know this addition will stick past the front of his house by 2 feet, but still be 3 feet behind the front of his porch. His porch will protrude out 3 feet farther than what the front of my garage would.

BEVERLY GRIEBEL: Have you had any questions or comments from your neighbors?

MR. BYER: No.

BEVERLY GRIEBEL: No one is objecting to what you're doing.

MR. BYER: No. Because both of my neighbors have put additions on and they have both remodeled.

DENNIS SCIBETTA: There have been several, I would say to -- somewhere in the neighborhood of three to five similar cases without the need of variance, in that general area.

PETER WIDENER: In looking at your drawings, they seem very accurate. 13 foot is the height of the new addition?

MR. BYER: Plus or minus, yes.

PETER WIDENER: Plus or minus inches.

MR. BYER: Yes. It has to stay below the second-story windows.

PETER WIDENER: Are you doing all of this work?

MR. BYER: No. I will sub it out. I wrote the -- I wrote this up as part of the requirements for the contractors to look at to give me bids.

PETER WIDENER: It is written up very well. I have no other questions.

DENNIS SCIBETTA: The only thing I would suggest, if it is approved, that you do need to come in for a building permit.

MR. BYER: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

HEATH MILLER, 69 Bellmawr Drive

MR. MILLER: I just had a question. What -- I just was wondering why you wanted to put on the addition? Why did you want the extra garage space?

MR. BYER: Because the original garage I would have there would be for my workshop. I tinker around in wood, and -- with saws, and this new addition would be where I would store my antique car. I have a welding machine, which I use as a generator on my property down in Allegany County. Also, I wanted to enhance the appearance of the house, because if you notice the newer houses being built, the garages are always protruding out farther.

DAN MELVILLE: They're almost all like that.

MR. BYER: They're all going in like that. So I figured by doing that, if I was going to do that, I might as well re-side the house, put new windows in, be done with it. It has a new roof on it. It is good for another 30, 40 years.

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

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

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

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

1. Only logical site for a garage expansion.

Note: A building permit is required before construction begins.

BEVERLY GRIEBEL: We had two earlier applications tabled at the beginning of the meeting, Numbers 7 and 8. I wasn't sure if anyone came in to address them.

5. Application of Yaro Enterprises, owner; 700 Trolley Boulevard, Rochester, New York 14606 for variance to allow front parking for 23 vehicles, variance to erect a warehouse to be 30' from side lot line (40' req.) at property located at 39 Jet View Drive in L.I. zone.

Kip Finley and Tony Kerick were present to represent the application.

BEVERLY GRIEBEL: This did go to Monroe County Planning and came back with some comments. "According to the New York State Department of Environmental Conservation, it appears a portion of a stream is located on the subject property. Streamsides, sometimes called riparian zones or stream corridors, are the link between land and water, and the health of streams depends in large part on the condition of the streamside. Over the past two decades, research has shown that naturally vegetated corridors along streams perform numerous services essential for human health and welfare. Healthy stream corridors can reduce floods; trap sediment; remove dissolved contaminants; contribute leaf matter (important for insect food and fish habitat); provide wildlife habitat; offer recreational opportunities; and increase aesthetic value and desirability of a property. In order to protect the stream corridor consider the following:"

It speaks to maintenance and removing the large branches, controlled water flow through the streamside buffer and preventing contaminants from entering the stream corridor.

"The site is located within the Greater Rochester International Airport review area. This application has been reviewed for airport considerations and has been granted airport approval under the following condition: That the applicant notify and coordinate the use of construction equipment such as cranes that are over 100 feet high with the Greater Rochester International Airport."

And it gives the contact person for that.

MR. KERICK: Tony Kerick with Yaro Enterprises.

MR. FINLEY: We are here tonight to ask for consideration for two items for variances for this project. Tony (Kerick) can answer regarding the trucking and the traffic safety on site, which is really part of the application.

We are proposing a 36,500, give or take, square feet distribution and warehouse facility with integral offices in the industrial park that is on Jet View and Airline Drive. The address is 39 Jet View, in between CM Forwarding and Clipper --

MR. KERICK: Label World.

MR. FINLEY: Similar use to most of the businesses in the industrial park. The reason we are here for variance is, the Planning Board has looked at it, and looked favorably on it. The Conservation Board has seen it at least once, I think twice, and we have modified landscaping some. They're in favor of it.

MR. FINLEY: We have two variances requested. One of them is to have parking in front of the front range line of the building, and the other is to push the building 10 feet into the 40 foot setback on this side of the -- the south side of the property. Um, the two reasons are, traffic and safety is for separating the -- the employees, the office staff, any customers that come in from the trucking docks to keep them apart. It is similar in character to most of the other buildings in the industrial park, and some cases, they have access to a side street, which makes it a little easier to bring the trucks around, and they can have parking on the side. In this case, the industrial park was developed with a lot of different sized lots. This happens to be one of the smaller ones. And we really don't have room on the side to be able to put the parking and still separate it from the truck traffic.

So that would be the reasoning for putting the cars in front. It is very -- it is the same as we did for CM Forwarding next door. Um, pretty much we are proposing what we learned from this one, is the landscape treatment. We provided a little different variety that the Conservation Board liked, and we recognize that as a whole, the Town wants the industrial park to look appealing and be nice to drive through, so we did provide landscaping. Um, the other issue with respect to trucking, as I had said, all of the lots are different sizes in the industrial park, and at the time it was designed, I don't know that they really foresaw the length of the vehicles that need to make maneuvers here.

Yaro Enterprises has three facilities right now around the country, and they're pretty used to what they need to maneuver, so we went and measured one to see where they were driving in the mud. They pull a truck in, and they back around, the truck drives in off the pavement. So we have accommodated that with 145 feet of pavement instead of what they used to use as 110 or 120. To do that, and still leave some green space on our property, we have asked to push the building 10 feet closer. That is a 25 percent reduction in the setback.

Other than that, we are a little pressed for space because there is a residential neighborhood here. We have to have a 100-foot buffer, plus an 80 foot setback, and all of that needs to be landscaped. So that really puts quite a constraint that we can't push the building back. We can't

put trucks back here (indicating), so we are a little tight. The only other thing was with respect to the stream, I'm not sure what they were looking at and planning. This is all a man-made detention basin with a concrete basin, and I'm thinking the stream originally started over in the subdivision. We traced it from head waters, and it goes around to little Black Creek, but there are no wetlands and the concrete gutter or the detention basin is usually dry, just a little water trickling along the concrete. With that, I would like to answer any questions.

MR. KERICK: I can explain more about the size of the trucks, the maneuvering, types of employees they have.

BEVERLY GRIEBEL: This is similar to other projects in that area, and I know some of them in the past have had truck traffic out in the back, which gets a little close to the residential area. I like this where you're not infringing on this at all. The side where you want to decrease the setback is next to Label World, another --

MR. FINLEY: Similar use.

BEVERLY GRIEBEL: Another similar use. So you're not against any residential property on that side.

MR. FINLEY: We needed to keep the buffer and not ask for a variance there, because that is where the culvert pipe cuts through the woods, and it is really pretty open to visual contact between the houses and the site. Some of the other places where they do park in the back, they have a couple hundred feet of woods, you really can't see the trucks, but we are fully exposed on the back door, and we need to keep that...

GEORGE BRINKWART: What are your parking stall sizes?

MR. FINLEY: I didn't lay them out, but I think they're 9 ½ by 18 or 20. We have the Chili ones in a cookie cutter. I mean, they're supposed be the Chili standard.

GEORGE BRINKWART: Very good.

Do you -- the reason you needed the 145 feet there is for your truck turns?

MR. FINLEY: Yes.

GEORGE BRINKWART: What size trucks do you anticipate?

MR. KERICK: 53 foot trailers, plus the cab, which is -- 16 is the smallest ones and they vary to 165.

GEORGE BRINKWART: Do you have truck turning templates on here to validate the fact you need the 145 feet?

MR. FINLEY: The truck turning templates don't stretch out to that, but when you go to the facility they're moving from in Gates, it is real obvious they go off the pavement in the mud. I'm sure drivers, if we put a barricade, they could somehow stay on the pavement. But most of the trucks have the sleepers for going across country, and they don't seem to be able to make it in the normal 110, 120 feet.

MR. KERICK: Especially with the new fancy trucks. The width of them, just the tractor is 165. We try to stick with the smaller ones, but some drivers still will come in with longer.

GEORGE BRINKWART: The numbers, 110, 120, still would be -- they would still have more space, more room than that. You have 135 feet, and you wouldn't have to encroach 15, 10 feet into the side setback. I was wondering if 135 would meet the requirements.

MR. FINLEY: I'm sure they can make it into there, but we are trying to avoid the muddy mess. We measured it at their facility to see what is being done in the field with their trucks.

BEVERLY GRIEBEL: Seen where they dug it up.

MR. FINLEY: You're correct. We could probably live with less, but we probably would end up with mud tracks off the side of the concrete. The Planning Board was sensitive asking us even about why we had gravel pavement, but at the cost per square foot for reinforced concrete, -- we have concrete pavement in all of the loading dock areas. The whole driveway and all of the places the trucks maneuver. Where they come back here for maintenance, we have gravel pavement because it is just not heavily traveled, but they were talking to us about gravel dust getting on the road, so we are really trying not to muddy the place up.

DAN MELVILLE: What are you warehousing?

MR. KERICK: General commodities. From electronics anything, plastic bottles, non-hazardous.

DAN MELVILLE: It also says in there you do smaller light truck repair.

MR. KERICK: For instance, many times you have a truck out on the road and the lights don't work. Especially with the weather out here, they corrode fast.

DAN MELVILLE: Not changing tires?

MR. KERICK: Tires we do. No oil changes. That stuff is all subcontracted. It -- transmissions is Metzger. Volvo International. They do all of that. We do check tires

because many times there is a bad tire on a trailer, it is the middle of the night and the truck has to go.

MR. FINLEY: Very much the basic maintenance that you -- and sheet metal, if the trailer is scraped or something, they will rivet that or put a mud flap on.

DAN MELVILLE: You do this during the daytime hours or night?

MR. KERICK: Yes. The mechanic is there all at the day time, from 8 to 5 usually, unless he needs to stay later.

BEVERLY GRIEBEL: What kind of product do you have? You're a distributor of product?

MR. KERICK: Um, we are -- we deal with a lot of electronics companies, many DVDs. Anything you see Best Buy, we -- we do Wal-Mart. We handle a -- we have a warehouse in Ontario, California; one in Spartansburg, South Carolina; one in Columbus, Ohio. We primarily run across country.

BEVERLY GRIEBEL: You don't manufacture things? You distribute them around.

MR. KERICK: We distribute, package and repackage. For instance, if a trailer comes in, the boxes all on the floor. We have to palletize them, shrink wrap them and label them for the end people that are using them.

BEVERLY GRIEBEL: There was one question not answered. Do you work for a government agency?

MR. KERICK: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I had some questions. I'm a little confused, I guess. Whose trucks are these that are being repaired?

BEVERLY GRIEBEL: Are these your trucks?

MR. KERICK: Yes. Mine --

BEVERLY GRIEBEL: You're centered in California and other places?

MR. KERICK: We are pretty much centered into Rochester. These are terminals we have out there that we branched out. But we have been in Rochester -- we started in 2000.

DAN MELVILLE: You basically do your own truck repair?

MR. KERICK: Not major truck repairs. For instance, transmissions --

DAN MELVILLE: But your own trucks?

MR. KERICK: They're all our own trucks.

DAN MELVILLE: You don't do independents or drivers?

MR. KERICK: We do, but we have -- we have kind of moved away from them. There is too much hassle. It is all our own trucks, our own trailers and our own equipment.

MR. FINLEY: The equivalent of your own cars you might change a bulb, or you might change your tire in the driveway, but if you needed an overhaul, you take to it a mechanic.

MS. BORGUS: How many trucks would be here?

MR. KERICK: Well, for instance, right now in our yard, when we left, there was two trucks. You know, Christmastime comes, people -- drivers need to stay home, there would be 20. We total about 25, 30 trucks. Max -- we are in transportation. We don't make money by trucks standing around. They run across country, so they may be gone for 15 days. Sometimes we have a truck gone for three months that never came back.

BEVERLY GRIEBEL: You could have various trucks in various numbers at one time.

MR. KERICK: Correct.

MS. BORGUS: When you have 20 or 30 trucks here, where do you put them?

MR. FINLEY: They never would actually be here -- as he said, the idea is never to have a truck parked here.

MS. BORGUS: He said at Christmastime there could be.

MR. FINLEY: We have ten here (indicating) and ten storage areas here (indicating). So there can be 20 right here in the confines close to the building that are hundreds of feet away from any of the property lines. And I mean that would be about the most.

MR. KERICK: Could you have three on the end part? You could put three in the shop if you need to.

MR. FINLEY: You can drive tractor-trailers into the three storage bays and the maintenance shop.

MR. KERICK: When -- for instance, the only time we have issues with -- you know, trucking being there at one time, would be during Christmas and it really wouldn't be such an issue,

because we have people that work from Ohio, drivers from Ohio, drivers from South Carolina. They park a vehicle. We have them park over there. So it actually would never be.

BEVERLY GRIEBEL: So they could be somewhere else in the country. You wouldn't have them all here at Christmas.

MR. KERICK: Yes. Ontario, California parked. It would -- even during Christmas, we give bonuses, and people drive.

MR. FINLEY: They have 25 trucks in and 4 places to keep them, so even if they were all parked, 25 wouldn't all be at one location.

MS. BORGUS: I am a little confused because Mr. Brinkwart asked you a question about the length of the trucks and you said some drivers preferred the -- the sleeper cabs.

MR. KERICK: Correct.

MS. BORGUS: If they're your trucks, how can they prefer -- I --

DAN MELVILLE: Those are probably independents.

MS. BORGUS: He said they don't use them.

MR. KERICK: For instance, when you go to work for somebody, to convince the driver, you got to give them benefits. One benefit is to drive a longer truck. You're not hitting all of the bumps in the road. Some drivers like longer trucks. There is -- International, Volvo, Freightliner drivers. European drivers prefer Volvos. They like the comfort, the visibility. I have southern drivers from South Carolina, they prefer long cabs, chrome. It's -- you now. It costs \$5,000 more, but when you resell it, also the money is there. So it is just a preference. It is a car -- like buying a car. Same things for drivers. We had the longer trucks. One driver loves, you know, long noses and fancy. The other guy doesn't. So this is where the problem gets in, where we are -- this guy doesn't really want to drive it. Yes, we tell them what to do, but drivers, they're like regular employees.

BEVERLY GRIEBEL: So you buy different ones to accommodate your drivers.

MR. KERICK: Yes. We primarily buy Volvos now. That is all -- we had the longer ones, but then this guy is real good on the short truck, and we give him a longer one and he damages them. So we just said no.

MS. BORGUS: I don't know if it has something to do with your application before the ZBA tonight, but what are all your colors on there?

MR. FINLEY: We started this drawing with the Conservation Board, so I was explaining to them that the green areas are -- there is grass and landscaping. Blue was -- blue is parking spots or storage spots. Yellow is the setback lines. Orange is the property lines. And pink is the buildings. It was just also in a room this size, just a little easier to answer questions.

MS. BORGUS: Now, there is nothing on this site at the moment?

MR. FINLEY: Just some brush. No buildings.

MS. BORGUS: No buildings.

MR. FINLEY: No buildings. It was never developed as part of the park. It was just one of the lots left.

MS. BORGUS: When you're talking about turning radii, you won't be turning into the space between the blue and the green, or are you only --

MR. FINLEY: Which one?

MS. BORGUS: Right here. (indicating). You will not be turning into here (indicating), this area?

MR. FINLEY: No. If this is a truck, they will come in like this (indicating), up to the end of the concrete, and then they back up to the loading doors. There are ten doors along here (indicating) that have the 4 foot drop, and then when they pull out, they will go this way (indicating). If they need to store a truck, they will come a little further and back to there (indicating). If they need to get here (indicating), they will come through here (indicating), and back up the ramp into the shop to get fixed, and then they will come out this way (indicating). All of the traffic is going this way (indicating). This does not connect to something.

MS. BORGUS: Thank you.

HEATH MILLER, 69 Bellmawr Drive

MR. MILLER: I'm not familiar with the fire code, but is there any problem with not having access to the south side of the building?

MR. FINLEY: No. It is going to be grass. There is a hydrant here (indicating), and the building is sprinklered, and they can -- they can pull their trucks down and walk hoses around and reach all sides. It doesn't need to have a paved fire lane.

MR. MILLER: Okay.

MR. FINLEY: They don't have to drive the trucks around.

MR. MILLER: Thank you.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: Just a general question. How many employees do you have now approximately?

MR. KERICK: It's about ten employees in the office.

MR. RETTIG: Are you adding any new additional employees with this additional square footage?

MR. KERICK: We are -- we are looking at it, but it is not going -- one, two. Not more.

MR. RETTIG: Are you using or applying for any COMIDA funding for this facility?

MR. KERICK: Yes, we are.

BEVERLY GRIEBEL: Any what?

MR. RETTIG: COMIDA.

MR. FINLEY: County of Monroe Industrial Development.

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

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

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

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following finding of fact was cited:

1. Side setback and front parking are in keeping with other development in the industrial complex.

6. Application of David Kessler, owner: 1 Minute Man Trail, Rochester, New York 14606 for variance to erect a 12' x 22' addition to garage to be 6'9" from side lot line (10' req.) at property located at 1 Minute Man Trail in R-1-15 zone.

Dave Kessler was present to represent the application.

MR. KESSLER: I'm Dave Kessler, the owner for 1 Minute Man Trail. This is pretty straight forward. I was going to maintain the same elevations, just adding on another 12 feet to the garage. It is a -- currently a single-car garage.

BEVERLY GRIEBEL: You're just around the corner. We have had --

DAN MELVILLE: What is the additional area needed for?

MR. KESSLER: Yes. A one-car garage doesn't do much any more these days.

DAN MELVILLE: Sided like the house?

MR. KESSLER: Actually, take that wall and move it over. I currently have an 8 foot, which is -- is.

DAN MELVILLE: Concrete floor and everything.

MR. KESSLER: Yes. Probably will pull out the existing floor and jackhammer it out and put a new floor in.

GEORGE BRINKWART: Appearance from the outside will match?

MR. KESSLER: Actually it will look better because I have three heights now. It doesn't look as good as it would with two.

BEVERLY GRIEBEL: This went to Monroe County Planning and came back as a local matter and airport approval. It is not going to be too high for the planes. That is always good news.

Certain properties fall in there and they have to go for airport review.

MR. KESSLER: More problems with any trees.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: It appears in looking at that that he never had enough side setback in the first place.

BEVERLY GRIEBEL: Existing garage.

MS. BORGUS: 10 feet. I don't think he had 10 feet to start with.

BEVERLY GRIEBEL: No.

DAN MELVILLE: No. Just under 8 feet.

MS. BORGUS: I think somebody messed up back when.

GEORGE BRINKWART: I don't think the drawing is to scale.

MR. KESSLER: The problem we have -- when I first came for an application, because -- I had a tape map. And they mentioned to me the tape map they didn't feel was good enough. So I used my neighbor's survey map next door, and that is what we used to go off and we found out the tape map is off about 4 feet. Which that is what she told me when -- when I started with the variance.

BEVERLY GRIEBEL: Sometimes you do get surprised.

MR. KESSLER: At least that was in my favor instead of the other way.

MS. BORGUS: My other question would be did this applicant have this house built or is this a second owner?

MR. KESSLER: I'm probably the fourth owner. This was a house built in the '70s.

MS. BORGUS: Thank you.

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

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

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

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following finding of fact was cited:

1. Only logical site for garage addition.

Note: A building permit is required prior to construction.

7. Application of Peter Romeo, 309 Canterbury Road, Rochester, New York 14607, property owner: Upstate Properties of Chili; for variance to create a lot with a depth of 219.68' (250' req.), variance to allow front parking for 8 vehicles at property located at 3313 Chili Avenue in G.B. zone.

DECISION: Tabled by a vote of 4 yes to 1 no (George Brinkwart) for the following reason/finding of fact having been cited:

1. Applicant failed to post the required Public Hearing notice sign.

Note: Applicant to obtain new sign(s) at the Building Department to post and maintain as per Town regulations.

Applicant must be present for the Public Hearing.

8. Application of Open Door Baptist Church, owner; c/o Steve Thompson, Bergmann Associates, 200 First Federal Plaza, Rochester, New York 14614 for variance to erect an addition to church to be 40' from side lot line (50' req.) at property located at 350 Chili Scottsville Road in PRD & FPO zone.

DECISION: Unanimously tabled by a vote of 5 yes for the following reason/finding of fact having been cited:

1. Applicant failed to post the required Public Hearing notice sign.

Note: Applicant to obtain new sign(s) at the Building Department to post and maintain as per Town regulations.

Applicant must be present for the Public Hearing.

9. Application of Metalico of Rochester, owner; 1515 Scottsville Road, Rochester, New York 14624 for variance to allow front parking per plan submitted at properties located 1511, 1515 and 1525 Scottsville Road in G.I. zone.

Kip Finley and Dean Southcott were present to represent the application.

BEVERLY GRIEBEL: This went to the Monroe County Department of Planning and came back as a local matter. And airport approval.

MR. FINLEY: Hello, everyone. Kip Finley, Avery Engineering, for the record.

This is Dean Southcott with Metalico Rochester.

Again, it will be just like it was with Jet View Drive. I know the site, he knows the business better so he can answer some questions.

The posting the signs was a real challenge because we had three parcels. We had three up one time for site plan and three up for zoning. We made it through, I guess.

BEVERLY GRIEBEL: It is hard because you have a lot of truck traffic in there and everything. It is a little difficult. I just looked from the road. I didn't go back and look. I didn't want to get involved back there.

MR. FINLEY: We were saying the Hail Marys in the back row they didn't blow down while we weren't looking.

This is a -- this is a parking expansion. This is a business that is doing pretty well. Metalico took over Lyell Metals a couple years ago. I don't know if everyone is familiar with the site. This is Scottsville Road. Just south of 84 Lumber and Paul's, I think it is called now.

BEVERLY GRIEBEL: It keeps changing names.

MR. FINLEY: I only know it because my daughter says, "Can I go to Paul's?"

Dewitt or Hanson is on the south side of the project. Right now, the biggest need is parking. They have 47 existing spaces. We really need about 80 to 85. You have 75 employees?

MR. SOUTHCOTT: Yes.

MR. FINLEY: And customers, people that come in to do their metal recycling have to pull out and park and -- while they go to the cashier to get their check. And really, parking in the front yard is something that they have had. These are -- this is a blow-up of this -- this shows the whole property. The point is that this blue dividing line is the process area in the back (indicating). This is all public space where you can get in without having to jump the fence or go through a building. Really, you cannot introduce parking and traffic into the process area. The cars would end up being crushed and shipped away.

So all they have really left is the front yard. We explored options of they either park on site or they have to park somewhere else on a rented lot and shuttle the employees or get them to car pool or something. It is a problem that I think a lot of businesses would like to have, to need all of the employees. What we have tried to do is spread it out a little. The yellow areas are additional pavement. The white areas already exist. So we are adding some cars on this side (indicating). We are widening out this side to add some cars (indicating). We are putting a few right at the front door for salesmen and customers.

And then we are putting some over on the side where it is already a gravel paved area, for some of the employees and office staff to come in.

They have two buildings. They have -- the office and a large warehouse, which is the yellow one here (indicating). Three buildings. I forgot. This is a shop (indicating). This is a repair shop and office in the front (indicating). So the staff is spread out throughout the site. Our parking is spread out. They will have assigned parking, so everyone will have their own spot that they go to. I wasn't totally paying attention when I was hanging these up, but you said you did see the comments from the County on this one.

BEVERLY GRIEBEL: Yes. Local matter, airport approval.

MR. FINLEY: There was a subsequent letter from the State D.O.T. asking us to come in and talk about the number of driveways. I don't know if you had gotten that one yet. We have an

appointment Thursday to go in to talk to them.

They're all three existing driveways. They park employees over here now (indicating). They park here and here (indicating). We are just getting things more organized, boosting the number.

BEVERLY GRIEBEL: You have three tax lots.

MR. SOUTHCOTT: We'll try to combine.

BEVERLY GRIEBEL: One driveway per lot.

MR. SOUTHCOTT: We are actually combining the three lots in one lot.

MR. FINLEY: The Assessor asked if we could have them look into combining it. I imagine it would – makes paperwork easier. There is no business reason to keep it separate. There are traffic reasons to keep this separate, because this aisle, down the side of the building, they come in the back and can only go one way. There is no way to turn around. This is where they have dumpsters. Right now I have to say it has been a little haphazard, and the dumpsters are out in front where it is visible.

MR. SOUTHCOTT: We moved out and made room in the back of the yard.

MR. FINLEY: They are being conscientious about pulling the dumpsters back in here (indicating). In a case like this, too, the -- the area that you have seen along that is gravel, is actually part of the trail that is connecting the Genesee Valley trails. One part comes out by 84 Lumber. And then it is going to connect down to Jefferson Road and a trail along there.

So in this case, we are only required to do 1 percent for landscaping, 1 percent of the construction cost, which is only -- since we are just doing some paving, it is only \$600. It is only a couple trees. In this case, they're going up to almost \$12,000 to really make the front of the property look better, put in a lot of landscaping. They recognize that metal recycling is not the prettiest thing, so they're doing whatever they can.

Again, a new sign, the flagpole up. And they have done some landscaping in the front. So I mean, as a trade-off for the parking, they're taking seriously that the trail is going to be there in another year. They don't want people going past there and just having all of the parked cars and trucks all over the place. So I think this one we are asking -- the wording escapes me. I think it is expansion of front yard parking.

BEVERLY GRIEBEL: Front parking per plan submitted.

MR. FINLEY: Kathy (Reed) didn't want to count up where they all were and which tax lot they were on.

BEVERLY GRIEBEL: It is a little confusing.

MR. FINLEY: That is the variance that we are looking for. I -- we really don't have any practical options. We can't put the cars in the process area. We don't want them off site.

BEVERLY GRIEBEL: You know, when you drive by, as many times I have been by on Scottsville Road, I never knew there were that many people working, and this goes back. This is huge.

MR. SOUTHCOTT: We have grown quite a bit.

MR. FINLEY: It is a pretty good business. There are a couple around doing very well, trying to get the recycled material back into the economy.

BEVERLY GRIEBEL: I didn't even realize all of that was going on back there, just driving by Scottsville Road.

MR. FINLEY: Maybe we don't really need all those trees.
(Laughter.)

BEVERLY GRIEBEL: That would buffer it even more.

MR. SOUTHCOTT: Keep the trees.

MR. FINLEY: You really don't notice it from the south going north because all of the woods around Hanson pretty much block it. By the time you're there, you passed it. The other direction, the landscape architect focused more on the people coming southbound because everywhere you look, you can see the buildings and the parking. So the trees are more slanted towards the other direction, coming down the way they're designed.

BEVERLY GRIEBEL: That is good. You will lose a fee -- a couple trees in here, but then you're putting up many more.

MR. FINLEY: One of the ones on the south parcel is just about dead. The locust tree is about dead. The maple tree is in good shape, but it is just in the way. And we -- the cotton woods unfortunately are still alive.

BEVERLY GRIEBEL: They don't die, do they?

MR. FINLEY: No.

GEORGE BRINKWART: No questions, other than the typical parking spaces, 9 ½ by –

MR. FINLEY: They better be, or somebody is in trouble back at the office.

GEORGE BRINKWART: No curbing is proposed. This is all paving to edge and then landscaping.

MR. FINLEY: The only curbing that is proposed is right at -- where the office is, so the cars aren't coming up into the landscaping. The rest, unless D.O.T. changes our mind Thursday, is all open drainage out to the existing drainage areas.

MR. FINLEY: I didn't ask or maybe it is too late to ask now, with the -- would the rule about an island in every ten spaces or something, is that a Zoning Board or Planning Board?

BEVERLY GRIEBEL: That is generally this Board.

MR. FINLEY: It just dawned on me for Jet View we have 23 spaces, but we have landscaping all around the whole thing, and it is not very big. Now I just wondered about this too. We have landscaping all around it, but with all of the truck traffic, we didn't put islands in.

BEVERLY GRIEBEL: Side table, should they add that?

KEITH O'TOOLE: Yes.

MR. FINLEY: Could we ask it be waived since we are putting all those trees and shrubs in?

BEVERLY GRIEBEL: Well, it would be a variance from this Board.

DAN MELVILLE: You would have to reapply for that.

BEVERLY GRIEBEL: Could this be added in, side table? Would it have to be readvertised or is that minor addition?

KEITH O'TOOLE: I was speaking with the Building Inspector. They're of the opinion it is a code interpretation issue that runs to the Planning Board. The code is actually a little more clear on that.

BEVERLY GRIEBEL: So the Planning Board can --

KEITH O'TOOLE: They can waive the requirement, yes. But if they choose not to, then they would have to come before the Zoning Board.

BEVERLY GRIEBEL: That would hold true for the Jet View application, too.

DENNIS SCIBETTA: They have also discussed those for site plan approval --

BEVERLY GRIEBEL: But they have not --

MR. FINLEY: We have not gotten to that point yet. I just wanted to ask because I don't want to come back.

BEVERLY GRIEBEL: Don't like us.

MR. FINLEY: I think it has been great. I just -- two, three night meetings a week is a little much.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

HEATH MILLER, 69 Bellmawr Drive

MR. MILLER: I had a question, and actually I was going to bring up that point about parking. Um, I know in the code, it is found in Section 115-33. And -- let's see. It is (G)10. And it just says in all parking areas of more than five vehicles, parking shall be so distributed as to service the individual units or businesses. There shall be no more than 250 feet between car and door. Parking lots shall be kept small in and in other ways broken into smaller units through provision of islands and plantings. Parking spaces shall not run continuously more than ten adjacent spaces. So I guess I was going to bring up that point and ask if they had already gotten a variance -- I see for the existing parking spaces, there is what, 18 or 19 continuous spaces, and it also dawned on me with your other application.

MR. FINLEY: Guess we'll have to come to the Planning Board meetings for that one. But in our case, the Jet View one was only a one-sided aisle, instead of two sides, so we broke it up that way, and it is landscaped all around.

In these, the parking is spread all over the site. So to access the number of employees that go to those buildings, and then there is landscaping totally around all of the those, too. So I will have to talk with the Planning Board.

MR. MILLER: I don't know why this Board wouldn't grant a variance to allow the existing 18 or 19 spaces. I just think it would be proper for you to come back and -- I know it is a pain. I'm sorry, they didn't catch it for you earlier.

MR. FINLEY: My understanding is that the Planning Board deals with it.

BEVERLY GRIEBEL: The side table said they can excuse it.

MR. FINLEY: Or we can put an island in if we don't want to go for a variance.

BEVERLY GRIEBEL: You don't want to loose too many spaces because you're kind of

cramming them in.

DAN MELVILLE: It is a nightmare for plowing, too.

BEVERLY GRIEBEL: That is a problem. You don't want to be limited; we have only 75 spaces, we can't hire any more people.

MR. FINLEY: We have to cut down a tree to hire a secretary.

BEVERLY GRIEBEL: That is not good.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: How many employees do you have at this site?

MR. SOUTHCOTT: Right now, 73, 74. We are looking at adding three or four within the next week. Actually, we are hiring a couple of drivers and a couple warehouse people.

BEVERLY GRIEBEL: They're a thriving business. That is good.

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

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

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

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following finding of fact was cited:

1. The only logical space to create parking among various buildings and also separate the public from waste metal processing.

The meeting ended at 9:05 p.m.