

CHILI ZONING BOARD OF APPEALS  
August 26, 2008

A meeting of the Chili Zoning Board was held on August 26, 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: David Cross, Adam Cummings, Tracy DiFlorio, Robert Mulcahy, James Wiesner and Chairperson Paul Bloser.

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

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: Anybody have any of the questions on the signs?

The Board indicated they had no problems with the notification signs.

1. Application of Steven DeHaven, owner; 123 King Road, Churchville, New York 14428 for variance to allow the total square footage of garage area, including a new 36' x 54' detached garage to be a total of 2,296 sq. ft. (900 sq. ft. allowed) at property located at 123 King Road in R-1-15 zone.

Steve DeHaven was present to represent the application.

PAUL BLOSER: This application is being reheard. It was tabled several months ago at the request of the Board, feeling we need a little bit more information from the State, and also Army Corps of Engineers on the lot.

Also, we wanted to get some confirmation from the Town Highway Superintendent on drainage issues. It's more -- just more clarification on details so that we can see what the environmental impact was overall on this. It is a large building. By driving by the front of the property, it can be very deceiving without a lot map. The front is narrow. The houses are going down the street. But on the lot map, it opens up greatly, and a fair amount of acreage in the rear.

I have been out on the site twice now, once with the previous Highway Superintendent on some of the drainage issues, and of recent to see a little more what is in the back, how this will be laid out in proximity to some of the lines, and to get a better feel for the elevations back there for drainage.

At this time, Mr. DeHaven has -- in the packet which each of you have in front of you, you have a property card with the history of applications here. You can see through Planning Board on two occasions there has been subdivision approvals to open up this lot into one. This used to be an agricultural lot in the rear. Mr. DeHaven has bought the land behind numerous of the houses in the back, going all of the way back to the CSX tracks. You all received a file copy or you have in front of you from Dave Lindsay regarding the lot and drainage. Mr. Lindsay is working with the homeowner, the applicant on this.

I also have a letter from the New York State Department of Environmental Conservation. They're a matter of public record now. They do not have a problem with anything back there regarding this application.

And I also have the one dated July 14th from the Department of Army Corps of Engineers saying they are not interested in any of this, that it fits their needs without any questions.

So at this point, he has fulfilled our requests, what we have asked him. I asked Mr. DeHaven to come back in and give us a little bit more description of what he is doing back there, and reasons why he would need a building that large at this time.

MR. DeHAVEN: I made up some maps and everything to show you guys where it is going to be. And I also made a -- what the barn is going to look like inside and some of the stuff that I would like to store inside so it is not outside in the weather.

MR. DeHAVEN: The closest to any lot line I would be is 100 foot from the east lot line.

PAUL BLOSER: You're 216 from the west it looks like?

MR. DeHAVEN: Correct.

PAUL BLOSER: 214 from the rear of the house.

MR. DeHAVEN: 240 from the rear of the house, yes.

PAUL BLOSER: Your lot goes right back then to --

MR. DeHAVEN: All of the way to the railroad tracks. On the one side I have 761 feet, and on the other side, I have oh, 872 feet.

PAUL BLOSER: Okay.

MR. DeHAVEN: Right now this equipment is sitting outside. I would like to keep it

inside. It's expensive.

PAUL BLOSER: For the Board's reference, too, I did go in the back. He has quite a large amount of land back there that he's gardening for his personal use, for canning and for putting away for winter. The implements he has back there to go on the back of his tractors, they're all used back there. You can see they're used. He has a fair amount of investment in equipment and right now everything is sitting outside throughout the property.

MR. DeHAVEN: My garden is 50 foot by 100 foot. I grow quite a bit of stuff back there.

DAVID CROSS: Do you have a road that goes back to the pole barn?

MR. DeHAVEN: No. I have already talked to -- they said I didn't need a variance for it. Right alongside the garage, my driveway goes alongside the garage. I'm going to extend it straight along the back.

PAUL BLOSER: With a paved or stone driveway?

MR. DeHAVEN: Stone.

PAUL BLOSER: Stone base to get back there?

MR. DeHAVEN: Yes. And I have my neighbor here that is going to be between our houses, and I also have a letter here from my other neighbor that couldn't make it that states that he really doesn't have any problem with the barn being put up there.

DAVID CROSS: Do you have any other auxiliary structures on site?

MR. DeHAVEN: There is a couple 8 by 12 sheds.

DAVID CROSS: Any thoughts of taking those down once you put up the structure?

MR. DeHAVEN: Not at the moment. I can ponder it, but right now I haven't.

There won't be any electric back to the barn.

PAUL BLOSER: No water lines.

MR. DeHAVEN: No water, electric nothing, just for storage.

PAUL BLOSER: Will you be heating it at all?

MR. DeHAVEN: No.

PAUL BLOSER: No wood-burning stove or anything.

MR. DeHAVEN: Nothing.

PAUL BLOSER: Is there a second level in this barn?

MR. DeHAVEN: No.

PAUL BLOSER: Side wall height, approximately?

MR. DeHAVEN: The roof is going to be approximately 20 foot. Sidewall.

PAUL BLOSER: Peak of your roof is at 20 foot?

MR. DeHAVEN: Yeah.

PAUL BLOSER: Did you have a drawing of the proposed structure?

MR. DeHAVEN: I have one here. Well, it's not a drawing, but it's a -- it's a description of it.

PAUL BLOSER: Finger Lakes -- are you going to continue with them?

MR. DeHAVEN: Correct.

PAUL BLOSER: 4/12 roof.

JAMES WIESNER: What size are the overhead doors? It looks like there is two?

MR. DeHAVEN: We'll put one overhead door on the east side. There won't be anything on the west side. It's going to be 16 -- it's different from there, because we changed it, but it is going to be 16 by 10 or 16 by 12, I think.

PAUL BLOSER: No other overhead doors?

MR. DeHAVEN: No. Just the one on the east side.

PAUL BLOSER: Will you have a man door?

MR. DeHAVEN: There will be a man door on the north side?

PAUL BLOSER: Windows?

MR. DeHAVEN: No windows.

PAUL BLOSER: Is this a steel side?

MR. DeHAVEN: Steel-sided, steel-roofed.

PAUL BLOSER: Steel-roofed also?

MR. DeHAVEN: Correct.

PAUL BLOSER: I see you got dimensions of the -- basically box dimensions what you have, trailer wise and so forth?

MR. DeHAVEN: Correct. My daughter scratched her head and made this all up for me. It's supposed to be a quarter inch represents a foot.

ROBERT MULCAHY: She did a pretty good job.

PAUL BLOSER: This will get everything off your lawn?

MR. DeHAVEN: Correct.

PAUL BLOSER: Side yards?

MR. DeHAVEN: Yep.

DAVID CROSS: What is the square footage of your house itself?

MR. DeHAVEN: I will give you the measurements of my house. My house is 24 by 36.

DAVID CROSS: Including the garage?

MR. DeHAVEN: Not including the garage. The breezeway is 9 1/2 by 22, and the garage is 16 by 22.

PAUL BLOSER: What was the house size?

MR. DeHAVEN: The downstairs is 24 by 36. The upstairs, the living space is 15 1/2 by 36.

PAUL BLOSER: You have a second story in that, correct?

MR. DeHAVEN: Correct.  
PAUL BLOSER: Same square footage.  
MR. DeHAVEN: No. It is 15 1/2 by 36. It's a cape. I couldn't go all of the way out to the walls. It has a 12/12 pitch on it, and it doesn't leave you a whole lot of room there, so.  
DAVID CROSS: 1500 for the house?  
ADAM CUMMINGS: 1520, 1522, somewhere around there.  
PAUL BLOSER: And then the enclosed breezeway, right?  
MR. DeHAVEN: Correct. That is 9 1/2 by 22.  
ED SHERO: The only comment I would make is I think you all have the letter from Dave Lindsay. He was just a little concerned what the final elevation of the barn would be.  
MR. DeHAVEN: I had Dave Lindsay out there, and he said he didn't have a problem with it. The only thing he wants, is once this is done, he wants what everything is going to look like as far as the stone is put down for the building. He -- he said he didn't have a problem, but they said they wanted a drawing of it, what it is supposed to be like. But he has been out.  
ED SHERO: As long as you're aware of that, and we'll make it a condition or -- if you didn't have --  
PAUL BLOSER: That's documented in his letter, the intention of approval.  
ED SHERO: Nothing further.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: The only comment I would have is this still is R-1-15. And this is a mighty big barn. Is this going to be higher than the house? I know it's a ways back.

MR. DeHAVEN: The house is 24 foot to the peak.

MS. BORGUS: It's just -- just concerns me week -- or month after month --

PAUL BLOSER: We get a lot of them.

MS. BORGUS: -- that we get these huge barns. I mean we are very close to the city, and I -- eventually I think as the city moves out and it will -- may not in our lifetime -- but this is going to be a problem. You have to wonder, too, if this land is sold, who is going to buy it and what are they going to do with a building this big. It's worrisome. I understand everybody likes to put everything in, but has it been asked of this applicant what he does with all of the produce that he produces on this acreage?

PAUL BLOSER: I did ask the applicant that question, yes.

MS. BORGUS: I missed it if you mentioned it here tonight.

PAUL BLOSER: It's for his own use, not sold at the street or commercial.

MS. BORGUS: Having a farm ourselves, I know that's a lot of equipment for how many acres?

MR. DeHAVEN: Almost 40 acres I own back there.

MS. BORGUS: It's a lot of equipment. The whole thing kind of bothers me, and I don't quite know why except it's just a huge building in a residential area, and I wonder if something smaller wouldn't suffice.

Thank you.

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

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

DAVID CROSS: It is big.

The Board discussed the application.

PAUL BLOSER: It is a piece of land that is land bound. It won't be developed based where the tracks are and the taper of those back lots. Unless it was resubdivided out. He just spent quite a bit of money to get that under one tax ID number. And I have been there and seen what he has got back there. I would rather see it inside than outside. With the investment he has in equipment also, that's something I look at as -- he is using it. It's not just sitting there.

TRACY DiFLORIO: Are there tracks back there? CSX tracks?

The Board discussed the application.

PAUL BLOSER: Just the north side of the tracks, this side. There is a drainage ditch back there the Town does have right-of-ways to. They have done some maintenance in the past back there. There is a couple of culverts back there that -- I know Joe Carr has been back and serviced those over the years. That's one of the things I talked to Joe (Carr) about and Dave Lindsay also.

ROBERT MULCAHY: Where do they get access to that --

PAUL BLOSER: I believe along the track line. I'm not sure.

MR. DeHAVEN: The Town?

PAUL BLOSER: Yes.

MR. DeHAVEN: They come right off of King Road.

ADAM CUMMINGS: There is an easement.

MR. DeHAVEN: Just before the railroad tracks is where it goes -- they go right along there.

PAUL BLOSER: There is a service road there.

MR. DeHAVEN: Then they go between the houses where it comes out from the streets.

ADAM CUMMINGS: Are you looking to expand the farmed area, the garden area?

MR. DeHAVEN: Pardon me?

ADAM CUMMINGS: Are you looking to expand the garden area?

MR. DeHAVEN: No.

PAUL BLOSER: Adam (Cummings), I didn't hear that question.

ADAM CUMMINGS: I just asked if he was looking to enlarge his garden at any time.

MR. DeHAVEN: The kids would like to see it all grass right now.

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 Bob Mulcahy seconded the motion. All Board members were in favor of the motion.

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

1. The Town Highway Department must approve grading and elevation prior to building permit issuance.
2. No outside storage of lawn, garden, or recreation equipment.

The following finding of fact was cited:

1. The requested variance will not create an undesirable change in the essential character of the neighborhood.

Note: A building permit is required before construction begins.

2. Application of Kim & Cynthia Weaver, owner; 189 Morgan Road, Scottsville, New York 14546 for variance to erect an open porch to be 46' from front lot line (100' req.) at property located at 189 Morgan Road in A.C. zone.

Kim and Cynthia Weaver were present to represent the application.

MR. WEAVER: My name is Kim Weaver.

MS. WEAVER: I'm Cynthia Weaver.

MR. GOODWINE: Kevin Goodwine, the contractor from American Custom Services.

PAUL BLOSER: Going by the front of the house, I can pretty much see what you're doing there. It's an older home, preexisting to the codes. And you -- to your west, the little embankment or a creek is there, or a swale?

MR. WEAVER: Coming off to the right-hand side of the house there is an embankment that goes into a field.

MR. SINACOLA: It's past our property line.

MR. WEAVER: Yeah.

PAUL BLOSER: Kevin (Goodwine), is that what you said your name is?

MR. GOODWINE: Yes, my name is Kevin (Goodwine).

PAUL BLOSER: I assume you're doing the work?

MR. GOODWINE: That's correct.

PAUL BLOSER: Is this all stone?

MR. GOODWINE: Um, it's a cultured stone on the front elevation, that's correct.

PAUL BLOSER: Wood structure underside?

MR. GOODWINE: It's a combination of masonry structure, stone and then wood basically from about 36 inches up.

PAUL BLOSER: Okay. Are you doing additional work on the front of the house, siding or anything to tie it in?

MR. GOODWINE: Yes. We're going to be doing the whole front elevation and also the western exposure is going to change also with the vinyl siding that is consistent with the front elevation change. So the whole front elevation change will become a vinyl shake product line with some pretty nice details pertaining to the door surrounds. The bay window design is also changing. The roof slope on the bay windows, increasing over the actual shell projection now, so the whole front elevation, including the existing fireplace facade will get upgraded.

PAUL BLOSER: What is your time frame for completing this?

MR. GOODWINE: From start to finish, it's about eight weeks.

PAUL BLOSER: Nice set of plans. We don't often get them. It's nice. Should be a very nice addition to the neighborhood.

It is a rural setting. Shouldn't be any impact with snowplows or any type of traffic that I

can see when I went by it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Two questions. Will this extend out toward the road further than the homes on either side?

DAVID CROSS: No.

PAUL BLOSER: There --

MS. BORGUS: There are no homes on the one side?

PAUL BLOSER: On the one side there is not.

MS. BORGUS: I'm trying to think how it will affect the neighbors. Will it extend out further than their home with the addition?

MR. WEAVER: We have a neighbor two doors up who put a -- an extension on the front of his home, and I believe this will match or come within inches of his extension.

PAUL BLOSER: We just approved one within the last couple of months, too, I believe, Dorothy (Borgus), very close to this same thing, putting a front porch deck out in front of the house. It was within a foot of the same setback.

MS. BORGUS: My other question regards siding. Did I hear that the two sides of the house are going to be resided?

MR. WEAVER: Yes.

MR. GOODWINE: Yes, that's correct.

MS. BORGUS: What about the other two?

PAUL BLOSER: I believe he said it was to match what is -- has already been done existing. It will tie it all back in together aesthetically?

MR. SINACOLA: As you come down Morgan Road and you see the side of the house, we wanted that side of the house to match what then you would see coming across the front of the house.

As you pass the house going down Morgan Road there is a hedge row, so either direction -- coming back the other direction, you cannot see that side of the house at all and the vinyl siding that is there in excellent condition is the back of the house. The vinyl siding in the back of the house is excellent. We chose a slightly darker color for the front of the house because we thought would it be better with the cultured stone and just be more appealing and more aesthetic. Still gray. It will still match around gray, but as driving down the road from either direction, you would only ever see two sides, the front and the one side that is going to be wrapped with the same siding.

MS. BORGUS: Okay. Thank you.

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

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

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. The Board all voted yes on the motion.

Bob Mulcahy 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 6 yes with no conditions, and the following finding of fact was cited:

1. The requested variance will not create an undesirable change in the essential character of the neighborhood or nearby property.
3. Application of Mr. & Mrs. Jeff Berger, 5477 E. Avon Road, Avon, New York 14414, property owner: Mr. & Mrs. John Berger; for variance to erect two 10' x 16' horse shelters to be 45' from side lot lines (100' req.) at property located at 135 Morgan Road in A.C. zone.

Mrs. Berger was present to represent the application.

MRS. BERGER: Good evening.

PAUL BLOSER: You were just here.

MRS. BERGER: Yes, I was.

PAUL BLOSER: Tell us what you're doing. There has been some changes.

MRS. BERGER: We'll erect some shelters for the horses that -- we plan on having two on the property. We're okay for four.

But there were some concerns about there not being shelters for the horses, there being just storage for their needs, but not for them, so we thought we would put up a couple, three-sided, simple lean-to kind of things so that they can get in and out of the weather or mostly out of the storms if they come through.

There is a lot of other shelters through the trees and the hedge line. It is a very secluded backyard. Nothing will be towards anybody else's property lines. There is a cornfield on one side, and I think it's even a gully on the other side that the neighbors don't have property back there.

PAUL BLOSER: So these are three-sided lean-tos?

MRS. BERGER: Three-sided, I guess, is not a lean-to because there will be a back and a roof on the top. Three-sided, with a roof, but the one side will be open.

PAUL BLOSER: What side will your opening be facing?

MRS. BERGER: Facing the east.

PAUL BLOSER: For clarification, we're looking at the map right side up. North is at the top of the page?

MRS. BERGER: Correct. That is the house up there. Where the fence line starts is where a cornfield is off to the one side. There is no homes back there. There won't be.

PAUL BLOSER: It appears you're doing two separating these then?

MRS. BERGER: So we can switch the horses from different pastures so the grass can grow from one to other while they graze.

ROBERT MULCAHY: How many horses did you have again?

MRS. BERGER: I have two.

PAUL BLOSER: Now, with this divided up like this, what is your intent for quantity of horses?

MRS. BERGER: Just two for each pasture. We can have four from what the vet gave us permission to have with the housing, and our -- our plan is we can have four, but we only plan on having two. We may breed the mare, but that's in the distant future.

PAUL BLOSER: How will these be constructed?

MRS. BERGER: My husband will build them out of pine.

PAUL BLOSER: Will these be similar to sheds? What kind of roof will they have?

MRS. BERGER: I think they may have a metal roof. It depends what is more economical. I think most of them are built with the tin, I believe. I think that will be in the permit, when we get the permit for the building. That will all be determined then. I'm not sure if the wood construction is more feasible with -- with -- with the shingles or not.

PAUL BLOSER: What are the sheds constructed of now?

MRS. BERGER: They're wood. They're wooden. They have like the rolled out shingles on them now. One is green, one is red. We plan on recovering them sometime in the future, too, but there are other things to do first.

DAVID CROSS: At the June meeting we approved four horses on the property.

MRS. BERGER: Right. My father-in-law wants to get a donkey. We're trying not to, but that would give us three. But that is something that might happen in the future, but plan on only have two at a time.

DAVID CROSS: At that time I remember asking about shelters. You didn't think they were necessary.

MRS. BERGER: Well, the one horse I have is 21, and I did retire him. He is semi-retired and I found him a different home. He wouldn't want a shelter.

The other mare we have doesn't want a shelter.

The other one is a trailer house. They dig, they paw, they want to go out. But if we do breed, we would want something for them to be in or another future horse might possibly want to be in. These ones we have now don't -- they will be blanketed and things. It will just be opportunity for them if they want.

Sometimes it is mostly for flies. If they go underneath an overhang, the flies don't bother them as much. It is something that will be good for them to have, if they want it.

ROBERT MULCAHY: When would you plan to build these?

MRS. BERGER: Probably late fall, early spring, depending on when we got our fencing up. They're not constructed yet. So we would be doing the fences first and see where our finances are at the time and make sure we have the materials to do them at all the one time and apply for the permit. I am assume that takes time, too. I have never done this before.

ROBERT MULCAHY: Do you plan to put them in the middle?

MRS. BERGER: You want the clearance on each side as most as possible, so we figured 10 feet at the northern side. We'll have 45 feet from either side of the shelter clearance.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Does the applicant's husband have any experience in building sheds?

MRS. BERGER: Yes. And my brother-in-law is a carpenter. He's -- will be helping us.

MS. BORGUS: And is the outside of these -- the exterior going to be finished in any way?

MRS. BERGER: They will be stained. This will be pine, so we'll stain them so they will be waterproofed.

MS. BORGUS: And maintained in the future?

MRS. BERGER: Yes.

MS. BORGUS: With the same finish?

MRS. BERGER: Yes.

MS. BORGUS: According to the code, as I understand it, the building has -- to house animals has to be 100 feet from the boundaries, and this is how many, 45 from each side?

MRS. BERGER: We hoped -- hope to buy the property next door at some time to make it more.

MS. BORGUS: And then I'm concerned, too, about the other sheds. I assume they're going to be left. Now we'll have four. We'll have four sheds in a residential area.

PAUL BLOSER: Before you go farther, Ed (Shero), just for clarification, from a Building Department standpoint, we have got two sheds and we're doing lean-tos. Do the lean-tos fall under any type of other classification? Are they still classified as structure with square footage because it is three-sided, not enclosed? How is that interpreted?

ED SHERO: Good question. I don't believe it's called a shed. You can't have the horse in a shed. So you have a shelter, which is not considered a shed. So it's --

MRS. BERGER: There won't be a foundation to the building either.

PAUL BLOSER: Just a post construction. Will the siding go right to the ground or an air gap?

MRS. BERGER: Probably an air gap so it doesn't rot. I think. That's where my brother-in-law will have to tell us.

ED SHERO: If you could restrict it, somehow that the shelter never becomes a shed. They're approved as a shelter for the horses and not for storage of equipment or --

PAUL BLOSER: I have a couple of things in mind for restriction, but I'm looking for really are we looking now at the accumulated square footage of all of these, the structure square footage? Is it interpreted differently?

ED SHERO: I don't believe that that cumulative square foot -- I know where you're going with it, saying it is part of a shed.

PAUL BLOSER: It's not so.

ED SHERO: No.

PAUL BLOSER: Correct. Okay. That is what I was looking for.

Thank you.

ED SHERO: You may want to ask the Town lawyer, though.

MRS. BERGER: They are sitting way far back from the backs of the house, 300 feet down and they won't even be visible.

MS. BORGUS: If I were sitting on that Board, I would have some reservations about this whole process. We were approved for four horses which, you know, they can say they want to do two now, but you and I -- all of you know, I'm sure, if they were approved for four, they can have four and there is nothing anybody will be able to do later. We're talking about buying more land and breeding horses, and I think this is -- this is just a chancy arrangement. This is a residential neighborhood. These are -- there are homes here. I'm sure everybody over there is not a horse lover.

MRS. BERGER: There are many horse farms over there.

MS. BORGUS: Maybe there shouldn't be many horse farms over there, because I'm sure they will be illegal if they are.

PAUL BLOSER: I will ask you to keep your comments directed to the Board.

MS. BORGUS: If it -- they're there, doesn't mean they're legal and they should be there, but we're maybe taking a part of Town and turning it I will into something we never intended it to be, and I have a problem with four buildings on a residential lot. I don't care whether you call them sheds, or you call them lean-tos, whatever you call them, I just have a problem with that. If I were on that board, I would think long and hard on this.

PAUL BLOSER: Thank you.

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

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

PAUL BLOSER: Counsel, anything you would like to comment as far as how these are, by definition?

KEITH O'TOOLE: No. There is no provision in the AC District that restricts the number of sheds.

PAUL BLOSER: As far as Board discussion goes, if we were to put this up to vote, a condition I would like to see is that the siding of these structures, if approved, all four would match and be consistent, even if it's three sides coming up with an air gap on the bottom side. Um, I mean there are houses close in proximity here to the sides, both sides, and I think in fairness to the neighbors that we don't have a rainbow of colors out there, that we be consistent in siding and color. And I would even go so far as to say possibly roofing, to have it -- a continuous look on the property. I think that would be more aesthetic.

DAVID CROSS: You okay with that?

MRS. BERGER: Yes. That's what we're planning on.

PAUL BLOSER: I guess I will make the comment also that when we were here a month or two months ago, it was we weren't going to have any horses, and these are the kind of horses that would live all year around in any kind of weather, and we kind of put the horse before the cart on this one.

MRS. BERGER: Well, after so much concern was voiced, we thought maybe we should

put up the shelters.

PAUL BLOSER: And we did put the condition in there no other structures until -- unless it came before the Board for approvals, and here we are.

TRACY DiFLORIO: But we give the approval based on the fact --

PAUL BLOSER: We put the condition in there no structures unless approved by the Board and they're here for it. So I guess if we're going to give approval on this, or vote on it, the condition that I would like to see on here is that the appearance, siding and roofing be consistent throughout the property, and color of the four structures.

DAVID CROSS: Agreed.

ADAM CUMMINGS: I would say something like the Building Department said no enclosure of it or conversion from a shelter to a shed or a storage facility.

PAUL BLOSER: How I have written these conditions of approval would be Number 1, all out structures, parentheses two existing and two proposed, be consistent in siding materials, roofing and colors.

Number 2, no future work on the two new proposed three-sided structures to be added to in any form at any future time.

ROBERT MULCAHY: What about a restriction on the number of horses, only four horses to --

PAUL BLOSER: That has already been approved, the limit of four horses.

ADAM CUMMINGS: How about the variance that we are supposed to have 100 feet, not the 45? I think it is reasonable that they split the lot they best they can. 45 feet is pretty much as much as they can get with the width of this lot.

PAUL BLOSER: That is how it is proposed.

ADAM CUMMINGS: Right.

JAMES WIESNER: That's sounds good.

PAUL BLOSER: I will put a third condition here that at no time no more than four livestock to be -- I hate to use the word "stored."

MRS. BERGER: Housed? They're not housed.

PAUL BLOSER: Sheltered.

MRS. BERGER: Kept.

PAUL BLOSER: Just so that that is in there in writing.

Four, setbacks as proposed. Size and setbacks as proposed.

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

Adam Cummings made a motion to approve the application with the following conditions, and Robert Mulcahy seconded the motion. The vote on the motion was 4 yes to 2 no (Tracy DiFlorio, Paul Bloser).

DECISION: Approved by a vote of 4 yes to 2 no (Tracy DiFlorio, Paul Bloser) with the following conditions:

1. All out structures (2 existing and 2 proposed) be consistent in siding materials, roofing and colors.
2. No future work on two (3 sided structures) to be added to in any form at any future time.
3. At no time shall there be no more than 4 livestock to be housed or sheltered.
4. Setback granted as proposed; size granted as proposed with condition that there will be no increases allowed.

The following finding of fact was cited:

1. The requested variance will have no adverse physical or environmental impact on neighborhood.
4. Application of James Hill, owner; 8 Berna Lane, Rochester, New York 14624 for renewal of conditional use permit to allow a business in home to make and sell sauce at property located at 8 Berna Lane in R-1-20 zone.

MR. HILL: For the record James Hill, 8 Berna Lane, Rochester, New York, 14624.

PAUL BLOSER: It has been a year. How is it going?

MR. HILL: Real good. I'm -- I'm in Iraq already.

PAUL BLOSER: Are sales what you anticipated with it?

MR. HILL: It's going slowly, but I have a few places. Clarion Hotel, they put me on the menu for probably the 1st of next month.

PAUL BLOSER: Do you have outside customers coming in?

MR. MARTIN: No.

PAUL BLOSER: I see the drawings were submitted to us. In fact, I didn't see any pencil cups on here or rulers.

MR. MARTIN: I could add those, if you need me to.

PAUL BLOSER: They're quite detailed.

MR. MARTIN: I forgot those, but I do have them.

PAUL BLOSER: Will you have deliveries coming in, delivery trucks at all?

MR. MARTIN: I can't really think of any right now. There might be, maybe something in the future if I have to send something bigger out, but at the time right now, I don't know how big it is going to be, and I don't think it is really going to be that big. It is mainly online, sending files over the internet and receiving over the internet. If someone asks me to send out a CD, I can send that out with the regular mail.

PAUL BLOSER: My only concern is where you are located, it is a busy section, stretch of Chili Avenue. You're not near any stop signs and cars tend to hustle there, so customers coming in and out of there or delivery vehicles with any frequency, you know, we just want to -- safety issues we're always looking at. So -- which is why we ask the questions. It is a concern. Normally, as you probably heard with the previous application, we do initially, if approval of the application, grant them for a period of one year, and review it at that point.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Is this a full-time job for this applicant?

PAUL BLOSER: I don't think it said in the application, but I will allow you to answer that.

MR. MARTIN: Well, for now I would say yes. Um, I'm here since October, and I try to find work and send out applications to over 60 companies, and last one, um, didn't turn out, didn't work out for me, so that made me decide to start this here.

MS. BORGUS: Is the applicant a renter?

PAUL BLOSER: Based on the application, they are homeowners.

MS. BORGUS: It says, "property owner, John Worden."

MS. MASCHKE: That's my father, so we're staying at my parents' house, and I don't really -- we give them money, but it's not official rent.

MS. BORGUS: Okay. Now, this house -- maybe my question was answered by the last -- the last response. This house was remodeled extensively and I believe a garage built. Not very long ago. A couple years maybe.

And my question was going to be, was this activity that's being requested as a variance planned at that time and is that the reason for the remodeling and the addition in the garage?

MS. MASCHKE: No.

PAUL BLOSER: It wasn't on the application applied for that way. I didn't see any record of it.

MS. BORGUS: And I was in the Building Department -- in the Building Department, yes, and looked at some of the paperwork, and maybe I read that incorrectly, but it looked like it was stated that the house was 18,000 square feet.

MR. MARTIN: The whole property, I think, I believe. That is what I was told by the owner.

PAUL BLOSER: 1800 is probably -- I wouldn't think it is that big.

MS. BORGUS: So maybe that should be just -- just for the sake of having it correct, it should be amended.

PAUL BLOSER: Okay.

MS. BORGUS: Thank you.

PAUL BLOSER: 18,000 is a big house.

(Laughter.)

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

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

The Board discussed the application.

PAUL BLOSER: The conditions of approval we put on in-home businesses as I mentioned, we would start it out as -- we'll grant a period of one year -- one year.

No on-premises advertising, which means no signs any place displayed.

No on-street parking pertaining to the business.

What are your hours of operation?

MR. MARTIN: Well, eight hours a day, so far. I mean it depends -- in that business it depends what kind of jobs you get, how much you get and when the customer needs it back. If it extends eight hours on a Wednesday, let's say I will add a couple more.

PAUL BLOSER: You're showing on here approximately 40-hour workweek during normal business hours, as I see it?

MR. MARTIN: Yes.

ROBERT MULCAHY: Are you generating any business now?

MR. MARTIN: Right now? I don't have any yet, no.

ROBERT MULCAHY: Okay.

MR. MARTIN: I hope it doesn't take too much longer.

PAUL BLOSER: We also show here as a condition that we don't allow any outside employees, people employed from outside the house.

The applicant to obtain and maintain any required State and local licenses to operate the business out of there.

And I have added condition seven that you update the square footage of the home for the records so you can just, you know, get a hold of someone in the Building Department and have this number changed 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 Adam Cummings seconded the motion. The Board all voted yes on the motion.

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

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

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to obtain and maintain any required State and local licenses.
7. Update square footage of home for records.

The following finding of fact was cited:

1. The applicant has proven that the requested approval will not alter the essential character of the neighborhood.
6. Application of Enza Ginerva, owner; 11 Corinne Lane, North Chili, New York 14514 for variance to erect a 16' x 16' utility shed to be 256 sq. ft. (180 sq. ft. allowed) at property located at 11 Corinne Lane in R-1-15 zone.

Enza Ginerva and Anthony Ginerva were present to represent the application.

PAUL BLOSER: State your name and addresses for the record, please.

MS. GINERVA: Enza Ginerva.

MR. GINERVA: Anthony Ginerva, 11 Corinne Lane. I'm her husband.

PAUL BLOSER: It's pretty wooded back in there, isn't it?

MR. GINERVA: Yes. We back up to a berm, which is all woods back there.

PAUL BLOSER: How far from the berm are you going to be?

MR. GINERVA: 8 feet is what -- 8 feet from both property lines.

PAUL BLOSER: Is that from the edge of the berm?

MR. GINERVA: Um, yes. Because our property line goes through that berm.

PAUL BLOSER: Are you aware of any easements back there?

ED SHERO: No. There is a survey map included. Nothing on the survey.

PAUL BLOSER: Okay. With the berms, are there any easements on those? Or setbacks that you're aware of?

ED SHERO: Not that I'm aware of.

PAUL BLOSER: What are you going to be constructing this of?

MR. GINERVA: 2 by 4 wood.

PAUL BLOSER: Siding?

MR. GINERVA: Siding.

PAUL BLOSER: What kind of siding?

MR. GINERVA: Vinyl siding.

PAUL BLOSER: Will it match the house or are you buying a prebuilt?

MR. GINERVA: No. It's going to be from scratch and it will be siding, vinyl siding.

PAUL BLOSER: Who is building this?

MR. GINERVA: A friend of mine, which -- he's a framer. He is actually going to be just framing it, and I'm going to be doing the rest.

PAUL BLOSER: Are you putting electric out there?

MR. GINERVA: No.

ROBERT MULCAHY: It is just to store your lawn equipment and stuff?

MR. GINERVA: Correct.

ROBERT MULCAHY: Are you in the woods?

MR. GINERVA: I'm not in the woods.

PAUL BLOSER: The shed will be.

MR. GINERVA: No, well -- again, we -- it will be to the -- to the front of the berm, if you're looking at it from our yard.

TRACY DiFLORIO: So the woods start right behind where the shed will be? It is kind of hard to tell.

MR. GINERVA: It's a pretty high berm, so with the trees being up, you can't see -- you won't be able to see the shed from the other side.

PAUL BLOSER: There is a swing set. Is that yours in of the back of the garage there?

MR. GINERVA: Yes.

PAUL BLOSER: How far is the swing set from the shed or what is the proximity there?

MR. GINERVA: I'm going to guess around 10 to 15 feet.

PAUL BLOSER: Okay.

MR. GINERVA: Maybe more. I'm not 100 percent sure.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

The Board discussed the application.

PAUL BLOSER: Under conditions of approval, that the shed is to be built with siding and the roofing to match house as close as possible. Most of the newer houses out there, the sheds from what I can see are consistent with that, and I would like to maintain that characteristic in the neighborhood.

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.

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

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

1. Shed with siding and roofing to match house.

The following finding of fact was cited:

1. Requested variance will not create an undesirable change in the character of the neighborhood.

Note: A building permit is required before construction begins.

7. Application of Scott Chapin, 686 Marshall Road, Rochester, New York 14624, property owner: Mary Gudonis; for renewal of conditional use permit to allow an office in home for a home improvement business at property located at 686 Marshall Road in R-1-12 zone.

Scott Chapin was present to represent the application.

PAUL BLOSER: This is a renewal. Is this a new one that you just started a year ago?

MR. CHAPIN: No.

PAUL BLOSER: How long have you had it?

MR. CHAPIN: About 12 years. 10 or 12, somewhere in there.

PAUL BLOSER: Ed (Shero), are you aware of any complaints?

ED SHERO: No. No complaints on record.

PAUL BLOSER: I would say the house is probably the nicest up and down all of Marshal, by appearance. It is very well kept.

MR. CHAPIN: Thank you.

PAUL BLOSER: Very nice looking.

MR. CHAPIN: My wife does all of the gardening, so. I got to throw some in her court.

PAUL BLOSER: I didn't give it to you. I was just saying --

MR. CHAPIN: Oh, all right.

ADAM CUMMINGS: Why didn't we see you at the July meeting?

MR. CHAPIN: At the what one? Why? I don't know.

ADAM CUMMINGS: I was just curious, because that would have been five years from the last one.

MR. CHAPIN: I don't know why. I think wasn't it something that we had to file and we were close to the date or something? I don't know why. I'm not sure.

ADAM CUMMINGS: My only question.

MR. CHAPIN: I don't think they said anything. Good question.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

The Board discussed the application.

PAUL BLOSER: I would like to push this out to ten years. We have several five years here. With no comments on this, I would like to push it out to a ten-year permit.

The Board agreed with that.

PAUL BLOSER: The rest of the conditions will continue.

When I did drive by, I saw your vehicles in the garage, the van, the doors were open. You know, I did see that you are storing them in there, and that's what we like to see, especially when there is advertising on the vehicles, so we'll continue with no on-site premises advertising.

No on-street parking pertaining to the business.

You know, you're running it out of there. You have your hours listed. Maintain the hours of operation as previously listed.

No outside employees from the house.

And applicant to obtain and maintain any required State and local licenses.

Those are the standard conditions. The only thing we're changing is going for a ten-year renewal on this. All right?

MR. CHAPIN: All right.

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.

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

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

1. Granted for a period of ten years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to obtain and maintain any required State and local licenses.

The following finding of fact was cited:

1. The applicant has shown that the requested permit renewal will not alter the essential character of the neighborhood.
8. Application of Gerald Baker, owner; 40 West Ham Circle, North Chili, New York 14514 for variance to erect a 12' x 16' utility shed to be 192 sq. ft. (180 sq. ft. allowed), variance for shed to be 3' from side lot line (8' req.) at property located at 40 West Ham Circle in PRD w/incentive zoning.

Gerald Baker was present to represent the application.

PAUL BLOSER: You live at that address?

MR. BAKER: Yes.

PAUL BLOSER: The only question I have got is -- as I drove by this, and I'm reading it, it is an application to erect and it appears there is a shed there.

MR. BAKER: It was already erect. At the previous location. We just moved. I was over on 1079 Paul Road, and I came to the Board and we had it all taken care of. I had it built. This is about a year ago.

Then I came up on a house unexpectedly looking for one. We got it and sold our old house in about 30 days. So I came to the Town and I told them what I needed and they told me all I needed was the variance, because it was already built.

So I had to move the shed from one location to the other.

PAUL BLOSER: So you brought it with you when you moved in?

MR. BAKER: Had to. The new owner of my old house didn't want the shed. I tried to swing a deal, but he didn't want it.

PAUL BLOSER: How long have you been in this house then?

MR. BAKER: Since the first.

PAUL BLOSER: Of this month?

MR. BAKER: Yep.

PAUL BLOSER: Okay.

This is just a formality to make it official then. Clears up why it is here.

DAVID CROSS: What is the justification -- what is your hardship for having it 3 feet from the lot line versus 8?

MR. BAKER: It's on the inside. I don't know if you're familiar with the Homerama track. It's four lots over. Inside, behind the house is a huge circle, with a lot of trees and woods that was never cleared out. My backyard is very small because of the clearing. It was never cleared by the builder.

So it's either it's right in the center of the backyard, like 8 feet from the house, because there is so many trees and things that have to be cleared out so far. That is why I want to get it over to the left-hand side.

DAVID CROSS: Any reason you wouldn't be able to keep it 5 feet off the property line?

MR. BAKER: There's lots of trees. There is a lot of trees there. That is the only clearing I had.

ROBERT MULCAHY: So you're backing right up against the trees?

DAVID CROSS: Yes.

MR. BAKER: Yes. There is a bunch of trees there. And on the opposite side of the lot, my neighbor has a fence, and I didn't know if it would look right up against the fence.

PAUL BLOSER: It is tight back in there. The neighbor does -- on the south side, the side that the shed is on, if they put a fence, that they have adequate clearance to get around there?

MR. BAKER: Oh, yeah. I already talked to him. He has no problem with the shed there. He told me he would never put up a fence. He is a single homeowner, single man.

PAUL BLOSER: I'm looking more for future. If your neighbor was to sell and someone else came in.

MR. BAKER: There will be plenty of room.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

ADAM CUMMINGS: Would one be a setback variance and one be a side? Separate?

PAUL BLOSER: I believe this is only --

The Board discussed the application.

ADAM CUMMINGS: Because it may have been approved at the other lot, but the size still needs to be approved on this lot.

PAUL BLOSER: The size I don't have a problem with. It seems more normal than anything. It's good-sized houses on those lots. I don't -- I don't have any questions on the size.

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.

Robert Mulcahy made a motion to approve the application with proposed conditions, and Adam Cummings seconded the motion. The Board decided to vote separately on the variance requests.

On the size of the shed, the Board was unanimously in favor of the motion to approve that portion of the application.

On the setback of the shed, the vote on the motion to approve that portion of the application was

3 yes to 3 no (Adam Cummings, David Cross, Paul Bloser).

DECISION ON THE SIZE OF THE SHED: Unanimously approved by a vote of 6 yes with no conditions, the following finding of fact was cited:

1. The requested variance will not create an undesirable change in the character of the neighborhood.

Note: A building permit is required prior to construction.

DECISION ON THE SETBACK OF THE SHED: Denied by a vote of 3 yes to 3 no (Adam Cummings, David Cross, Paul Bloser) with the following finding of fact having been cited:

1. The setback required by code can be achieved by proper placement of shed. This is a self-created hardship.

Paul Bloser mistakenly made the statement that the setback portion of the application was approved.

KEITH O'TOOLE: Mr. Chairman, how many no votes do we have?

PAUL BLOSER: Three and -- three no. Keith (O'Toole).

PAUL BLOSER: You have to have a majority?

KEITH O'TOOLE: That's correct.

DAVID CROSS: So it doesn't pass.

KEITH O'TOOLE: That's correct.

PAUL BLOSER: It doesn't pass. The setback is denied. I'm sorry. I stand corrected. The setback is denied. It would have to come into the 8 foot.

MR. BAKER: Okay.

KEITH O'TOOLE: I have a question for the applicant, just -- have you already constructed a pad where it is right now?

MR. BAKER: No. There is no pad.

KEITH O'TOOLE: Okay.

PAUL BLOSER: So -- that is how it appeared.

MR. BAKER: I would have to take out trees. I don't know if the neighborhood would let me do that.

PAUL BLOSER: Is there an association?

MR. BAKER: No.

PAUL BLOSER: If there is no association, there wouldn't be -- Ed (Shero), can you comment on removal of trees from a lot? There is no association. He can't go in and clear the lot out 100 percent.

ED SHERO: As long as it is not on a conservation easement, he can pretty much do whatever he wants with the trees.

ADAM CUMMINGS: Or just put it on the other side of the property. I know the fence is there and it is not desirable, but if it meets code, that way might be cheaper than taking down the trees.

MR. BAKER: Okay. So I have to reapply?

PAUL BLOSER: For?

MR. BAKER: Variance, or just move it?

PAUL BLOSER: You would have to move in, unless you applied for something other than the fence.

MR. BAKER: Okay. Right.

PAUL BLOSER: If it was 3 foot 6 inches, I wouldn't hear it. And David (Lindsay) suggested a 5 foot, and you stated no at that point, so maintaining it at the 8 is what we're looking at. At this point you would have to move it in 5 foot. An additional 5 to the -- to be 8 from the lot line.

MR. BAKER: Okay. Thank you.

9. Application of Charles Freida, owner; 15 Ruth Terrace, Rochester, New York 14624 for variance to erect an 8' x 10' utility shed to be 3' from side lot line (8' req.) at property located at 15 Ruth Terrace in R-1-12 zone.

Charles Freida was present to represent the application.

MR. FREIDA: I'm Charles Freida.

PAUL BLOSER: This is a narrow lot, very hard to see back there. You have a table or umbrella or something going directly behind where that is.

MR. FREIDA: That's just sitting in the driveway.

PAUL BLOSER: But the shed is going directly behind where that is.

MR. FREIDA: No. It will be in the far northwest corner of the property.

PAUL BLOSER: Not a very deep lot.

MR. FREIDA: That table you saw is just, you know, a summer table. That will hopefully get put away in the shed for the winter.

PAUL BLOSER: This appears to be pretty heavily wooded in the back, as well.

MR. FREIDA: I have from pretty large trees in the back, yes.

PAUL BLOSER: What is the shed constructed of?

MR. FREIDA: Wood frame. Um, just one -- you know, the prefab type.

PAUL BLOSER: Prefab, like Amish outlet or something similar?

MR. FREIDA: I'm sorry?

PAUL BLOSER: Something similar to what is over Union Street?

MR. FREIDA: The Amish, yes, one of those type buildings.

PAUL BLOSER: Is there a fence all of the way around?

MR. FREIDA: Yes. The property is fenced in except for the front, and they're all neighbors' fences.

PAUL BLOSER: They're all neighbors' fences?

MR. FREIDA: Yes.

PAUL BLOSER: Are they wood or metal fences?

MR. FREIDA: Two are metal. One is wood. It's half and half. On the north side it's wood, to their house, and then it's steel.

DAVID CROSS: On your application you talk about a future garage.

MR. FREIDA: Yes. That's possibly to put a garage in the back for the cars.

DAVID CROSS: Would your shed come down at that point?

MR. FREIDA: If it's far enough in the back and in the corner, I would probably keep it for the yard tools and bicycles.

PAUL BLOSER: How long have you lived here?

MR. FREIDA: Um, I was -- my parents bought that house in 1954. I was five months old when I moved in there, and I moved back in after my father was deceased in the early '90s.

KEITH O'TOOLE: Just the observation from the as Chair indicated, at 60 feet it is a rather narrow lot, unlike the previous applicant who had 100 feet. A couple feet on a 60 foot lot means a lot. Nothing further.

PAUL BLOSER: Yes, pretty much agreed.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just an observation. This gentleman has lived in this location then himself as owner for better part of 20 years, and hasn't built a garage. So it would almost seem that the likelihood of that happening would be remote. I see -- I see that it's a small lot, but --

PAUL BLOSER: And a small shed.

MS. BORGUS: And a small shed.

PAUL BLOSER: On not a 32 by 52 barn.

MS. BORGUS: I guess I don't see hardship. That you may -- you may in the future build a garage that you haven't done for 20 years, it seems -- or pretty near 20 years, it seems to me there is no hardship here. It hasn't been shown.

Thank you.

KEITH O'TOOLE: For the record, Mr. Chairman, there doesn't have to be hardship for the current law for area variance.

PAUL BLOSER: Correct. What I would possibly write into this as a condition of approval is if the homeowner does apply for a garage in the future, that the size and contents of the shed be built into this -- the garage to eliminate bulk of the structures and structures of that size.

The other thing I would kind of like to see with a fence is maybe at least 4 foot between fence and structure. You have two lawnmower passes in there. You have adequate space then to get a ladder in for any kind of maintenance with room to move. 3 with a fence, myself, I think is a little tight. I know it's a small lot, but I would like to see 4 foot for maintenance purposes as opposed to the 3.

DAVID CROSS: Do you have a comment to that? Are you open to that 4 foot?

MR. FREIDA: Yes. I would be open to that.

PAUL BLOSER: 8 is a lot. It's a small lot.

MR. FREIDA: Yes. 60-foot is --

PAUL BLOSER: I was just thinking with maintenance access, if you have got to get up on the roof of the thing with a ladder, 3 foot might not -- with an overhang on a shed, you might not have room to put a ladder up there and -- 4 foot would give you adequate clearances around the fence. Have to do fence maintenance. I don't know how high it is to work -- but 3 is tight with a fence.

MR. FREIDA: That's reasonable.

PAUL BLOSER: From experience. Would -- I would like to see on a condition of approval, shed to be 4 foot from setback.

Will this be -- you say color consistent with house. I believe it's a --

MR. FREIDA: Yes. Would match the house as much as possible. The house is cedar shake sided, painted, and the shed will be either, you know, T-111 wood or vinyl sided. I haven't decided that yet.

Paul Bloser made a motion to close the Public Hearing portion of this application, and Tracy DiFlorio seconded the motion. All Board members were in favor of the motion.

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.

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

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

1. Shed to be 4' from side lot line.
2. Color to be consistent with the house.

The following finding of fact was cited:

1. Placement of shed will not create any undesirable change in the character of the neighborhood.
10. Application of Wegmans, owner; P.O. Box 30844, Rochester, New York 14603 for variance to erect a four-story addition to office building to be 74' high (50' allowed) at property located at 249 Fisher Road in G.I. zone.
11. Application of Wegmans, owner; P.O. Box 30844, Rochester, New York 14603 for variance to allow front parking for a total of 2,010 spaces (3,812 req.), variance to allow more than 10 contiguous parking spaces, variance to allow more than 250' from vehicle to building entrance, variance to allow parking within the front setback at property located at 249 Fisher Road in G.I. zone.

Art Pires was present to represent the applications.

PAUL BLOSER: I did get a copy in my mailbox, Department of Planning, Monroe County, a letter of comments regarding the location of this application in lieu of Rochester airport review area. They have reviewed the application -- the application has been reviewed for airport considerations and has been granted airport approval.

The applicant will need to notify and coordinate the use of construction equipment such as cranes with the Greater Rochester International Airport.

The applicant will need to contact Gary Gaskin at the airport to obtain permission for use of such equipment.

The County has approved the height themselves, for the record. I didn't see it in all of the rest of the packages so just for the record, we do have that as we're considering this portion of it. Crucial because of the location.

MR. PIRES: Once again, thank you for the receipt of this application. Art Pires with Wegmans Food Markets.

What I would like to do, Mr. Chairman, is I have a couple of exhibit -- series of exhibits, packages for each of the Board members, as well as the Town professionals. Just for general reference, a number of them will mimic the exhibits I will be reviewing off to the right, and then the second one is a memorandum prepared by Frank Sciremammano of FES Associates relative to parking study ratios.

What they have done there is looked at Chili zoning code, Wegmans' proposed parking, as well as the Monroe County parking demand study. Should it please the Board, I would like to just present an overview of the project, the breath and scope, location, orientation and then some of the specific details relative to the elevation, building height and parking that we're proposing, and then I would be glad to address any comments that the Board might have.

First, the -- off to the right you can see an aerial photo. This is a little unique in the sense that north will be down here (indicating). It is just the flight that they had taken for this aerial. So north is at the bottom.

You can see this heavily wooded area (indicating). These are basically the lands of New York State. Our property line is roughly at this location here (indicating). This would be our northern line (indicating).

Off to the left here (indicating), we have Fisher Road (indicating). Off to the right, Lexington Parkway, and then at the back of our property, this is the southern line here (indicating).

A -- contiguous with the residential to the south end of our property, and Jetview Drive ends at this point right there (indicating). As you can see, this is the new Wegmans Market Street North that comes into the site, intersects with the previously -- and continued use of the existing Market Street.

Once again, it's Market Street North intersecting with Wegmans Market Street, coming

southeasterly into the site. We're at the location of the existing 198,000 square foot office building. The proposed 400,000 square foot addition, let's say the east side of the building is in the location of the existing parking field or a portion of the existing parking field. The 400,000 square foot addition is four stories, 100,000 each.

The proposed use would be for the -- for transfer and relocation of existing employees that are either in leased or owned space by Wegmans throughout Monroe County.

The fourth floor would allow for future growth.

So we have existing 620, proposing 620 for relocation onto the site and then the four-story, future growth.

There are -- and you have noted in the application, there are two small appendages to this parcel, um, adjacent to the existing office building, an 825,000 square foot one-story, and -- and then just another 1700 square foot one-story addition, very small additions to the existing office space.

So the primary application obviously is for the 400,000 two-story.

The second exhibit here is a landscape plan rendering. Once again, you can see in the lighter brown, if you will, the existing office space. Off to the right, the other lighter beige building is the conference facility. So once again, the new 400,000 is just off the east side of the existing office building. Off to the west would be new parking. That would be the first parking that we would construct, so we would allow the folks that are currently parking in the proposed new location of the addition to park over at this stage, and then we would start the construction on the east side.

The exhibit here with north up (indicating), we have Fisher Road up to the right, and I point that out because you can see the separation between Fisher Road and our parking field and our outer service field of the parking field we have the ball fields in between. And this pretty much mimics the district line between the General Industrial and the rural agricultural properties.

Below -- well, let's see. This is a photo of the existing, and you have the same exhibit in front of you. It shows -- a little from a distance it shows the existing eastern facade of the existing office building, a little closer up. The proposal for the expansion would be to mimic the materials, the look of the existing building.

What you have is a couple of exhibits. We have profiles that we have Section AA, BB and CC. There is a location map off to the bottom right here (indicating).

Now I apologize the AA section, actually the arrow should be heading in the opposite direction. As you look at the profile here, you can see a lawn -- a treed area. That represents the area which the lands of New York State is located.

And as you look towards the building, you can see the beige again which represents the existing structure, which is approximately 31 1/2 feet high.

Then we come over here (indicating) with the darker brown, that's the proposed new building addition.

Once again, through Section AA, looking, if you will, to the east, so we're traveling down south. Here again, you can see the relative height of the proposed building, and that would be 63 feet. The existing building, once again, is 31 1/2 feet.

The atrium peak is approximately 4 -- 40 feet, so the new building is 63 feet. However, we would like to have a portion of the new building include a stairwell and mechanics room which would be another 10 feet so we have 73 feet and a small portion of this new addition.

As you can see with the sight line, once again from the north, heading south, that it is certainly not any substantial impact on the neighborhood. And no change in the character certainly in the plan in the sense that the materials and the breath and scope match the existing facilities.

What you can also see on the site, as you cut-through further, Section AA, you can see the lands of Niagara Mohawk and RG&E, which are roughly in this area here (indicating) on the small location plan, they are -- have utility poles. They're electric utilities poles that range in height between 64 feet and 74 feet, to get a degree of magnitude or relative degree of magnitude to our existing and proposed buildings office space.

Also, part of our automatic storage and retrieval building is approximately 72 feet. Point here, looking at the big picture, is it certainly -- the proposal is within scale due to setback as well as other existing structures on site, that it's in proper scale in both regards.

The other section, BB, here again, we are starting at Fisher Road, and moving to the right, you can see the building again. And the distance is substantial enough that the point of a person standing here, um, it's going to be a very nominal vista.

Which leads into -- this is a perspective from Fisher Road again. We have a perspective location map, so at this red dot (indicating), looking to the west, if you will, you can see the existing and proposed on the plan. However, off to the left photograph, you -- you can barely see over the ridge of this, this little hill here (indicating), the existing building, and then the conference facility off to the left.

This is a photo simulation, that being we brought in a photo, recreated what the four-story would look like of the new office building, and we have proposed that once again, from the closest vantage point, neighbor, residential neighborhood, that this is not a significant impact. It certainly is not detrimental to the community around us.

Parking, just to closing up again, and coming full circle, the parking requirements, as well as what we're proposing, we had been -- we appeared before the Planning Board. You know, we -- we sought relief and we did receive relief for the side of the parking space. We have 9 by 18s. The number of parking spaces, we are proposing to have a reduction in the parking spaces.

And as you can see from the letter memo created by Frank Sciremammano, Dr. Frank Sciremammano with FES Associates, our proposal is certainly less than code of the Town. However, our proposed numbers are greater than that as recommended by the Monroe County study, and -- in their recent parking analysis. There will be a slight number difference between what you see there as far as what Wegmans is proposing on that letter memorandum versus our application action and that is only because Dr. Sciremammano separated out the parking for the conference facility. So there is a slight variation.

But the key point here, we have roughly, and it's 1,000 today -- well, proposing 2,000 ultimately. That varies a bit. I think we're in like 1,008, and 2010, but the point is -- to make it simple for discussion, we have an existing 1,000 and in end we're proposing 2,000 and that includes 200 for banked parking off to the west. That is where we're asking relief for the parking. We based that based on the relative analysis with the Monroe County parking study, as well as Wegmans' historical needs and what we see we need for our office employees, as well as visitors.

And also, we are looking for a relief from the requirement to have no parking greater than 250 feet from the door entrance. Today we have the distance from this door here (indicating), our maintenance, is approximately 450 feet. So we already have that. We -- it will be greater, certainly, with this expanded parking to the east, but in the same spirit of what we have today, it's beyond the 450, it works for our employees. Our visitors actually park up along the building. We have no problem with that. We have sufficient parking.

So the only people that would have an issue with that, our employees, in fact, we see that as a good thing for them to walk from the outer limits into the store -- or into the offices we have no problem with that.

The other waiver variance we're looking for is the Town's requirement to have no more than ten contiguous spaces before -- without having a landscaped island. We do not have that situation today. We are requesting that the Town give consideration to the fact that this proposal, the parking proposed is within the center of our overall Market Street complex. Due to the unique circumstances of the fact that we have lands of National Grid, RG&E, we -- surrounding us on one side, we have lands of New York State off to the north, and then obviously we have Fisher Road off to the east. Because of the unique shape and configuration of this parcel, as well as the fact that our proposed offices and parking are in the heart of our 147 acres, we're asking that that point be taken into consideration, that these are exceptional circumstances, Number 1.

Number 2, there is no change in the character of the property or the surrounding properties, and certainly not detrimental to neither us nor them.

And last but not least, that we do propose parking as we see need based on historical data. We would prefer not to overbuild and provide more parking, pavement than is necessary.

PAUL BLOSER: Is that also taking into consideration four floors right now scheduled for future?

MR. PIRES: That's correct. In that fourth floor, in fact, would be say approximately 200 plus employees, and that's where we have this 200 plus space, 210 spaces, I believe it is, banked off to the west of the proposed.

PAUL BLOSER: So you have that factored in right now?

MR. PIRES: That's correct. So that's it in an overview. If there is any specific questions, I would be glad to address them at this time.

PAUL BLOSER: Just an observation on the height. As I'm looking at this, on the elevation, the first one where you show the cold storage building, if I do a straight line across there, it appears from Fisher Road, you can't see the roof. Is that correct on the top one?

MR. PIRES: That's correct -- that's correct. You're -- you're here at Fisher Road?

PAUL BLOSER: Yes.

MR. PIRES: And you're looking first.

PAUL BLOSER: If I continue that line across, it looks like you look over the top of the cold storage.

MR. PIRES: That's correct. If you look at Section BB on the plan view, depending on your angle, it would be very difficult.

As you move down Fisher Road, you might be able to see it. I don't have that profile, but the distance in itself would probably --

PAUL BLOSER: Portion over the 63 feet for clarification is just the penthouse, the mechanical, elevator shaft.

MR. PIRES: Stair tower, mechanical room, that's correct.

PAUL BLOSER: Will have access.

MR. PIRES: Yes.

PAUL BLOSER: Will the elevator go up to that level or just stair tower going up?

MR. PIRES: We don't have that designed as of yet. Most probably it would be just a stairwell. And I did -- it was on the flip side of the photo on the photo sim. You also have this exhibit. This shows the existing office, I will say the northern section, and you can see the atrium here (indicating.) Then once again, the new structure, first floor, and then as it gets to the second floor, a small area of the roof which represents that additional 10 feet for the stairwell and tower.

Any questions?

PAUL BLOSER: Does the Board have any questions regarding this, what -- as it was explained? This has been presented to the Planning Board. Have you been given preliminary?

MR. PIRES: That's correct. We have been to the Conservation Board, the Architectural

The meeting ended at 9:05 p.m.