

**CHILI ZONING BOARD OF APPEALS**  
**August 28, 2007**

A meeting of the Chili Zoning Board was held on August 28, 2007 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 Blos'er.

**PRESENT:** Todd Benz, David Cross, Richard Perry, James Wiesner and Chairperson Paul Blos'er.

**ALSO PRESENT:** Keith O'Toole, Assistant Counsel for the Town; Chris Karelus, Building Department Manager.

Chairperson Paul Blos'er declared this to be a legally constituted meeting of the Chili Planning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

PAUL BLOSER: Application Number 1, sign?

The Board indicated they would hear the application.

PAUL BLOSER: Number 2, application of Sandra Testa?

The Board indicated they would hear the application.

PAUL BLOSER: Number 3, application of Daniel Mayer?

DAVID CROSS: I saw the sign for Application 3 but not 4. Is it supposed to have two signs or usually just one sign?

The Board indicated they would hear the application.

PAUL BLOSER: Number 5, application of Roberts Wesleyan College?

The Board indicated they would hear the application.

PAUL BLOSER: Number 6, Dr. Henry Paszko?

The Board indicated they would hear the application.

PAUL BLOSER: Number 7, application of Chris Karelus?

The Board indicated they would hear the application.

PAUL BLOSER: At this time, I will say we are going to hear all these applications this evening.

1. Application of James Hill, owner; 8 Berna Lane, Rochester, New York 14624 for 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.

James Hill was present to represent the application.

PAUL BLOSER: Mr. and Mrs. Hill, I assume?

MRS. HILL: Yes.

MR. HILL: Yes.

PAUL BLOSER: What can you tell me about your business and what you're doing there, in the house?

MR. HILL: Okay. In the house, basically all we'll be doing is making the sauce there, and the sauce will leave there in 12 by 12 inch boxes to go to the distributor. There will be no one coming to the property to get anything. So actually what will be going on, nobody will even know. The only reason they will know now is because of here. No smells, no sounds, no cars. Nothing sitting outside of the house. Basically the way it is now is how you will see it.

PAUL BLOSER: Are there delivery trucks coming or going?

MR. HILL: No. I pick up everything and bring it there. It is only on a small scale. I'm just a beginning business. If we get any larger, of course, I will be going someplace else with it. But right now, it is just service for my job, RTS. A lot of the drivers buy from me and Skip's Meat Market. That is as far as I go right now.

DAVID CROSS: What would you say is the quantity of sauce you're producing right now?

MR. HILL: At the most, right now, probably about 30 cases, 40 cases tops a month.

DAVID CROSS: 3 to 4 cases a month?

MR. HILL: No. 30 to 40.

DAVID CROSS: 30 to 40.

Any -- small 4 ounce.

MR. HILL: Country Sweet bottles,

20 ounce, 16 ounce bottles, with 12 to a case. If I have a -- probably a -- say a skid amount on the premises that would be about 5 by 5 feet square total. And that will still be inside, nothing outside.

RICHARD PERRY: Once you produce it, how quickly do you ship it out?

MR. HILL: Usually the only thing I produce is what, um, I know is going to be ordered. Usually be amount of 20 cases at any given time on premises, tops.

RICHARD PERRY: It doesn't stay for more than a few days once it is done?

MR. HILL: Probably about four days, tops.

PAUL BLOSER: Are you doing this in your regular kitchen?

MR. HILL: Licensed at 1511 Dewey Avenue out of a church. So -- but it would be easier if I could do it there. There are some other things I have to go through first with the Town before I even start, but I'm basically here to get the permission first.

DAVID CROSS: What licenses or certificates do you have? Do you have something from Ag & Markets?

MR. HILL: I went through Cornell University. I went through the State licenses, and that was \$200 fee for two years, and the license expired in August. So I'm going through the process of redoing that again with the license. You know, I will probably still be at the Dewey Avenue address until we get everything taken care of here with the Town.

MRS. HILL: It also requires the certification and food sanitation, which I have.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: A couple of questions come to mind. Is there a d/b/a with this and also insurance to cover -- are there going to be additional personnel that will be working there? I'm getting towards Comp. insurance and as such.

Also, with the -- I heard something about the Health Department. I'm assuming, and I appreciate that -- you know, that everything is up to snuff and whatever kitchen to prepare the sauce is not the household. I think that is a very important issue that should be asked about and maybe addressed on that point.

Thank you.

MRS. HILL: Yes, there is a d/b/a. Also, based on the New York State Department of Health, those facilities have to be separate. That is why we are requesting to have the additional piece of property that we have renovated into a separate kitchen.

As far as any individuals working underneath us, no, not at this time. It is basically a family business, so there wouldn't be any, you know, compensation or anything of that matter.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: I apologize for coming in late. I have a couple of questions.

Was there anything in regard to signs proposed?

PAUL BLOSER: No.

MR. RETTIG: And being an R-1 zone, there should be no signs, as I understand it.

PAUL BLOSER: That's correct.

MR. RETTIG: Is there anything about customers, number of customers in and out?

RICHARD PERRY: It's all on the application. There are none.

MR. RETTIG: Thank you.

Is this mail order only then?

PAUL BLOSER: This is not mail order, no. He is making it to deliver to two separate sites.

MR. RETTIG: Okay. Thank you.

UNIDENTIFIED FEMALE SPEAKER: How do I get that sauce?

MRS. HILL: Available at Skip's Meat Market with the exception of Henrietta store.

MR. HILL: Fairport --

DAN BOON, 20 Berna Lane

MR. BOON: Dan Boon, 20 Berna Lane, neighbors. I mean you guys do anything there now? Because if you are, I mean they're good neighbors. They don't -- there is no activity going on. It's quiet. The most I see is him going fishing once in a while in his boat. So I don't think it is a big deal.

RICHARD PERRY: Thank you.

UNIDENTIFIED NEIGHBOR: My kids love the sauce. That is all I got to say.

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

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II

action with no significant environmental impact, and David Cross 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 James Wiesner 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 one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. No customer sight sales.
5. No outside employees.
6. Hours of operation as per application.
7. Applicant to maintain State and local licenses.

The following finding of fact was cited:

1. Making sauce is a customary home occupation.
2. Application of Sandra Testa, owner; 75 Chestnut Drive, Rochester, New York 14624 for renewal of conditional use permit to allow a beauty shop in home at property located at 75 Chestnut Drive in R-1-20 zone.

Sandra Testa was present to represent the application.

MS. TESTA: I just want to renew my conditional use permit to do hair as I have been doing for the last 15, 18 years. Nothing is changing in my schedule, and I have had no complaints.

PAUL BLOSER: For the record, I have seen the property. I have seen the beauty shop. It is a well kept condition in the home. There is no evidence from what I saw at the time I was there -- a lot of traffic in and out of there.

How long have you had this now?

MS. TESTA: Probably 18 years.

PAUL BLOSER: All at the same address?

MS. TESTA: Uh-huh.

RICHARD PERRY: Did you say "18"?

MS. TESTA: Yes.

PAUL BLOSER: Chris (Karelus), do we have any record on --

CHRIS KARELUS: No.

PAUL BLOSER: No complaints registered.

CHRIS KARELUS: No complaints. As far as we can tell, good neighbors operating a business in the Town.

DAVID CROSS: This is a renewal for five years?

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and David Cross 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 Todd Benz 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 ten (10) 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. There have been no registered complaints, therefore, granting a ten-year renewal.
  2. The home beauty shop is a customary home occupation.
3. Application of Daniel Mayer, owner; 140 Fenton Road, Rochester, New York 14624 for variance to allow two miniature horses on property with 2.2 acres (5 acres req.) at property located at 140 Fenton Road in R-1-12 zone.

Daniel Mayer and Regan Boychuk were present to represent the application.

PAUL BLOSER: What can you tell us about what you're doing here?

MR. MAYER: We have two miniature horses that we keep at our property, and it was brought to our attention that we did need more than the acreage that we have to keep the horses here, so I'm here tonight in order to get the permission to keep the horses.

PAUL BLOSER: How long have you had them there?

MR. MAYER: We first had horses in 2005. We had foal horses. When we first got the place ready, I came to the Town and was told that because of the acreage that I own, I didn't need any special variance or special use to keep them. So we had those horses for, I think, over a year and a half without any issues or problems.

The person that kept the horses there, it was more convenient for him to keep them somewhere else, so those horses left, and then we got two miniature horses that we have had since May.

RICHARD PERRY: When you say miniature --

MR. MAYER: I brought some pictures if you would like to see them.

RICHARD PERRY: Would you say --

MS. BOYCHUK: Regan Boychuk. I also live at Fenton Road. Are you familiar with horses and how they measure horses? They measure horses by hands. And Lily is 7.2 hands, and Bentley is 9 hands.

That's Lily (indicating). She is 7.2 hands, which essentially means she is 30 inches tall at her withers.

And then this is Bentley (indicating), who is 9 hands, and he is essentially 36 inches tall.

PAUL BLOSER: That is you standing next to him?

MS. BOYCHUK: That's me. I'm 4'11", if that helps.

RICHARD PERRY: Is there any intention to have other regular-sized horses?

MS. BOYCHUK: No.

PAUL BLOSER: More than two?

MS. BOYCHUK: No.

RICHARD PERRY: If the regulation calls for five acres for full-sized horses, I would guess that it wouldn't pose a huge problem.

PAUL BLOSER: What do you do with the waste at this point?

MR. MAYER: Um, we keep them at the east end. We keep it at the east end of our property. I also have a picture of that if you would like to see it.

MR. MAYER: That would be the farthest from the road, that part of the pasture.

PAUL BLOSER: This post here (indicating)?

MS. BOYCHUK: Yes.

PAUL BLOSER: But as far as the manure, what do you do with it now?

MR. MAYER: Well, right now, when there is bedding in their stalls, it is wood chips. So we -- when we first got them, because the pasture was set up for bigger horses, we put the bedding at that back edge of the fence because the smaller of the two horses, she is quite small and she would dip her head under to get some grass, and it looks like she comes squandering, so we put the chips at the back of the pasture.

And since we haven't really had them that long, um, there hasn't really been a whole lot. But we have noticed because they're used to using the chips to go to the bathroom in their stalls, that because we put the chips in the back there, whenever they're outside, that is where they do their business, is on the chips, and it -- that's just where we put it and we haven't had any problems with it.

JAMES WIESNER: You're saying it is right within the pasture?

MS. BOYCHUK: We pile it and then spread it once it dries out. We just spread it and thin it down. We'll be able to use it for fertilizer at one point, but we don't have any plans for that on our property. But next year, later in the spring -- or fall if we want to, we could, but right now we spread it once it dries.

JAMES WIESNER: Any odor associated with that?

MS. BOYCHUK: No.

PAUL BLOSER: Does this shed that you're applying for have anything to do with the horses?

MR. MAYER: No.

PAUL BLOSER: They're currently being kept in the building, in the out --

MR. MAYER: Yes. The original barn.

MS. BOYCHUK: This is the barn that was -- has been there. It was built in --

MR. MAYER: 1941.

The horses are kept in the southeast corner of the barn, which is closest to our house. Their stalls are right through the door that is just close -- you know, closest to our house, so it is convenient to get in and out to feed them, take care of them and let them out. Which is closest to the center of the property.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

PATRICK COLLINS, 104 Fenton Road

MR. COLLINS: I live at 104 Fenton Road. I would like clarification on the acreage of this property because the Building Department and the Monroe County taxes says it is 1.92 acres, not 2.2.

And I would also like to know the difference between the taxes that they would pay on 2 acres versus the 5 acres that the rest of the Town would have to pay for that not being allowed.

And also, we took care of the waste land part, where the waste was going to go, but I was also wondering how that would affect the wetlands that are behind that property, as well.

DAVID CROSS: Chris (Karelus), do you want to respond to the lot size?

CHRIS KARELUS: If the property is 2.2 acres as described to the right-of-way, Mr. Collins is correct. The property that they own, within the right-of-way is 1.9 acres. So the Mapworks called out to the center line of the road. The deeds usually describe the property to the center line and right-of-way. 2.2 is the center line measure. 1.9 is the measure to the right-of-way.

Another point I wanted to make is currently there is a separate application pending on the adjacent parcel also owned by the property owner which I want to point out to the Board both these properties are titled to the homeowner (inaudible), so the ability to have five-acre piece, the Board could consider potential resubdivision to make that acreage possible. I just want to make that point to make the Board aware of that.

Also, the adjacent season owner is currently undergoing a wetland delineation. There -- a biologist did not do a delineation on this parcel, so they're undergoing what is called wetland determination. When that is completed, the exact lines of those wetlands will be determined, so any approval that the Board would grant regarding the utility shed, the location will be subject to change based on that determination.

RICHARD PERRY: As far as the taxes, that is not anything that this Board has anything to do with?

KEITH O'TOOLE: That's correct.

RICHARD PERRY: We can't address that part of it.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Um, Fenton happens to be in --

PAUL BLOSER: Could you speak up?

MR. GINOVSKY: Fenton happens to be in one of our residential areas, and not being familiar with all horses, even the little ones, is there an electric fence or anything that keeps them in so they don't get away? That is what I am getting at. Or breaking loose. I'm familiar with some horse farms and as such as out in Riga. That is the question I was having there. And any -- if they did get loose, who is going to go chasing them? I hate to put it that way.

Thank you. Curiosity.

MR. MAYER: They're kept inside a split-rail fence. Because they're miniature horses, they tend to put weight on quick, so the people that we got them from -- they raise over 70 of them -- they told us that we should only keep them outside 1 1/2 to 2 hours a day. So when they are outside, it is kind of, you know, the kids come over to see them and feed them and play with them, so we are kind of there with them when they're outside.

MS. BOYCHUK: They're afraid -- honestly, they would be more afraid to be outside of their boundaries. Horses by nature are skiddish animals, and if you walk towards a horse, they will run away. They won't go around chasing people or hurting people.

MR. MAYER: Pretty much if there is grass there, they won't go anywhere because they're staying there to eat.

MR. GINOVSKY: Just curiosity. That's all.

PAUL BLOSER: The flanking acreage, do you have intentions of expanding it into there?

MR. MAYER: No.

JOHN TESTA, 75 Chestnut Drive

MR. TESTA: The rest of the acreage behind that home, I mean is it going to be used for something else? I do own the land up to that additional parcel that he owns, and I'm quite

concerned about what is going to happen with that, that land back there. I mean is there -- it was brought to my attention last evening there was going to be a cell tower put behind my house, and I'm wondering if that is going to be accessed that through that property, different parcel? Just quite concerned about what is going on there. I guess it is going to be right behind my house, the cell tower that was proposed. That was brought to my attention last night. I knew nothing of it.

I'm in the middle of purchasing the property next to me, and I'm just concerned about what is going to happen with that whole 20 some odd acres that is adjacent to this property.

BEVERLY GRIEBEL, Springflower Drive, North Chili.

MS. GRIEBEL: I have a couple of questions. Are these full grown, or are they going to grow any more? Are they male and female? Are they going to reproduce? If so, then what happens?

MS. BOYCHUK: They're yearlings. They're both one. And they will not be reproduced. They are actually too little. The female is a dwarf. She is too tiny. She is definitely not capable of caring a foal.

PAUL BLOSER: I think I did ask you, two is the maximum that you want to have on site; is that correct?

MS. BOYCHUK: Yes.

MR. MAYER: Yes.

AL MILLER, 124 FENTON ROAD

MR. MILLER: Al Miller, I live at 124 Fenton Road. I abut his property on the east. And I would like to say that I'm not for the horses at all.

I had a horse on my property for six years from 1958, and I want to say that they draw rats. We kept the feed in barrels. I don't know why the five acres can't be zoned. He owns the other property.

Also, about the four-wheelers that he owns and the destruction that has been done in the back of the houses, the deer that have come up exhausted from the four-wheelers, being chased, there is just an array of problems with this neighbor.

I would like the Board to consider very carefully -- you can consult Counsel before any decision is made that this individual is given priority.

There was a horse there last year. The smell from the wind out of the south was terrible. The noise, the noise from the dogs, the rottweilers, it is not a good situation.

Thank you.

CHAD ROI, Fenton Road

MR. ROI: I don't understand if he can rezone it and split his property up to make -- where the horses are legal, then it just seems like an extra step. It just seemed to him that would just rubber stamp and let it happen. It just seems like an extra step and waste of the entire Board's time and whoever else might have to be involved.

I roller blade past the property every day. I have never smelled anything, never heard anything. You can't see them from the road. That's all.

CHRIS KARELUS: Just to address Mr. Testa -- Mr. Testa, there an application independent of this application tonight regarding the property that is adjacent to your use. There is no decision rendered on that application, and that's not a decision this Board is going to be making tonight.

And the point is well taken from all of the owners that these two properties are owned by the applicant, so just to again reiterate, a simple resubdivision with five acres, they could hold the horses on the site and be code compliant, but without that now, this Board would be making a decision to make less than that property's acreage available to them.

I think it is this Board's -- just to bring again to your attention both properties are owned by the owner before the Board this evening, which could potentially change a lot line to make this variance not required.

JACKIE JONES, 130 Fenton Road

MS. JONES: I'm their neighbor at 130 Fenton Road. I was just curious why they weren't giving the five acres also. That was my only question. Because of all of the extra access land.

MR. TESTA: Last night someone came to me. I had no idea a cell tower was behind my house, and it is actually behind my house. I'm just wondering why the Town hasn't sent a letter or why we haven't been notified of any of that. Is that something --

PAUL BLOSER: Normally, you would -- I would say you would have been receiving a letter on that.

MR. TESTA: It is directly behind my house. I purchased the property next to me, and that butts up to that whole --

MR. ROI: I don't see the cell tower on the agenda tonight.

PAUL BLOSER: There is not.

KEITH O'TOOLE: Mr. Chairman, if I may clarify, there is no cell tower on the agenda. We are not granting any permits or variances for cell towers. All we are talking about right now are two miniature horses. I understand the applicants have another application for a shed, also not involving a cell tower. Nothing further.

DAN BOON, 20 Berna Lane

MR. BOON: Dan Boon, 20 Berna Lane. I guess I just want to ask the question, if he has the property, and is he going to break it up, to get to -- to for personal gain, my concern is now, you know, if it -- it is not fair, I guess, to the rest of the residences if we could do that. If I start busting up my property and piecing it off. You know, I just think if we have to comply with the five acres, to put the horses there, then so be it. But to bust it up and sell some stuff and start doing other = gains with it to minimize his acreage to -- you see my point? That is where -- that is the only thing I have concern.

I guess as far as you guys -- if you're all good with the composting and the horse manure and everything else that goes along with it, let's not kid ourselves. Some of that is there. If people are willing to put up with that -- I'm far enough away from it, it is not going to bother me.

STEPHANIE MANNELLA, 20 Constitution Circle

MS. MANNELLA: My parents live in Riga, New York and they're dealing with a situation with horses right next to them. It may be dry now and you may not smell the manure, but in the spring my parents have problems with flies, the smell if the wind is just right. There is run-off where the horses have tracked, and they are miniature horses also.

And I just think think if you allow this in a residential area, I think other people might say why can't I have a goat, why can't I have a sheep and just have one if they have an acre of property. I think there are other areas in the Town of Chili where you can have animals that are farm animals.

KELLY KOSLOWSKI, 95 Fenton

MS. KOSLOWSKI: I just have a question about the horses on whether or not they have been vaccinated, they had all their shots? I had a friend who had a horse that was rabid because of rats in the food and they got bit and the horse was actually rabid because it hadn't been vaccinated. Have they all had shots?

MS. BOYCHUK: Yes. All of the shots are up to date.

MR. KELLY: Have you had any problems with any rats?

MS. BOYCHUK: No.

PAUL BLOSER: Ma'am, could you please address your comments to the Board.

MR. KELLY: Sorry.

MS. BOYCHUK: I'm probably anal compulsive when it comes to clean. My horses are cleaned twice a day. The barn is swept out every day. The food is kept in plastic storage bins so they can't be -- I wouldn't say nothing can get in it, but they have the locks that go down on them so they can't be accessed and nothing can get into them.

The stalls are kept extremely clean. I trade them off so everything dries out on a daily basis, and I switch them so everything stays clean in the barn.

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

PAUL BLOSER: Chris (Karelus), would you comment on -- you said something about wetland investigation being done. Is it to the rear of that property, part of it?

CHRIS KARELUS: Mr. Chairman, there is a map with the -- a map that -- we have a shed application. So if we can just turn to that for a reference. The limits of the wetland shown on that plan are generalized, so they are in the process of doing a wetland delineation with a biologist. The flagging of those wetlands and the wetland report will be forthcoming to the Board. And their shed is in close proximity to that. So the final determination of that wetland could fluctuate where that shed location can or can't be on the property.

PAUL BLOSER: Would it have any impact, worse case, on where they're packing these right now?

CHRIS KARELUS: No.

PAUL BLOSER: What about flow or drainage?

CHRIS KARELUS: The application that we had gotten doesn't show any type of contours or drainage patterns. Generally, areas do drain to the wetlands, but without having that map given to us, I can't tell you with surety that that is what happens in this situation.

PAUL BLOSER: That would be a concern I would have, with the chips being spread at the rear, if they -- in a wet season, heavy rain season, if they would be draining towards the wetlands or cause any -- if that would be a concern at all to DEC.

CHRIS KARELUS: No. They wouldn't have a concern with that.

Paul Blosier 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 David Cross seconded the motion. The Board all voted yes on the motion.

James Wiesner made a motion to approve the application, and David Cross seconded the motion. All Board members were not in favor of the motion.

DECISION: Unanimously denied by a vote of 5 no for the following reason/finding of fact having been cited:

1. It was agreed that due to adjacent land (25.5 acres), hardship was not

shown to require less than 5 acre requirements.

4. Application of Daniel Mayer, owner; 140 Fenton Road, Rochester, New York 14624 for variance to erect a 12' x 15' utility shed with a 5' x 12' open porch attached to be a total of 240 sq. ft. (180 sq. ft. allowed) at property located at 2914 Chili Avenue in R-1-12 zone.

PAUL BLOSER: We have heard a few of the facts where this lies on the environmental side. This is an oversized shed.

Paul Bloser read the application description.

Daniel Mayer and Regan Boychuk were present to represent the application.

PAUL BLOSER: So this will be on the Chili Avenue property; is that correct?

MR. MAYER: Correct.

PAUL BLOSER: Primary use of this shed is?

MR. MAYER: To store toys.

DAVID CROSS: It's wooded back there?

MR. MAYER: There's trees around where the shed would go. Yes. There are woods. There is woods around this whole parcel. You can't see any road or any house other than my own from this position.

TODD BENZ: What kind of toys, kids toys or adults toys?

MR. MAYER: Daughter's bicycle. Her sandbox toys and stuff of that nature. Kid toys.

PAUL BLOSER: Do you have anything for the design and layout for this that you can put up for the audience?

RICHARD PERRY: There is one in here.

MR. MAYER: You don't have a picture in --

PAUL BLOSER: I do here, but --

MR. MAYER: I don't have another one, no.

PAUL BLOSER: Jim, could you put it up for me, please?

DAVID CROSS: Do you have a color scheme picked out?

MR. MAYER: Yeah. I plan on having it match the house, so cedar.

PAUL BLOSER: So cedar siding?

MR. MAYER: I think it is T-111.

PAUL BLOSER: T-111. Regular shingles on the roof?

MR. MAYER: Yes.

It is actually a building that is already constructed.

PAUL BLOSER: Prefab, and will be brought in?

MR. MAYER: Yes.

PAUL BLOSER: The only comment I will say up front is relative to Chris (Karelus)'s comments on where this is going, if we were to authorize this tonight, or pass it to allow this to go through, it would be under the condition that it may have to be moved.

MR. MAYER: Understood.

PAUL BLOSER: -- based on the findings.

Chris (Karelus), comment on that?

CHRIS KARELUS: Seeing that the Board denied the acreage variance for them to hold horses and it would involve a lot, it would be the recommendation of the Building Department, seeing -- the Building Department had a question with this piece, is this would in essence be somebody's personal property for a home that is not actually on the subject property. Not on that house's lot. So we'll ask the applicant if they do manicure the lot lines to be able to hold horses for five acres, that this shed be outside the limits of the wetland and also be located on that five-acre piece if the Board approves the size area variance this evening.

PAUL BLOSER: If the shed was not to be used for the horses, though, in conjunction --

CHRIS KARELUS: It is still used for the property, as part of their home's storage. Seeing the home is at the 140 Fenton Road property, the use of this shed is going to be primarily focused on the 140 Fenton Road storage. We would ask that that change of lot line include that shed on whatever lot line configuration of five acres if they choose to hold horses after this meeting.

PAUL BLOSER: Do you understand what he said?

MS. BOYCHUK: Yes.

PAUL BLOSER: Is this going to be just set, or is it going to be anchored into a foundation?

MR. MAYER: It will sit on about ten inches of stone.

PAUL BLOSER: Do you understand that bringing in stone or any kind of fill, there is going to be a permit required for that?

MR. MAYER: Okay.

PAUL BLOSER: You need to contact your Building Department. You just can't bring in any type of fill, especially if we are looking at a wetland situation.

MR. MAYER: Right.

PAUL BLOSER: They need to know what is coming in.

MR. MAYER: I had a member of the DEC at my house, and I took him around, and his feelings were that the pasture and the shed were well out of wetland range, but I guess that is to officially be determined.

PAUL BLOSER: Still, within the Town of Chili, any type of stone or fill to be brought in to raise an elevation must be approved through the Building Department. They must know about it. You just can't bring it in. It is part of it. Okay?

MR. MAYER: Okay.

RICHARD PERRY: What is the purpose of the porch?

MR. MAYER: It was a village in Naples where they had like a sort of spot meet. They had probably 50 of these buildings parked next to each other.

MS. BOYCHUK: They sold crafts.

MR. MAYER: Wine tasting. They knitted blankets. They sold property to put up condos and all these sheds went up for sale.

MS. BOYCHUK: And they were cheap. So we got a good deal.

RICHARD PERRY: So you already purchased this one.

MS. BOYCHUK: Yes. We don't have it, though.

PAUL BLOSER: One of the conditions we put in for overhangs on buildings with people recently is we don't allow storage of any type of vehicles or equipment underneath them. A picnic table or table and chairs, that is fine, but if you store any equipment, motor vehicles of any type --

MR. MAYER: There will probably be a rocking chair just to watch our daughter on her swing set.

PAUL BLOSER: The only other comment I will make, there was a comment made about four-wheelers out there. I would ask that you talk to the Town Building Department about the ordinances on those within the Town. They can address that with you. I do believe there are ordinances on those.

MR. MAYER: Okay.

RICHARD PERRY: You will not have electric or --

MR. MAYER: No.

RICHARD PERRY: -- or water to the shed?

MR. MAYER: No.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, Coldwater Road

MR. RETTIG: Just a question. Do you have a general site plan layout projected for this shed, even though you indicated it may have to be moved?

PAUL BLOSER: We do have the diagram, a lot map with an initial drainage area that is designated on here.

MR. RETTIG: Could that be posted for the general public to see for this hearing, please?

PAUL BLOSER: You can see just about center bottom, a proposed 12 by 15 shed where it is located, and to the right of that you can see the two bordering rings for the wetlands, so it is pretty close to there.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: With the shed, 12 by 15. There is a roof on it, and it is going to be running -- you will end up with water coming off it. Rain, snow, whatever. Since this is wetland area, is there any thing from the DEC that is required there, as far as runoff because you're taking away from absorbent type material?

KEITH O'TOOLE: The answer is no.

MR. GINOVSKY: I would appreciate it.

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

Paul Blosner 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 David Cross 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 Todd Benz seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved with the following conditions:

1. Shed to be located within 5 acre parcel for horses if so decided to have horses on said property.
2. No motor vehicles or equipment under awning.
3. Shed may have to be moved/relocated based on DEC findings of Wetlands.

The following finding of fact was cited:

1. Shed size approved to store personal items.

Note: A building permit is required before the shed is erected.

Keith O'Toole asked the Board to review the findings on the previous application.

5. Application of Roberts Wesleyan College, owner; 2301 Westside Drive, Rochester, New York 14624 for variance to erect a 10' x 12' utility shed to house backflow prevention to be 15 1/2' from front lot line (60' req.) at property located at 2301 Westside Drive in P.I.D. zone.

Matthew Sinacola and Richard Grier were present to represent the application.

MR. SINACOLA: Good evening members of the Board. My name is Matthew Sinacola with Passero Associates, and I can put this over here if you would like.

Tonight we are asking the Zoning Board to grant some area variance, front setback variances technically for a structure which would be a shed to contain the RPZ device.

My understanding for why this has occurred is that there was a problem with the pressures, with the water main internal to the Roberts Wesleyan campus for tying the new Golisano library into the system. As a result, there was a need to tap into the existing main on the street next door to the library, and that the Water Authority has now specified where the device needs to be located on the site.

As a result of that, we are trying to enclose the device primarily for aesthetic reasons so it will match and look halfway decent to the people walking by the library and driving by the library.

As a result, it needs to be situated in that area, which is fairly close to the road, and as the application specifies, essentially we'll be asking for a 44 1/2-foot variance for that setback distance.

PAUL BLOSER: What is the status right now? The waterline is tied in at this point? Because I know there was a discussion, and I think there is a couple on the Board that may not know, you applied for this -- or the College applied for this application with the Building Department to get a jump on this because of the building cycle and it be up and running for classes.

MR. SINACOLA: Right.

PAUL BLOSER: We knew this was going to be coming before this Board, but I know there was some approvals to get it at least started on this, because of the timing issue with schooling and everything else.

MR. SINACOLA: Right.

PAUL BLOSER: So I guess has the shed -- where are you at with this? The timing is done at this point? Have they been pressure-tested?

MR. GRIER: Rich Grier, Director of Facilities for Roberts Wesleyan College. Matt and I kind of met tonight when he stood up there, but I have been working with their office. We haven't done anything with it. We have the stakeout done by Monroe County Water Authority, and they're planning to be here this week to put the tap in. And then once the tap is in, we can tie into the system. The system is tied into the campus main, which comes off of Westside Drive, but there is so many -- there is over 1,000 feet of pipe between Westside Drive and where it comes into the library. There is too much pressure drop. We can't get enough pressure through, enough volume through for the fire pump. That is essentially why. It operates the building, as far as the bathrooms. There is not a lot of bathrooms in the library.

PAUL BLOSER: My understanding, it was a fire issue?

MR. GRIER: Right.

PAUL BLOSER: I'm assuming it will be in the same brick tone and everything like you have done the buildings surrounding that.

MR. GRIER: Yes. Same brick as the library. No copper siding.

MR. SINACOLA: I have to apologize. We were hoping to have architectural profiles, but there is a basic agreement with the contractor to use materials that were used for the retaining wall, the brick face of the buildings, so they should all blend together.

PAUL BLOSER: For the public, we did look at the alternative to this, and it is kind of an aluminum storage box, certainly not what I would want to be looking at. I don't know if it is going to come out or not on there.

PAUL BLOSER: So instead of having something like this -- this would be a brick enclosed structure, I'm assuming a steel man door to get in and out of it for service. A shed roof or a flat roof on it?

MR. GRIER: Flat roof.

PAUL BLOSER: Flat roof. So architecturally, it will match a lot better, consistent with the property at this point?

MR. GRIER: Right.

Also, the -- the Water Authority does not put their meter in a hot box, so the other choice would be to put in a meter pit, which doesn't make a lot of sense from a safety standpoint because of requirements for going into a confined space for them, so we felt it was a better option to put a small shed up around the meter and the RPZs.

PAUL BLOSER: Would you put any kind of shrubbery around this?

MR. SINACOLA: We do have, I believe, two Austrian pines proposed for some

screening. There are a couple of trees that are still in that area which were intended to be saved from the beginning, when the original site plan was approved by the Planning Board. Those are still there. We should be able to incorporate this structure in that same area and include a couple new trees to just dress it up a little bit.

With the brick facing, it should blend in well with that retaining wall, so it will be all one general theme going across there.

PAUL BLOSER: Everything you do on that property is first class. I'm sure it will certainly be a lot better than this.

MR. SINACOLA: It would certainly clash with the copper facing on the building, we certainly wouldn't want the aluminum, so...

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CYNTHIA STELTZ, 11 Orchard Street

MS. STELTZ: My husband and I own the property directly across from the library. My first question is how high will the shed be, and how far above the street level will the top of it be?

And secondly, I think you kind of answered the question. It was our understanding from the Water Authority that this could be done underground rather than above ground, and it has been done that way in other locations, and you did answer some of the considerations we had, as questions for that.

If the variance is not granted, how will the College deal with this problem, this situation?

PAUL BLOSER: My understanding was, again, they looked at a lot of alternatives with this, and this was discussed with the Water Department, the Fire Department, and also the College as to what would be the best route and least disruption to facilities, property and maintenance of -- and access to the structures.

Chris (Karelus); am I correct in that?

CHRIS KARELUS: Understand, this is a utility support that is necessary for this development. They need this service, which the water service along Orchard Street is accessible to them, and this is permitted (inaudible). That metal enclosure is what would house what is called the RPZ structure, and if not, dressing it up, it would be adding an upgrade that the University is proposing tonight with this application.

MS. STELTZ: And the height of the shed and how far?

PAUL BLOSER: 10 foot height it appears.

RICHARD PERRY: 10 foot, 4 inch.

MS. STELTZ: How far would be that above the road surface?

MR. SINACOLA: I think grading on there, it's -- the grade at the doorway will probably be about a foot above the road grade, so it's --

MS. STELTZ: Where is it going to actually be located in reference to the retaining wall?

MR. SINACOLA: You're familiar with where the dog legs are on the retaining wall. It will sit within that recess where the dog legs are for that loading ramp, up against the building. So...

MR. GRIER: It won't sit out as close to the street as the retaining wall is. It is actually closer to the building than the retaining wall is.

MR. SINACOLA: The retaining -- the portion of the retaining wall closer to the road will actually be closer to the road than the closest wall of this.

PAUL BLOSER: Ma'am, you're welcome to go up to the Board and look at that.

MS. STELTZ: I guess my question is in comparison how high will it be? We were told by the Building Inspector that the retaining wall will be 3 to 4 feet. There is 12 feet exposed, and it is a good 15 feet above road level, so I'm wondering what it would -- will be in comparison with the shed.

MR. SINACOLA: It shouldn't be as high as the wall, but it will have all of 10 foot height to it. A little over 10 foot.

MS. STELTZ: The grade is what, 3 or 4 feet about road level?

MR. SINACOLA: You're probably correct. The cross-sectional grade change where the footprint of that structure will go, there may be as much as a foot or so change. Is -- the intention is to build this on a flat concrete slab, but I can't really say exactly how high it will be above the road. But I'm assuming there will be at least a foot or two of grade change from the road up to the beginning of the building.

MS. STELTZ: At least.

MR. SINACOLA: It is going to be -- we don't want to change the grade too much because that would negatively impact the trees. The idea is to try to mask it and get it in there as best we can.

MS. STELTZ: What about drainage? There is quite a steep grade from the retaining wall to the street at this point.

MR. SINACOLA: That has all been handled by the drainage methodologies that were applied for the site. This shouldn't have any impact on that. This will be just incorporated in that slope. The drainage will continue working just as it was originally designed. So the street -- as you may know, there was some reconstruction on the street drainage, and that will be --

MR. GRIER: The location of that, the shed will be behind the existing maple tree, so that when you look from the street, you will actually see the maple tree first before you see the shed,

plus with the addition of the other Austrian trees, it will pretty much block all of that look from the street.

MS. STELTZ: But the roof line will be approximately 14 feet above the road?

MR. GRIER: The roof line will be shorter than the retaining wall.

MS. STELTZ: That is 15. It is 12 plus the grade, so that is about 15 feet?

MR. SINACOLA: Yep.

**STEVE GINOVSKY, 19 Hubbard Drive**

MR. GINOVSKY: Well, first of all, I have been in the construction trade for a long time, Mr. Chairman. And I have worked on a number of projects where this backflow protection -- prevention, excuse me, has always been inside an equipment room inside a building. This is after the fact. It is like ask me for forgiveness afterwards. And to have a 10 foot structure high in front of a multi-million dollars project, that's shoddiness. That is unacceptable. You don't ask for it after the fact, as far as I'm concerned.

And as being unsightly, yes. I drive by here every day. I think it is totally out of whack. I really don't think it is the best interest.

You have equipment room inside. You got a waterline coming in. Put it inside the building. If you don't have room, well, guess what? That was in design. It is not our problem. And it is not a hardship. It is self-inflicted hardship. That is the whole problem. That is what needs to be addressed. Having it outside on the corner of the property, looking at a 10 foot high building, a barn, a shed, whatever you want to call it, is unacceptable. It should have been designed better, and it is not up to the residents to look at something unsightly and gaudy.

CHRIS KARELUS: Mr. Chairman, if I could, with respect to Mr. Rettig (sic), this is also an important project to the University, and they're master metering this with only a single feed into the building. This supplies also the University -- a second service feed to the University which is important to note. It is a service that is crucial to the start-up of Golisano's library, but this is a second feed source that has to be master metered and protected independent of the building.

So I just wanted to clarify that for you. Because I know the points you made about the separation of the structure and the -- it was well received that backflow preventers are routinely within the building, within heated structures, but in this case it provides a second source of water to the University. So that is what this building will also satisfactory for the University.

**CHARLES RETTIG, Coldwater Road**

MR. RETTIG: I have no problem with what Mr. Karelus just stated in regard to the need for a follow-up. However, I do point out that an above-ground facility, above-ground building is rather gaudy looking. And these facilities, these back water preventers have in other towns, specifically Town of Greece, and think the Town of Chili ought to look at it, been underground. They can be put in underground vaults. It should have been put in an underground vault. And we could have been discussing an underground vault if it was properly presented by Passero Associates prior to their getting into the construction and doing the construction.

And I point out, another example is the fact that there is a -- there is a back water preventer already installed above ground on Paul Road for The Father's Church which is being done by Passero Associates. Sounds like Passero is not doing a thoughtful engineering job ahead of time to do it right. It should be put underground. I understand this issue with the need for scheduling and the way this one went, it's above ground.

However, I think we ought to look at it for underground construction is the right way to do it, and we are also going to be looking at The Father's Church in the future for a backflow preventer that has already been put in, and that means we have to accept another building somewhere within Chili. I think that ought to be addressed.

Thank you.

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

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

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

**DECISION:** Approved by a vote of 4 yes to 1 no (Todd Benz) with no conditions, and the following finding of fact was cited:

1. Hardship proven, not self created.

Note: A building permit is required before the shed is erected.

6. Application of Henry Paszko, 225 Stearns Road, Churchville, New York 14428, property owner: Hilton Enterprises, Inc.; for variance to create a lot with a depth of 224.01 (250' req.), variance to allow existing building on Lot #1 to be 14' from proposed rear lot line

(40' req.), variance to allow existing building on Lot #2 to be 23.5' from proposed rear lot line (40' req.) at property located at 4201 Buffalo Road in N.B. zone.

Kip Finley, Beth Paszko and Ryan Gauge were present to represent the application.

MR. FINLEY: Hello, everyone. I'm Kip Finley, with Avery Engineering. Tonight we also have Dr. Paszko's wife in the black in case we have any questions regarding the practice or anything like that. We also have Ryan Gauge up here with a tie from -- representing Hilton Associates who owns the property, in case there is a property-related question.

It would probably be easier if I could point to things on the map and get through it a little faster as long as you can hear me all right.

PAUL BLOSER: Yes. Just talk loud, please.

MR. FINLEY: The piece of property you're talking about is at 4201 Buffalo Road at the corner of Foxtail Lane. This is Westside Drive, where the intersection is. The existing office park has three buildings in it. The building we are talking about here (indicating) is on the east side. It would be Lot 1 with a subdivision of property, and the other two would remain on Lot 2.

The background on this is that the piece of property where Dr. Elstein, who owns this, had used this building when it was brand new, about two-thirds of it as a medical practice. I believe they left in about 2003, and he has been trying to lease that facility for a while. It has been vacant. I guess no interest in it. Ryan (Gauge) can maybe answer some questions on that.

The -- right now Dr. Paszko had been interested in leasing it, perhaps purchasing it. On July 30th there was a four-alarm fire at his practice in Churchville, so the decision was made that he was going to lease it, and then he would like to be in charge of his own property versus being -- answering to a landlord.

So he really does want to subdivide and purchase that lot. We do have a subdivision application in process for a meeting in September, but we knew it would be contingent on a couple of variances that you described in the application.

The two things are -- if anyone has ever been to the site, there is a play area with fence outside the day care. The property line logically would go alongside the fence.

Right now there is only 37 1/2 feet between the buildings, so it would be impossible to have 2 40-foot setbacks. We are calling this the rear, because it is frontage on Westside, and we are calling this the rear (indicating), because it is frontage on Spring Flower, so we have rears backing up to each other.

I guess the case is that we wrote in our application -- the hardship is the building is not getting leased the way it is, other than Dr. Paszko, who really doesn't want to lease it. He wants to own it, so the owner is somewhat in the bind if he will get any use or fiscal gain out of this vacant building, he will have to sell it.

The lot depth is here (indicating). I think that is less than a 10 percent request of variance for that. It is really the setbacks.

And I guess in closing for my spiel would be that these are two setbacks butting to each other in the same zoning for virtually similar uses, and that it is not as if it is a setback to a neighbor or residence or some other zoning.

So I would entertain any questions or if the public has any comments, maybe I can answer those.

PAUL BLOSER: Basically subdividing out? No building renovation, expansion or moving taking place?

MR. FINLEY: Correct. The site is completely built. We are going to be subdividing, if approved at the September meeting, or a subsequent meeting the type of things that we have on the site that are physical improvements. That would be relocating a dumpster, to an agreed upon spot, versus where it may have been moved in the past. There was some scurrying around as they were trying to move into this building and get from their burned-out building to here, so I think we have all these things like signs, dumpsters and all of that taken care of.

The unfinished part of the building will remain unfinished until Dr. Paszko's practice grows or he decides to do something. He will have to get a building permit for that.

Part of putting a medical practice in here legitimately was to go through the process with the Town to get a conditional use permit, and that was granted and then he got a building permit application to get a legitimate C of O, so I think we have corrected everything from the past. Now we are looking to subdivide it and actually make it its own freestanding parcel.

PAUL BLOSER: Um, was there any issues regarding parking lot, joint parking lot responsibilities?

MR. FINLEY: We did do a parking summary. There is actually an excess of parking spaces by calculating it out of the book. There is some debate on it as far as Sheriffs cars parking there, or are Sheriffs parking their personal cars and taking their patrol cars, but when it came through the conditional use permit, it was approved.

Part of the real estate transaction is that there will be a shared parking agreement over the entire parking lot. So this facility can share these spaces, and these facilities can share the other spaces, and they have access maintained.

The conditional permit did not allow driveway out onto Spring Flower to access this on its own frontage, but that will work out okay. We do technically have frontage so we can get an address and have this building separated.

PAUL BLOSER: You're up and running now, the business?

MRS. PASZKO: Yes.

PAUL BLOSER: Chris (Karelus), I know at one point there were a couple questions -- not problems, but questions from the Fire Marshal standpoint on the building for egress. That has all been --

CHRIS KARELUS: Yes. We worked diligently to get the doctor in the space and look forward to the person and property saying in the Town.

Just to make the Board aware, the signs with this property, we had discussed how they would sign the piece. Our code requires that the signage be on owned frontage, which would only allow the applicant to sign it along Spring Flower Drive, so they had indicated that they would look to a comprehensive sign or a sign that would be off their property. So just to make the Board aware, that maybe a sign variance would be in the future for this applicant, as well.

PAUL BLOSER: Would that be a common sign then?

CHRIS KARELUS: I think it will be an agreement with the current owners of the building and the Doctor on how they sign the practice.

MR. FINLEY: That pretty much sums it up. There are a couple of sign issues on the property and for visibility it would be the best to have the medical practice have a sign on Buffalo Road, but that's on the property of Hilton Associates, so it is really their issue, and they have told us they're going to be taking care of that.

MR. GAUGE: I can add to that. Ryan Gauge. Charter Commercial Real Estate. The agreement states -- the contract states that Dr. Paszko has the right to put a sign on his property, pending that it -- on Westside or Buffalo Road, as long as it is within the Town of Chili's codes. So it is in the contract.

MR. FINLEY: Hilton Associates has granted permission through the purchase offer to do it, but Hilton Associates has to facilitate it before it can happen.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY GRIEBEL, Spring Flower Drive

MS. GRIEBEL: I live in the adjacent Mayflower property. I have some concerns. It looks like I'm the only one from the 120 some homes that could come tonight, but anyway, this was approved, conditional use by the Planning Board. What conditions were approved?

MR. FINLEY: Do you know them? Or do you want me to tell her?

CHRIS KARELUS: There was a series of conditions that were placed on the property at the conditional use. Um, I think a lot of it, as they attested to tonight had to do with access, security easements on the property, shared parking agreements. So far the applicant and the Doctor have supplied the Town the adequate information to make the decisions and approvals they were given. I think the conditions placed on the property to date will also be -- including additional conditions. They are coming back for a subdivision and a site plan review for the Planning Board, as well -- before the Planning Board.

MR. FINLEY: Just to carefully, there are conditions on the conditional use. The conditional use permit was to allow the medical practice on that property or in that building in a Neighborhood Business zoning, which it is permitted with a special permit or conditional use permit, which is what you call it in Chili. So that made the use legal in that zoning.

And then the conditions are what Mr. Karelus had said about no access. We were told to bring the dumpster location and these things back before the Planning Board so that they're put in an agreeable spot instead of just moved around the site.

MS. GRIEBEL: I have another question that will be a Planning Board question, but what is the lot coverage of this new proposed lot? What is the building coverage on that?

MR. FINLEY: I should know that.

Okay, in these zonings, you're allowed to cover up to 30 percent. I'm reading off the drawing that the Board has. For Lot 1, for this, the -- the coverage, once this is split, is 13.8 percent, so it is not even half the allowed, and this one, it is 14.3 percent, so again, it is not even half what would be allowed on that property.

MS. GRIEBEL: Okay. Another concern with the subdivision of this, if this office moves, then this thing stays in limbo. That would be a concern for us, because the area east of that all belongs to Mayflower, that big large parcel that is just to the right, that whole thing.

We were very concerned with some of the manipulations that were done prior to the Planning Board approval, very suspicious. The dumpster moved apparently in the night, moving away from its fenced-in area. Signs were put up. So it's hard to know exactly what is going on there.

The dumpster presently sits -- would be on the Doctor's property?

MR. FINLEY: Uh-huh.

MS. GRIEBEL: Is there a shared agreement? Will that be moved again? Or what is the plan for that? Will there be two dumpsters or who would be responsible for it? Will that be a shared responsibility?

And similarly, along the same vein, with plowing, mowing, um, asphalt repair, striping of the parking lot, is that going to be a shared responsibility or is each owner going to be responsible for their own portion? That is going to be a little cumbersome.

MRS. PASZKO: That is all shared.

MR. FINLEY: I can address some of these and so can Beth (Paszko). I just have to catch up with questions. I am losing track with --

MRS. PASZKO: I can address the dumpster situation. It is right outside the front door. It is very unsightly. It has a very old wooden -- I think it is supposed to make it look better, but it

doesn't really.

My husband called to complain to the Property Manager and she said, "There is a cone on the property. Walk out in the parking lot anywhere you want to put it, go put it and just get it there before night fall."

So we walked around the property. We had no idea this was a Planning Board issue to move a dumpster. I mean, we were just doing what the Property Manager had said.

So we found what we thought was a good spot, and the next morning, they must have come during the night, the dumpster, and I think that is because it is difficult, I think, when the parking lot is full for the truck to get in and move it. That is why it was done in the middle of the night.

And then we found out it was an issue. And so the head Sheriff and the day care lady and ourselves walked around the parking lot and found a desirable location, which I guess will be addressed later on. But it had to then be moved back to the original spot.

MR. FINLEY: Just to give some background, to make the person from the audience feel better, the July 30th -- the practice in Churchville had a four-alarm fire.

MS. GRIEBEL: Yes, I was aware of that.

MR. FINLEY: Totally gutted it. They're frantic. And they're worried about getting into a building and getting room for parking.

I've since counseled them that dumpsters can't move. Easel signs aren't permitted, but in the course of 48 hours when your whole life is turned upside-down, I don't think they really cared where the dumpster ended up.

As part of site plan review, though, we are taking care of moving it to a location that they will all share and with an enclosure, and the easel signs, I believe, are gone. They're -- they have a sign application for the building, and they will address the sign out front.

As far as maintenance, each person will be in charge of their own asphalt sealing, striping, plowing. They have permission to use each others' property and parking, but they will all be in charge of maintaining their own, which it could end up being the same person that does all of it, but -- is that the purchase offer?

MR. GAUGE: Yes. They're responsible for their own portion, but typically they can work together, and what they do is they measure the whole thing and use the percentage of land that -- and they split the cost of doing the whole project. It will end up saving money. That is usually how these work. But if there is a disagreement, they still -- they can just maintain their own part.

MS. GRIEBEL: There is another question of school bus access for the day care. It is going to be going across two properties now. Is that going to be a problem? Are you aware of that situation?

MRS. PASZKO: Yes. The day care owner told us about that. She said just to keep the two end spaces unparked, if possible, and the bus has been making its loops no problem.

MS. GRIEBEL: Because the bus comes in off Foxtail and turns into the driveway and immediately turns right and goes down around there so that the door on the bus is right at the day care entrance door.

MR. FINLEY: They have total access. The agreement is they have total access. Any vehicle can go on either property seamlessly.

MRS. PASZKO: It's in our best interest to have shared access, because if we never had that, we are cut off. That is something need to have in there.

MR. FINLEY: They're guaranteed that will be executed because they're not allowed access onto Spring Flower, so they have to make sure this is in place.

MR. GAUGE: This is a legal document being drawn up by the attorneys. It is very common in subdivisions like this.

MS. GRIEBEL: Well, I know I was concerned after all of the things that seemed to be going on, and apparently the move in was before they had Planning Board approval and various other things.

I would like to say to the Board, based on my 14 years' experience on the ZBA, many applicants are of the opinion that approval by one Board would guarantee approval by the alternate Board. For example, if things are approved at the Planning Board subject to ZBA approval, that that is automatic because the Planning Board approved it or vice versa. So because of that, I would recommend that you table this until you see exactly what is going on with the Planning Board and the site plan and all of that because there are some issues in there that can definitely affect the whole thing.

CHRIS KARELUS: Mr. Chairman, if I could. The applicants, the Doctor -- the issues that the resident spoke of, all of the building enforcement team has brought those to their attention. They have responded. They have remedied problems within 24 hours. They have been very -- they have worked well with the Town, and the Town has worked well helping expedite this process for them. I think with the planning process that is the remainder, this Board is in proper process to review and act on the variances prior to the Planning Board, I think, on this project.

MS. GRIEBEL: Would that be with the understanding it is still subject to Planning Board approval?

CHRIS KARELUS: When they grant a condition on the approval subject to any approval, they're looking at just a variance issue, okay?

MS. GRIEBEL: I know. But I have been down that road many times.

CHRIS KARELUS: The variance issues that these Boards have before them are what they can act on. There is no site plan issue that can alter that variance request from this Board.

KEITH O'TOOLE: We can certainly make clear in our decision it is subject to Planning Board approval.

PAUL BLOSER: Just a general comment, too, there was a lot of things that happened in a very short amount of time because of the conditions of the fire. They had patients they had to see and no place to see them. I know there was an emergency Planning Board session.

MR. FINLEY: They paid an extra \$1,000 to get that.

PAUL BLOSER: To do that. There was a lot of things -- they have been -- my understanding, through the Building Department, Fire Marshal, is the applicant has been extremely responsive and cooperative with everything. Knowing his other properties and how he has kept them, he has been an extremely responsible citizen. I welcome him to Chili. He -- he's new to the Town of Chili. So I welcome the business. But what I know of him outside of the Town of Chili, very well respected and really takes good care of his property. For what that is worth.

MS. GRIEBEL: I guess our Association had some concerns.

PAUL BLOSER: And rightfully so. And rightfully so.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Are you still open? Yes. I was just thinking are we.

I was at that meeting, and one of the conditions was that the dumpster stays where the enclosure is. It is built that way. It is directed that way. The dumpster needs to -- was brought back and put back in there. That was a condition from the Planning Board. That -- and in regards to this, and -- and what has been presented about finding an alternative location, don't even go there. I don't think you're proper on that. It was a condition for this property to be used by the doctor. Period. And we have got to stick with it. Don't -- please don't start swapping around in midstream here.

PAUL BLOSER: That would come up at Planning Board.

MR. GINOVSKY: That was a main concern that was brought up, and also the bus, the school bus at the end to come through and let the children come out on the safe side, on the right-hand side, or the -- or the passenger, if you're driving, on that side. And that needs to be left wide open.

So keep those in mind. And also, as this being leased at this point, until he has purchased the property, and becomes owner, I don't even think it should be addressed as a tenant.

Thank you.

MR. FINLEY: I would like to address that. The conditions don't include the dumpster. They -- the applicant was told put the dumpster back and get the signs down until you're properly permitted to do it through site plan review.

The conditions of the special use don't have anything specifically to do with the dumpster.

KEITH O'TOOLE: Mr. Chairman, I think what we have before us are some setback variances. We are really not here to argue site plan.

PAUL BLOSER: Right. We are looking at the lot line issues here. Variances from setbacks.

KEITH O'TOOLE: What -- most of the issues that we seem to be discussing at this point are really Planning Board jurisdictions.

PAUL BLOSER: Right. All site plan.

MR. FINLEY: And there is an application in place to address it. And a meeting to talk about it.

MR. GINOVSKY: Mr. Chairman, may I?

PAUL BLOSER: Yes.

MR. GINOVSKY: Mr. Avery (sic) here has brought up the point with the dumpster location. I will point, it is right there. He brought it up. I did not.

PAUL BLOSER: It is not one of the issues.

RICHARD PERRY: It is not one of the issues.

MR. GINOVSKY: Excuse me, Mr. Chairman, I'm addressing you. May I?

PAUL BLOSER: Yes. I see it right here (indicating).

MR. GINOVSKY: This gentleman right here (indicating) gave the -- brought it up, before -- as his presentation, as a joint wherever agreed upon. That was not part of the condition. I am contending that it was there, and that is where it was supposed to be. There (indicating). Not over here in the middle of the parking lot (indicating). That is the point. And that is part of what is being done for a variance. Don't -- please don't change from that deviation.

RICHARD PERRY: That's not for the variance.

MR. GINOVSKY: Mr. Blosier, may I? I'm addressing the Chair, and I don't like being interrupted.

RICHARD PERRY: Too bad.

MR. GINOVSKY: Mr. Chairman, please, I think an apology is in order. I'm trying to be a gentleman here.

PAUL BLOSER: Please state your point.

MR. GINOVSKY: The point is that Avery Engineering has brought this to the matter. He brought it up at the presentation point, and I just wanted to have it put on the table, as well as our past Chair here of this Board. And I would like to have some respect from some of the other Board members to at least show that respect to the general public that shows an interest. And I would appreciate it.

Thank you.

PAUL BLOSER: Thank you for your comments.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: You're indicating with this variance the setbacks. You've explained it. I understand it. I think that's reasonable, acceptable.

I did want to reemphasize the reason for the bus right-of-way, which again may be -- may affect parking layout, which may be a Planning Board issue. However, I heard tonight that the end spaces would remain empty, if possible. I think that statement needs clarification for the Planning Board that if the spaces have to remain empty, they should be noted as such to remain empty so there is the right-of-way for the bus, otherwise, you should redo the parking and redo the lot layout and table it. However, if you set your condition for that bus access according to what has been indicated and plan on doing that, I understand your conditions to accept.

PAUL BLOSER: What we are looking for tonight is the application for the setback issues. The other issues are being addressed as part of the entire site plan package and the contract of sale is being evaluated by the Planning Board. Those issues will all be detailed and agreed on by the Planning Board or they will not be approving anything. We are strictly doing the setback issues so they can proceed with the sale -- this is our portion of it.

MR. RETTIG: And that would include -- that future Planning Board issue would include the lot configuration; is that correct?

PAUL BLOSER: Yes. That would be a condition if the Planning Board does approve -- the bus issues, the dumpster issues, it is all part of the site plan.

MR. RETTIG: Thank you for the clarification.

MR. FINLEY: It might help to clarify we are only here to make sure we have permission to put that one piece of the subdivision line in that spot. Everything else that is on this drawing is to be addressed at a later date through the subdivision process.

PAUL BLOSER: We are just looking at the setbacks right now.

MR. FINLEY: That one line (indicating). But I think we have helped by answering probably too many questions.

PAUL BLOSER: Yes. This is all we are voting on tonight, is setback issues, period. This is all this application is for.

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

Paul Blosner 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 David Cross 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 Todd Benz 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. Site plan approval by the Planning Board is to be completed.
2. School bus access to be maintained in parking lot for loading and unloading people at day care.

The following finding of fact was cited :

1. Lot setback issues are required to purchase building and subdivide existing parcel.
7. Application of Chris Karelus, owner; 16 Ambush Lane, Churchville, New York 14428 for variance to erect a 12' x 14' utility shed to be 4' from side and rear lot lines (8' req.) at property located at 16 Ambush Lane in R-1-20 zone.

Chris Karelus was present to represent the application.

RICHARD PERRY: Before he starts, I think there is an issue. Do we all have to recuse ourselves because of relationship?

CHRIS KARELUS: I have a conflict of interest. I'm the Building Department Manager for the Town of Chili. I will make that aware at the beginning of the meeting.

Tonight I wanted to educate the Board on the reasoning for my request.

There is a number of -- as I look at the Town Law 267, I will work through the five reasons for the request for the variance.

My property is currently residing in part of the Whispering Winds Subdivision. I have neighboring property owners to the east and west of my house. To the north of my property is open space associated with the subdivision, and the Interstate 490.

So I'm looking at the five statutory factors to allow an area variance as such with the Town. I wanted to make it clear that the size of the shed that I'm asking for is not in question. It is just the location of it.

The east and adjacent property owner, as well as west and adjacent property owner, I have

both discussed with them at length and showed them where in proximity I'm looking to place the shed on my property. I have asked them to come to this meeting as well as give a letter of support. They're both young families, so I understand they're not here later at night, but they have provided letters to the Board saying they support the application.

The property I own is involved in a Homeowners' Association. One of the reasons for, um, the size of the shed, just to understand so that this is a minimum relief request, I cannot store boats on my property. I cannot store RVs. I can have nothing outdoor displayed, in my Homeowners' Association agreement. So in order for me to buy the fishing boat I would like to have, I have to have a shed that is conducive to house the trailer as well as the motor and the boat. So the size of the shed is kind of to allow my property to have that type of use without me having to do anything else but just own a boat and have it stored at my site.

I have three children, so the storage that comes with children is also driving the size of that.

The location of that, I wanted to educate the Board, I have had numerous drainage concerns with my property. My property was the temporary drainage silt basin that when this section built out, the section prior built out, was on my property. The swale, all of the drainage problems that have happened, I have had numerous problems with water which has forced me to -- the maple tree that I cited on my application, I have had to replace that three times. I had an owner's guarantee that I was promised from the purchasing area expire. So I have had actually had to purchase two separate trees. The reason being, the root ball frosted. It froze. So I was forced to put drain tile in that area to relieve all that water that was sitting in my backyard and my side yard area.

So the location of this is restricted because I really can't build over that french drain, the drain tile I put in. The other parts of the property I have an elevated garden because the drainage again in the back requires me to elevate. I can't keep my vegetable garden at grade. It will flood out. I put up a swing set for my children. The drainage inlets I staked out for you, if you went to the site, kind of restricts the middle part of my property, and we would also like the opportunities to build pools in our backyards and put an addition on our house, as well.

So this is kind of the space where we have that is usable and I'm asking the Board for the relief to allow the setback at 4 feet. I know this Board is very -- I brought an area overview for the public to see where my property sits in relation to the 490. 490 is right back here (indicating). So with any impact, this has no impact to the residential character of the neighborhood. Um, it is actually -- a lot of the requested variances that have been granted in my neighborhood are the very same situation as I am asking.

Um, and again, I just -- we had approached -- me and the adjacent three or four property owners, because this was open space, we wanted to remain that forever open area behind our house. We approached our Homeowners' Association and actually purchased the properties. So we looked to acquire more of those properties so in essence one of the variances would have dissolved itself. We would have not had this request. If we would have attained the additional 8 feet, we would have had our rear feet setback met. The Homeowners' Association didn't allow us to purchase those properties.

So this is really a minimum relief request for my wife and myself and our family's storage, and we do understand the one variable that we have here that is self-created, this hardship is placing a structure where one doesn't exist, but I understand with the area variance in Town Law 267, that is the one area variance check with this Board that doesn't have to be shown to be proved positive.

So I would ask the Board if they could grant me the variance so I can erect the shed.

This will be a frame shed. It's not going to be a dirt shed. It will be on a concrete, 6-inch slab foundation. And again, I have tile work that is going to be prepared to relieve the water from those areas because what we have is ongoing issue with that whole backyard.

If you can see the darkened areas (indicating), just so I can elaborate on the whole drainage issue, these dark blackened areas along this swale are actually areas that will hold better than six inches of water during seasons and wet periods. So it is something we are trying to work with the Highway Department, as well, to help that work for the whole track.

RICHARD PERRY: I don't have the heart to give him a hard time. No questions.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, Coldwater Road

MR. RETTIG: I would like to State that the applicant has very well presented his case, including the five issues of hardship which is reason to accept the application.

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

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

Richard Perry made a motion to approve the application with no conditions, and David Cross 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. Hardship shown as a result of drainage problems, not self created.

Note: A building permit is required before shed is erected.

The 7/24/07 Zoning Board of Appeals meeting minutes were approved.

The meeting ended at 8:55 p.m.