

CHILI ZONING BOARD OF APPEALS
September 24, 2013

A meeting of the Chili Zoning Board was held on September 24, 2013 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Paul Bloser.

PRESENT: Adam Cummings, Robert Mulcahy, Michael Nyhan, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Michael Jones, Assistant Town Counsel; Ed Shero, Building & Plumbing Inspector

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

PAUL BLOSER: First, signs. I didn't have any problem with any of them. They were up for the duration. With that, we'll move right forward to the agenda.

1. Application of Melissa Pernesky, owner, 95 Sheffer Road, Scottsville, New York 14546 for approval to amend condition of variance granted on 4/26/11 to allow a maximum number of ten dogs on property (four previously approved) at property located at 95 Sheffer Road in AC zone.

MS. PERNESKY: Melissa Pernesky, 95 Sheffer Road, Scottsville, Chili.

PAUL BLOSER: So you're back for an amendment to your previous application for the four, and I also see that you have already gone to Planning Board and got approval, and then as far as the site plan goes for this --

MS. PERNESKY: Uh-huh.

PAUL BLOSER: -- did they issue a Special Use Permit or anything?

MS. PERNESKY: They approved it for the ten-dog limit, and asked me to come back to you because there is some correlation.

PAUL BLOSER: With the numbers. Okay.

For, I guess the benefit of the Board, because I think we have some new members since the last time you were in, just kind of go through what you do there, a little bit about the dogs and what you're doing.

MS. PERNESKY: Um, do you want the map of the property?

PAUL BLOSER: Yes.

MS. PERNESKY: 40 acres, 33 acres. I own both sides of the road there. In case you drove down and are looking at the map, there are no other residents or homes on that street. Um, I have dogs. I like my dogs. They give me personal enjoyment. Dogs are great for therapy, for other people, too.

Um, it just so happened I came upon four dogs and I had an ex-husband that complained recently, last year or so. They thought they saw a fifth dog on the property. It made the Dog Warden have to come down and investigate. She did not find the fifth dog.

To prevent this in the future I just went to a simple number, ten-dog limit. I have the proper facilities there. I have the invisible fence. I have very large kennels there. I have a large house to board them, keep them. I don't board for any businesses. I don't breed.

One is a rescue dog. At this point, I have four. If I chose to get one in the future, I didn't want to have to go through this process again.

It's a large enough property and I'm not disturbing anybody down there.

PAUL BLOSER: Do you -- you say you don't breed, so you don't --

MS. PERNESKY: No breeding.

PAUL BLOSER: -- for puppies or --

MS. PERNESKY: Nope.

PAUL BLOSER: Strictly for self-enjoyment then.

MS. PERNESKY: My enjoyment as well as others that visit, being neighbors, relatives. I am allowed to bring them to work. I'm a nurse. The elderly find great enjoyment, as well.

I have been to MCC for the pet therapy program and I have yet to train two of them that I'm interested in furthering so -- for problems like the reading program for children and that.

PAUL BLOSER: How many are you keeping in the house versus kennel versus just loose within the electric fence?

MS. PERNESKY: Um, they all reside in the house. It's a large house. It's an old house. There is a door to the kitchen, door to the dining room, door to the living room. They can be separated if need be.

Outside I have two large kennels. You can probably see that on the map. I kennel a female. She is spayed in the one that is attached to the barn. There is a doorway for her to get in

and out because she does come in often. She has long fur. They say it is better rather than the in and out to let her adapt to the weather.

The kennel, well, to the left, as you're looking at the house, I often put two dogs, but sometimes I don't. You know, I don't leave any loose when I'm not home.

PAUL BLOSER: So they're all either --

MS. PERNESKY: They rotate. They rotate.

MICHAEL NYHAN: You own all of the dogs, correct?

MS. PERNESKY: Yes. All registered, up-to-date rabies shots.

MICHAEL NYHAN: You don't sell any of the dogs?

MS. PERNESKY: No, I don't sell my dogs.

MR. NYHAN: Where do you get the dogs from? You said one is a rescue dog.

MS. PERNESKY: One is a rescue. A woman who had health problems. I had that dog -- that is my spayed female. I had her ten years.

I -- all of the other ones I got from puppies. I went to Hamburg, south of Buffalo, to get one and ended up with two, but they were, again, puppies. They were together, brother and sister. Their names are Thunder and Lighting, you know.

Then I got one from a very well-known breeder, um, in Victor. I have showed him quite often for confirmation. He has a lot of first place ribbons. I don't show him any more. Just kind of a fun thing to do with my daughter and he is now about five years old.

MICHAEL NYHAN: All of the dogs are kept and trained within the invisible fence area; is that correct, on your property?

MS. PERNESKY: Uh-huh.

MICHAEL NYHAN: Has anything else changed since the last time you were in front of the Board as far as the arrangement of the kennels that you have?

MS. PERNESKY: No.

MICHAEL NYHAN: Thank you.

PAUL BLOSER: Just one more quick question. What is the average lifespan on a German Shepherd pure bred like?

MS. PERNESKY: 12 to 14 years. I have had German Shepherds since I was a child. You know, depending on their age.

PAUL BLOSER: Just curious.

MS. PERNESKY: 12 to 14 years. You know, they're well known for hip dysplasia.

PAUL BLOSER: Before we move on, I will make one comment. I did get a call from the Town office that they did get a phone call from an anonymous person that -- about barking.

MS. PERNESKY: Parking? Parking, I'm sorry? Or barking?

PAUL BLOSER: Barking.

MS. PERNESKY: Oh. They're sure that came from my property?

PAUL BLOSER: That's what was recorded. It was -- it was anonymous, and I was just -- I have to pass that on. There was not an official record of it, but it was reported to the office, so I do have to look at that.

MS. PERNESKY: Have you all driven down the property? You're well aware that my closest neighbor is like --

PAUL BLOSER: The Thruway.

MS. PERNESKY: -- in the horizon.

FRED TROTT: Somebody on a cell phone on the Thruway called. (Laughter.)

PAUL BLOSER: So I -- I would have to say that before we move on.

MS. PERNESKY: That's fine. I'm probably sure where that stemmed from.

ADAM CUMMINGS: You might also want to announce that (indicating) is not working.

PAUL BLOSER: Yes. The overhead is not working tonight.

I did myself personally -- I have -- this week I drove by twice. I usually drive by when the signs are supposed to be up the first time, and I drive by towards the end of the ten days just to make sure the signs are up for the duration. The sign was up. I did see the one kennel coming off the right side of the barn and one of the dogs was in there, pacing, because I was driving by slowly.

MS. PERNESKY: She is doing her job, yep.

PAUL BLOSER: That is what they're there for.

I did see also that you have the property posted for guard dogs, which, you know, would deter anybody from going on, and for me, that's good enough.

MS. PERNESKY: It's a very secluded area.

PAUL BLOSER: It is. It is. It's a dead-end road.

MS. PERNESKY: You can see how a neighbor or a drive-by person would be disturbed by that barking dog?

PAUL BLOSER: I can't really comment, because I didn't get out and listen. I don't live very close to you, so. But it was reported. So.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I guess I also live in a place where you could call it secluded. We have over 100 acres. I don't think, though, that as far as away some of my neighbors are, they would appreciate ten barking dogs, which is what you may end up with.

Um, when did the Planning Board approve this?

PAUL BLOSER: I don't have the date of that, but it was about -- it was earlier in the year.

ADAM CUMMINGS: January.

ROBERT MULCAHY: January 8th.

PAUL BLOSER: January 8th.

MS. BORGUS: Their approval was contingent upon this Board's, um --

PAUL BLOSER: They did a site plan to review the facilities, how the dogs were kept, size of the kennels, the full background investigation on it just to see if it was suitable for a site plan to accommodate them. And they did approve it.

MS. BORGUS: For how many dogs?

PAUL BLOSER: The quantity was ten. Based on our approval.

MS. BORGUS: So actually the Planning Board approval for the number of -- it really isn't worth a lot unless this Board agrees with ten; am I right? I mean, it -- it's a Planning Board approval, but it was contingent upon this Board agreeing on the number?

PAUL BLOSER: This time, yes, we did it that way.

MS. BORGUS: Other argument that I always make is that, you know, that's a very dangerous thing to do, but it is up to this Board now to take this bull by the horns.

If this -- if you're even thinking about approving this, I think it should be for a short duration to see how it works. Because if you run into problems, you don't want to have a long-term deal made here. And also, if you're thinking even of approving this, um, regardless of what the applicant states, it should be a condition that none of these dogs are for boarding purposes or breeding purposes. I know she said they aren't, but please make that two conditions. I don't think it's a -- I don't think it's a good thing to start.

Wasn't very many months ago we had somebody from Attridge Road that wanted to raise dogs. I mean this will come up again and again. Precedent, precedent, precedent. And although you say and -- and the attorney says this -- this doesn't set precedent, everybody who comes in here will point to a precedent. So what they make it is what it is. So be careful on this one and get the right conditions on it if you think it should happen.

PAUL BLOSER: I grew up on a farm.

LINDA YOUNG, 468 Chestnut Ridge Road

MS. YOUNG: Linda Young, 468 Chestnut Ridge Road, Rochester, New York. I grew up with German Shepherds and usually they're very well trained and well behaved. They're very easy to train.

And also I work with therapy dogs. I'm a psychiatric nurse. I work with a number of people with therapy dogs in the hospital. They're -- they're very well trained, and from what I know, if she has been there through this program, it's a very good program. She has -- is already licensed and is training dogs and has worked as a therapist.

So I -- so if I was living right next door, growing up on a farm, as big as her property is, it's like where it is, I wouldn't have any problem with ten dogs.

I -- I have two dogs now. I have had three before. Um, and they can be well trained. And not be a problem. If she had only one complaint, you know, from an anonymous person who doesn't have even a day, date and time of when this occurred so that somebody could actually be out there to view it, it sounds like nobody has been by there that heard the dogs barking and nobody is here present to voice the same complaint.

So I don't -- I think it's unreasonable to put a lot of restrictions on -- on her with her dogs. I mean, because it can be handled by the Dog Warden, I think. If -- if there were complaints and the Dog Warden came out and saw it was happening, then the Dog Warden could impose fines and give direction and options to her.

I don't see why it needs to be restricted. Ten is -- ten is a good amount. I mean especially if they're in and out of the house, it's not a lot. It's a big house. I don't know this lady. I don't have -- I don't have a dog.

MS. PERNESKY: Never met her before, but thank you for your comment.

MS. YOUNG: But that is how I feel.

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

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

PAUL BLOSER: When we reviewed this, back quite a few years ago, it was March of 2011. We did put some conditions of approval on there as far as no boarding of dogs for profit, not getting into breeding for profit to run an official business out of there, because that would involve paperwork.

MS. PERNESKY: That's fine. I have no interest in that.

PAUL BLOSER: So I would be -- just conditions of approval, I put those same conditions down, um. So if you will bear with me, I'm going to write these down.

ADAM CUMMINGS: Are we just amending that one condition before, because the variance was actually for the setback, I think.

PAUL BLOSER: The variance was for four dogs because two are allowed on the property.

ADAM CUMMINGS: That was a condition we put on it.

MICHAEL NYHAN: Correct. We're amending that -- she is requesting we amend the

condition of four dogs to ten.

ADAM CUMMINGS: We'll still leave it as no boarding of any animals. That is already on there. We're just revising the four to ten?

PAUL BLOSER: We're -- we're going to classify this as another variance.

ADAM CUMMINGS: Oh, okay.

ROBERT MULCAHY: The Planning Board put a two-year restriction on it.

PAUL BLOSER: They started --

ROBERT MULCAHY: Special Use Permit.

PAUL BLOSER: Right.

So I would be in accordance with them on that one, and any time it became an issue, that it would be addressed accordingly. You're asking for ten. You know, that is going to be the maximum we're going to put on this. And again, subject to the two years you would be back in front of us to have it reviewed. Okay?

MS. PERNESKY: Yep.

ADAM CUMMINGS: Counsel, is that accurate? The Special Use Permit is two years. This variance for the dogs, does that have a time limit on it?

MR. JONES: No. The variance would not have a time limit on it unless the Board specifically imposed some sort of conditional approval with a review at some point in the future. And on the subject, if I may, I always try to remind the Board it might be a good idea to impose a condition that the lapse of use of the variance for a period of six months would cause it to expire. Otherwise they kick around forever and someone 20 years from now wants to use it when it hasn't been used for a long time.

ADAM CUMMINGS: We don't want to piggyback on the Special Use Permit. We want to put our own conditions on it.

Real quick, the ten dogs was picked out of thin air?

MS. PERNESKY: It was picked out of thin air because there was an anonymous -- there was a complaint by my ex-husband that he thought he saw a fifth dog. My thought was I'm not going to have the Dog Warden come down because I have asked for a five-dog limit. You know, there is coyote there. So who can really say how many large-looking animals are there, you know. It's country.

Ten. Good number. I -- if I want to have a friend come over with their dogs and play and romp, there's a pond, you know, whatever. It was just a number picked out of the sky. I have no intention in going out and buying more dogs.

ADAM CUMMINGS: Thank you.

PAUL BLOSER: I will read through these conditions real quick.

No boarding of dogs or other animals for profit.

No breeding of dogs for profit or as a business.

Two-year period of time is allowed for this variance at which time it will be reviewed for extension. And if a period of six months or more of time passes without dogs on the property as residents, this variance will expire.

Any additions or changes the Board wants to see to that --

MS. PERNESKY: I have a question. What do you mean, um, it will expire if there is no dogs on the property? Or does it --

PAUL BLOSER: If you have no dogs on the property.

MS. PERNESKY: None at all?

PAUL BLOSER: For a period of six months or more, the variance for over two would expire and --

MS. PERNESKY: I got it.

PAUL BLOSER: -- and the local code would prevail.

MICHAEL NYHAN: Just on the conditions you said for profit. I think it should be a condition that there be no boarding of any males on a temporary or permanent basis like we had before. It's not for profit or profit.

MS. PERNESKY: So for example, my parents live in New Jersey where the Storm Sandy was. If I were to have their dog for a few weeks, you would find that unacceptable because I would be boarding their dog?

PAUL BLOSER: It's not for profit or business.

ADAM CUMMINGS: He said we should strike that out and have no boarding.

PAUL BLOSER: No boarding. Babysitting for a family member is a lot different than for profit on a regular basis where you have the -- where you have County Health inspections for boarding. It's a business at that point to do that. So I think by "no boarding for profit" kind of covers it.

ROBERT MULCAHY: Fine.

ADAM CUMMINGS: Unless you board and don't make a profit.

JAMES WIESNER: Wouldn't be much reason to do that, so.

PAUL BLOSER: Unless you want me to change that, I -- I would say that pretty much covers it, no boarding -- that excludes --

MICHAEL NYHAN: 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 James Wiesner seconded the motion. The Board all voted yes on the motion.

Paul Bloser 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. No boarding of dogs or other animals for profit.
2. No breeding of dogs for profit or as a business.
3. This variance condition will be permitted for a period of 2 years at which time it will be reviewed for an extension.
4. If a period of six months or more passes without dogs on the property, the variance condition will expire.

The following finding of fact was cited:

1. Based on the remote location and the acreage, the requested variance is reasonable and will not present any negative or environmental issues to the neighborhood.
2. Application of James Valerio, 43 DaVinci Drive, Rochester, New York 14624, property owner: Estate of Giacomo Perna, for variance to allow a chicken coop to be 100 feet from north and east lot lines (200 feet required) at property located at 492 Chestnut Ridge Road in R-1-20 zone.

Jamie Valerio, James Valerio, Shana Valerio and James Perna were present to represent the application.

MR. JAMIE VALERIO: I'm Jamie Valerio. I live at 43 DaVinci Drive in Chili. I am here with my son, James, and his wife, Shana, who live at 506 Chestnut Ridge.

The chicken hobby is a joint project between the two of us, and I will just say a few words and be glad to address your concerns.

What you have in your hands is a petition that -- petitions that we had signed by ten immediately adjacent residents, most of which live either right next door or right across the street that are fully in support of us, and we have had more than that express support over the past several months. I just couldn't get to them all.

There were some -- there is also some opposition, and I am sure we'll hear from them later, but I have only met one of them personally so far.

And I have gone -- again, this past spring, some of our family members had gotten some Easter eggs for their kids and, um, instead of returning the chickens to the farm, they knew I was interested in doing this some day, so they asked me if I was interested. And I said, "Well, I have always wanted to do it, but I don't have anywhere else to do it except for the large piece of land we have on Paul and Chestnut Ridge.

So the first person I talked to was Ed Shero, and I asked him if I could have chickens there. He said "No" because it was residential. But then we looked into it a little further and he called me back and he said, "Yeah, actually you can on five acres or more."

And from that point forward that is when I began to construct the coop and made the commitment to get the chickens. I didn't know I wasn't in compliance at that time because I was in -- under the assumption that the setback was 100 feet. And that's because the agricultural setback was 100 feet. And I didn't realize it, but because it was in the residential -- because I'm in a residential area, it's actually 200 feet. I found that out when I got the letter from the Zoning Enforcement Officer, Kris (Yachett).

In the meantime, I got the letter, I understand, because there were a few people complaining about the roosters. I didn't realize that people were complaining. I was trying to talk to as many neighbors as I could. Some of the neighbors are here tonight and would confirm that I did make several house calls to make sure that I -- last thing in the world I wanted to do is deal with up -- upset the neighbors. That is the last thing I wanted to do.

So I thought by visiting all of the households which are -- most of which are on this petition, these are homes immediately across from Andony Lane, about five or six houses heading toward Paul Road. There are two or three homes on the one side, and two or three homes on the other side. They all signed this.

There was another person that wanted it signed, but they weren't at home and we could never cross paths.

Most people that came to visit liked them and expressed, you know, a great deal of support for it. I want you to know that -- you can tell from the picture -- I built this coop. It's kind of a special coop. It's got a plywood bottom that comes out that has a drawer so I can change the wood chips and keep it clean. It's done on a weekly basis.

The run is constructed -- it's all modular and portable. It's moveable. We have moved it several times already. The chickens actually eat the grass and whatever it is that they're sitting on at that point and then a couple weeks later we move it again. We're able to do this and still maintain the 100 foot setback on our property.

I constructed it in that way because first of all, my daughter-in-law wouldn't allow me to put anything but a very appealing, aesthetically appealing chicken coop on the property. It matches the color of the home. I don't know if any of you drove by 506 Chestnut Ridge. It matches the style of the home, the color of the home, the style and color of the yard shed. So everything sort of blends in. It's behind their garden. It's very appealing.

People have told me -- they thought it was a children's playhouse when I first built it because it's very nice to look at. This picture doesn't do it full justice. But the problem was when I was told about the 200 setback, um, is that behind our property -- and I'm going to pass these pictures, you can see that there is a very large -- I will put this up to the Board. I will pass these out. There is a very large channel, and a ditch and a large pond which we built -- we built. I say my company, Perna Homes, James Group. Jim (Perna), my partner is here, too. We built this when we built the Chestnut Ridge Subdivision and Country View Subdivision to alleviate some of the downstream drainage problems that were existing at the time.

So the stream itself now, I'm actually about 8 feet from the bottom of the stream. The edge of the coop is right on the edge of the channel and it's quite a steep drop. You can see if you look at the pictures, it drops pretty quickly.

This is our hobby. It's not a business. This -- it's not even possible to think about tearing trees down and building bridges because again, it's a hobby. One of the things that, you know, we do this for is we just -- honestly, it's an enjoyable hobby. We enjoy the eggs. In this day and age, keeping chickens might seem a little strange, but honestly, you know, we feed them all of the leftover foodstuffs. We give them the grass clippings.

They re-compost that into the ground. Um, we're able to re-compost that with the wood chips and the straw we put in the coop and the run that -- and that goes into the garden so it's a very sustainable hobby, and it's enjoyable and we also, um, you know, we just enjoy doing it.

We -- we finally realized that the roosters were just making a little too much noise. We didn't know we had all these roosters, because we hatched these from eggs. Our first mistake. And so we ended up with significant number of roosters. Weekly or -- or every couple weeks we found out we had more roosters than we thought we did.

Saturday, the last of the roosters is no longer with us, and we took -- it took us a while, maybe about a month to eliminate the roosters. We originally were going to come in here, if you see on my application, I was going to ask if I could keep one rooster. We decided not to do that mainly because of -- well, one neighbor at least that was complaining to me personally about it.

So I didn't want to give the roosters away where they would become someone's meal, so we found a farmer in Riga, a farm in Canandaigua and a farmer in Livonia, and they each took two of the roosters. And -- so they're gone. It's no longer a point of issue.

We don't plan on having any roosters. If you want to make that a condition, of course, that is absolutely acceptable because we don't want them.

The -- let me just make sure I don't miss any points here.

Obviously you have a lot of questions. I'm more than willing to answer them. My son and daughter-in-law are here. Again, take a look at those pictures. You will see the hardship as to where we can't push the coop back any further. It's virtually impossible.

Anything can be done, but again, it's a hobby. We're not going to spend thousands of dollars to do that. So, you know, any questions, we would be glad to answer.

PAUL BLOSER: I do have a question. I did call and get permission to go down and take a look at that coop and back into that pond area, which I did.

MR. JAMIE VALERIO: Okay.

PAUL BLOSER: It is a significant drop-off. And -- in back of that -- your playhouse.

MR. JAMIE VALERIO: Yes.

PAUL BLOSER: The kids' playhouse.

MR. JAMIE VALERIO: Right.

PAUL BLOSER: So you can't move it back any farther there.

Across that, there is a big enough swamp area, you would need a bridge.

MR. JAMIE VALERIO: "Swamp" is a good word.

PAUL BLOSER: And it's -- would probably need a 50 footer or more to get cross that, which is just not feasible.

MR. JAMIE VALERIO: Right.

PAUL BLOSER: If that damming your company created were to be removed, that water flows under CSX into Hillary, correct? So right now it's eliminating a lot of the water problems in there?

MR. JAMIE VALERIO: Well, I didn't mention that, but yes, absolutely. In fact, when we built Chestnut and continued with Country View in about 2000, um, we were asked to help alleviate downstream drainage problems which the Town had had for many years. If you talked to Dave Lindsay and I know John Caruso has been around, Hillary has always been a nightmare. We literally solved that problem overnight by putting in a 7-acre detention area.

PAUL BLOSER: I can see where that --

MR. JAMIE VALERIO: Huge ponds.

PAUL BLOSER: -- flows to and where the outline of that is.

MR. JAMIE VALERIO: When the Town enhanced their -- well, further damned up our land by putting sand bags under the railroad track -- they're still there, the sand bags and the weir that goes under the railroad track are holding back a lot of water and preventing the problem. In the process, we're getting some cattails, but there is no question that we helped solve a huge problem. And, um, that --

PAUL BLOSER: There is no other road back, access back there.

MR. JAMIE VALERIO: It's landlocked. The two access points to another piece of land we own. I limited this to a 14-acre application. We own a 14-acres, 28-acres, 42 acres and another 44 acres, that wraps right around and the Swain Farm. I didn't want to burden any of that with this variance. There is no point to it. I only limited it to the smallest acreage I could, which is the 14-acre specific tax account number directly behind 506 Chestnut Ridge. So none of the other land will be affected by this, nor will we ever need to.

I think I have said this before. You know, the family now owns this in the Estate of Giacomo Perna. Jim (Perna), James, his brother John (Perna). This land some day will be sold and developed, so these chickens aren't here forever. This is a hobby. And we're going to do the best we can to keep it -- I didn't mention this now, but we go out of our way to keep it clean.

We went through July and August, and I asked every single neighbor I visited if there was ever a problem with smell. I wanted to know about it, and every single one of them said absolutely not. I never heard a complaint about odor, from anyone.

We wouldn't tolerate it. My son and his wife don't want that any more than anyone. So again, we clean the wood chips and the straw weekly, and it's good because everything we have given them to compost through eating gets re-composted for a compost pile and put right in our garden. Again, it's a perfect situation. We would never tolerate that.

PAUL BLOSER: Like I say, I did look at -- asked to see --

MR. JAMIE VALERIO: That's an aerial photograph.

PAUL BLOSER: Without doing a lot of expense and excavation, taking out a tree to put --

MR. JAMIE VALERIO: And this aerial photograph, if you can hear me, you can see it if you come up here (indicating), this drainage ditch, it's 1,000 feet long and this 7-acre pond, the ditch goes all of the way up to Paul Road. It -- this is very clearly delineated on the aerial photograph. The red spot is where our coop is. And it's right on the edge of that channel. Right on the edge. I couldn't go back any further.

We're already sloped a little bit. But we can handle that. If we go back any further, it will be like this. That is why I brought the aerial photograph. You can see all of your properties on here very clearly if you look at it, if you would like to see it.

Again, this drawer that I'm talking about that is removable, that's on the bottom here. That comes out. This is all -- there is a door into that run that gets cleaned the same way. But this is very easy to clean. You can see our straw bale there (indicating).

JAMES WIESNER: I guess what I don't understand, and maybe Ed (Shero) can answer the question, where is this variance being measured from? Because you can see the chicken coop right from the road.

MR. JAMIE VALERIO: Yes. In order to know exactly where the lot line was because Kris (Yachett) came out -- Kris (Yachett) is her name, right?

ED SHERO: Yes.

MR. JAMIE VALERIO: What is last name?

ED SHERO: Yachett.

MR. JAMIE VALERIO: She came out to -- I told her, she had our permission to go on our land and measure everything, but they didn't know where the lot line was. So I mentioned to somebody -- maybe it was you, Ed (Shero) -- we were going to have it staked.

I staked the lot line specifically across three lots so she could see exactly what to measure from. She would have a point of view across three stakes. I believe she already did that. We're 100 feet from that line now. It has been done by a professional surveyor.

JAMES WIESNER: So 100 feet off the properties that you see there on Chestnut Ridge.

MR. JAMIE VALERIO: 100 feet off 506.

PAUL BLOSER: So the properties don't go as deep as where it is mowed is what you're saying?

MR. JAMIE VALERIO: Oh, no. Everybody is back another 50 or 80 feet. That's just the way it works. But we have -- the property line is very clearly delineated now with stakes. And yes, they do -- they do look much smaller. The rear lots look much smaller than you think they were because most people have gone further with the lawns, which we haven't opposed.

FRED TROTT: How many chickens do you have?

MR. JAMIE VALERIO: Right now I think we have 11. We had 13. No, we had 16. We're down to 10 or 11. We'll never have more than 15.

FRED TROTT: How big is the coop?

MR. JAMIE VALERIO: That coop is -- the first area is 23 square feet with -- including the nest boxes. There is a -- kind of a second level made out of what we call perches. They're 2 by 3s. They circle the -- maybe 2 feet off the bottom of the coop because the coop is 4 feet high. And the chickens, they roost on there or on the bottom every night.

And the -- the three next boxes again are attached so we can lift the -- the roof and remove the eggs, which are just starting to -- we're just starting to get the eggs, so it is kind of exciting.

FRED TROTT: Seems kind of small for that many chickens.

MR. JAMIE VALERIO: We have a couple bantams in the mix, too. That's why I say I don't think -- we'll never have more than 15.

And that's a high number. Truthfully, it probably won't be more than 12. It's worked out very well. They're very comfortable at night and sit on the perches. It is kind of like a double level, so that is why it works, so tall. If it was shorter, it wouldn't be enough.

PAUL BLOSER: Are you doing these from eggs or from chicks, or what size do you normally get them, ongoing?

MR. JAMIE VALERIO: I'm sorry, I missed your question.

PAUL BLOSER: Are you -- are you doing these chickens from eggs right now or buying them as chicks?

MR. JAMIE VALERIO: No. If I get chickens in the future, there will not be any more chickens hatched because we don't want roosters and there is no way of knowing that you have a rooster. I mean, I don't know how they do it. It's almost impossible until they crow. I can't tell the difference.

PAUL BLOSER: Growing up on a farm, I know that it was five or six months before you really knew, and -- and everyone looked alike.

MR. JAMIE VALERIO: You can tell they have different things too look for but we don't want to hatch eggs because I don't want roosters. So if we had chickens or one dies or some chicken has to go, we'll buy chicks and we'll know that they're hens. We won't buy any roosters, I can assure you.

PAUL BLOSER: Then you're good with that as far as a condition of approval, no roosters?

MR. JAMIE VALERIO: Absolutely. Absolutely.

FRED TROTT: I was just surprised that they use -- I used to have chickens, too, and my coop was a lot bigger for probably 20 of them. So that is why I was thinking -- it seems awful small as they get bigger.

MR. JAMIE VALERIO: It's really tall inside. The center is probably 5 1/2 feet, so the second floor with the perches is almost like another set of shelving. I consider it to be the second floor because that is where half the chickens spend the night on the perch and the half spend it on the bottom. Plus some are sitting in the nest box.

FRED TROTT: I just wondered if you had -- well -- you might be -- if it was bigger, and more space in there, you might say less sound that the neighbors would hear. You know, they're probably going out there during the day.

PAUL BLOSER: Hens don't make noise.

MR. JAMIE VALERIO: The hens you don't hear. The robins and the crows are louder than the hens. We don't even hear the hens. They just cackle quietly. They're hard to hear. 25 feet away from a hen it's almost impossible to hear.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JOSEPHINE FAGGIANO, 502 Chestnut Ridge Road

MS. FAGGIANO: Josephine Faggiano, 502 Chestnut Ridge Road, which is directly next door to the chicken coop, rooster coop. I don't know what it is.

All summer long, I have been going through this, hearing the roosters at 4 a.m. in the morning. I don't need an alarm clock any more. 4 a.m. in the morning they go off. I work 80 hours a week. I am very, very disturbed right now. I not only purchased the house from Mr. Valerio and spend \$200,000, but if I would have known I was going to end up in this situation ten years later, I would have never built this house here.

This is a residential area and I thought that I was safe by building a house in a residential area. Okay, and when we did build the house, with all of the acreage that he has behind there, we were told that more houses were going to go up because I was -- we are a little leery about even being around a lot of, know, wooded area. So we still end up building the house.

That picture right there that you see does not really paint the whole picture. Just like one of the gentlemen just said up front here, when you do drive by, it's an eyesore. Even if we decided to sell our house, I believe that I would have a problem selling the house because of that problem right now.

It does give off a smell. He is saying that there is no smell. I cannot open the glass sliding door of my own house because of the sound of the roosters and the chickens from morning until night.

I am livid over this whole problem, okay? I don't feel as if he should be granted 100 feet. I don't feel he should be granted 200 feet or 500 feet. And it's not our problem that he has a ditch or whatever. He is a builder. He can find a way to get through there the way he found a way to knock the trees down to build my house. I don't like it. I don't want it there.

And another thing, when I did wake up this morning, I did hear a rooster. And he just got done saying that he can't distinguish whether it's a rooster or a chicken. Okay?

And I think that he has a problem and he needs to go to rooster school or chicken school or whatever it is to figure it out before he plans on leaving that there, okay, to bother us neighbors.

I don't think anybody on this Board or in this room, okay, realizes the effect of what those roosters and chickens are doing to the value of our homes, our privacy in our own homes. I want to go home at night. I work 80 hours a week. I don't want to have to sit in my kitchen and not open up my glass sliding door. Either I will hear the roosters, the chickens or my dogs will go off because of it. And I'm surprised I haven't been turned in for a noise ordinance for my dog because I can't even let my dog out at 3 o'clock in the morning when I do come home late because he starts barking when the chicken and the roosters do. So I got to bring him in. Okay?

I'm just really, really upset at this, and like I said, if I would have known that this would be the result of my home in this area, I would have never built the house.

And shame on Mr. Valerio, okay, for even thinking of coming into the neighborhood and making this problem with people that spent hard-earned money to live in their homes in peace and quiet. I don't know why he doesn't go to his neighborhood and try this right now, because I believe he knows he can't get away with it. Okay?

And I'm sorry that I'm as agitated as I am, but I couldn't wait to be here tonight. And I am probably the first people that complained, okay, and I have done everything I possibly can to stay away from this family, not to create any problems, but I can't take one more day of this.

Excuse me, but this is what I hear in the morning when I get up, all summer long. This is from my glass sliding door. This morning.

MR. JAMIE VALERIO: Can I say something? There is no roosters, so you couldn't have possibly heard it this morning.

MS. FAGGIANO: Maybe it's the chicken. You're a little confused as well as I am right now.

MR. JAMIE VALERIO: If I could address Lori (Piccareto)? The other Lori (Piccareto). Lori (Piccareto), I -- you and I had a conversation about this several times and --

PAUL BLOSER: Jamie (Valerio), through --

MR. JAMIE VALERIO: Am I allowed to do that?

PAUL BLOSER: State it through the Board.

MR. JAMIE VALERIO: Through you, if I could address Lori (Piccareto). I have met with Lori (Piccareto) several times and asked her, among the other neighbors if there was a problem. She never indicated there was a problem. I didn't -- you never told me it smelled.

MS. FAGGIANO: Because she is afraid of you. Okay? You come over, pointing your finger at all of the neighbors.

MR. JAMIE VALERIO: She never told me she had a problem with the roosters. In fact, her comment was those are beautiful birds. I would hate to see them go. I swear to you that was her comment.

I never knew that you guys had a problem with the roosters. I never knew it. Again, they're gone.

MS. FAGGIANO: You should have never did it without getting the variance first of all, before you disturbed the neighbors.

PAUL BLOSER: If you interrupt again, I will have to ask you to leave.

MS. FAGGIANO: Yes, sir. I'm sorry.

MR. JAMIE VALERIO: I'm just telling you I had conversations with her and I didn't know it was this bad. There is no odor. That is absolutely wrong. No roosters. They're gone. They have been gone since Saturday.

LORI PICCARETTO, 518 Chestnut Ridge

MS. PICCARETTO: Hi. My name is Lori Piccaretto, and I live at 518 Chestnut Ridge Road. I'm a Chili resident for 24 years and I'm a licensed day care provider. So I work out of the house.

Um, I'm thinking about in July, the chicken roost, the chicken coop went up. And several chickens and roosters came along with it. At first, I was fine with it. I took my day care kids down to look at the chickens and roosters and thought it was really cool.

Well, then shortly after that, the roosters started crowing, as early as 4:15 in the morning. Um, and they don't stop at 4:15 in the morning. As naive as I am, I thought a rooster just crows in the morning when the sun comes up and it ends there. But they crow until nighttime.

Um, when the owners were on vacation, Mr. Valerio was outside cleaning up the coop. And I walked back there with the day care kids that day and said to him, um, "The roosters are really loud and they're waking me up as early as 4:15 in the morning and it's got to stop."

He did tell me that -- give me some time, in a couple weeks they will all be gone, but "I am going to keep one. So one is going to make noise, but I will get rid of them."

Eight -- it took eight weeks.

He is now saying they're gone, but it took eight weeks to get rid of them. For eight weeks I had to live with 4:15 in the morning, roosters crowing. Like I said, I'm a day care provider, so I need my sleep. I need at least eight hours sleep to be able to work with my kids. Nobody wants a grumpy day care provider. Um, so that was -- that's my first concern.

My second concern is because we do back up to woods. There are a lot of wild animals, fox, coyotes, lot of coyotes, raccoons, et cetera. And I'm just -- myself, as well as my day care parents have already addressed their concerns to me that they're worried about the wild animals coming closer to our homes and to our children because of the coop.

And I'm out all year round with my kids. If it's winter time, we're outside sledding, making snowmen. Summertime we're outside playing on the swing set, whatever. And if there is any of those wild animals that are coming closer to our homes and if they're rabid, they could attack my children as well as myself. So that's a -- that's a huge concern, as well, for my parents as well as myself.

I like chickens, I like roosters. I like all animals. I'm an animal person. I have a dog. I have a rabbit myself. And, um, but I think chickens and roosters belong on a farm. I -- I understand that's their hobby, but I -- those are my concerns that I have for myself.

PAUL BLOSER: Okay. Thank you.

JAMES VALERIO, 506 Chestnut Ridge Road

MR. JAMES VALERIO: My name is James Valerio and I live at 506 Chestnut Ridge Road. This started as hobby with my father and me. We do this to bond, to get the eggs. As he said in this day and age, it's nice to use nature. Um, Miss Piccareto actually visited our house almost every day during the month of July with her children and this is before they actually asked. And I said, "Oh, it's a nice opportunity to meet the neighbors."

I told her we would get rid of the roosters, and she was, "Oh, like why? We like them. We like the sound."

A few weeks later, um, I guess things changed. We did take a little while to get rid of the roosters. Why? Because we didn't want to sell them to a farmer who was going to kill them. We wanted to make sure we found people who would keep them as pets.

My wife and I would never tolerate a smelly coop, especially my wife. Our yard is clean. We have nice landscaping. We would not want that smell. We had our windows -- you know, we have air-conditioning so obviously our windows are shut. You hear the crowing, but not if the windows are shut. If the windows are open, I will attest, yes, you would hear the crowing.

The roosters are all gone. We sold the last two on Saturday to a farmer in Stanley, New York.

Um, I think what some of the neighbors might be -- not misunderstanding, is that from what I understand, 200 feet setback, you can have all of the chickens you want, and roosters. We're willing to get rid of all of the roosters and have the 10 chickens, 100 feet away. If we --

UNIDENTIFIED SPEAKER: Sounds like a threat.

MR. JAMES VALERIO: Not a threat. I'm stating the law. If we go 200 feet, from what I understand, we can have whatever animals we choose. I find it very difficult to understand why if we're willing to, you know, compromise on this issue, why there would be any opposition.

Thank you.

PAUL BLOSER: Other public comment? All right.

CHASE OSBORN, 498 Chestnut Ridge

MR. OSBORN: I purchased my house in January. My name is Chase Osborn. I live at 498 Chestnut Ridge. Lori and them live right next door to me. We have our windows open all of the time.

Are the roosters annoying? Yes, the roosters can be annoying. But like they said, they want to get rid of the roosters.

If you know anything about chickens, if you research it just a little bit, if you said, it takes six to seven months before you can tell if a chicken is a hen or a rooster. Unless you do DNA testing, which costs thousands of dollars. Like they said, it's a hobby. They're really not that big a deal.

I mean, not to be rude, your dogs bark, my dogs bark. The train is loud. There is way more things people could be complaining about than the roosters. I just think it is ridiculous. This is ridiculous. Thank you.

BILL MONELL, 491 Chestnut Ridge Road

MR. MONELL: My name is Bill Monell, 491 Chestnut Ridge Road, right across the street. I don't really care which way you go on this, but the roosters have never bothered me. I sort of liked the sound of them. I will miss them when they're gone. I never had any smells. I'm directly downwind. I'm speaking for myself and my neighbor next door.

So I -- just my opinion, okay?

PAUL BLOSER: Thank you.

GEORGE WARNER, 547 Chestnut Ridge Road

MR. WARNER: Good evening. George Warner, 547 Chestnut Ridge Road. Um, I would like to know how the building got built in the first place.

PAUL BLOSER: Under 100 square foot, so a permit would not be required.

MR. WARNER: Oh, no permit required.

PAUL BLOSER: Under 100 square foot, yes.

MR. WARNER: Do you have any idea if the chickens are just going to be in the house, or are they allowed to get out in the grass and -- he did say that they eat the grass and --

PAUL BLOSER: When I viewed it, I could see where the coop had been at one point, the outline of it, and the coop was on wheels, I noticed, so it can be rolled to another location so that it doesn't become a real bald spot and the grass can be re -- regenerate itself.

MR. WARNER: So the chickens are constantly contained in the fenced-in area?

PAUL BLOSER: In the fenced-in area. That was made to be moved also. It does -- one of the things I noted is how he had the chicken wire, comes down the wall and overlaps out and is staked down. Where some animals, like if a fox or coyote would come at it, um, they're going to be digging closer to the fence and they will hit that fence into the overlap into the cross there. They would give up and move on, most likely, as a deterrent unless they were really starving.

So just my observation of the construction of the coop, it was done well, thinking out some of those things.

MR. WARNER: Well, it is a residential area there. It looks like he is infringing, and with all of the land, if he has 14 acres, I see no reason for a variance.

Thank you.

MR. JAMIE VALERIO: Just like to clarify. The chickens are in the coop and the run. They will never be outside the run for any reason. Absolutely not.

VIRGINIA STEVENS, 479 Chestnut Ridge

MS. STEVENS: If this coop is on wheels, why didn't he wheel it over to DaVinci Drive where he lives over there and have chickens over there.

I have lived in this house -- it will be 48 years in January and we can hear them down at

our house. I don't want to live on a farm. If this starts, how many other ones are going to want to do it? This will only be the beginning.

Thank you.

BILL STEVENS, 479 Chestnut Ridge Road

MR. STEVENS: I'm Bill Stevens at 479. I turn around and don't approve of this deal at all because chickens, you can't control them. He has them right now in his backyard. They're no 100 feet or 200. They're probably about 20 feet away from the property line, if that. I don't care about that.

But we don't need a chicken coop in Chili. I didn't buy a house out here and raise a family here to have a chicken coop put across the road. When I bought the house, the land over there was delineated wetland and they told me right to my face it could never be built on.

Now, if you guys want to change the rules and regulations, that's your business. That's what you are sitting there for, but I will turn around and tell you that I got a lot of disbelief in Chili, because I put a lot of faith here and I have done a lot for this community. I just hope you guys make the right decision on this chicken coop, because we don't need it. Just because somebody likes to have a few chickens -- let them go out and buy land out in the farmland, way out in the country where they don't bother nobody.

He is not going to because according to him it would be an inconvenience to go there to feed them. So let's turn around and think squarely on this thing because people in the neighborhood don't need it.

Thank you for your time.

ANDREW LANG, 486 Chestnut Ridge Road

MR. LANG: 486 Chestnut Ridge Road. Andrew Lang, the name. I have been working with Dave Dunning for five years to try and get the Pernas to clean up the jungle that I live next to. They were going to build homes back in the woods and I live next to an access piece of property that is overgrown and it looks like heck.

Mr. Dunning claims that Jimmy Perna refuses to do anything about it, and therefore, the Town can't do anything about it. Why I'm bringing that up with respect to this chicken coop is that it's obvious to me that the Pernas don't give a darn about the neighborhood or what it looks like. So it seems fit that they would put a chicken coop on a property where we live to further lower our property values.

I have been told by a real estate guy that that property next to me will decrease the value of my home should I sell that home. And this is going to further knock the value of my property down, so they haven't been cooperative insofar as cleaning the neighborhood up and making the neighborhood look nice with that property I live next to, and this adds to it.

HANNAH LEVINE, 498 Chestnut Ridge Road

MS. LEVINE: Hannah Levine, 498 Chestnut Ridge Road. I have a couple of things to say. Everyone is talking about how it's a residential neighborhood and whatnot. I would like everyone to look up the laws for the City of Rochester. You can have a chicken coop and roosters in the City of Rochester within 25 feet. This -- we're talking about 100. This is Chili. There are woods behind us. This is -- this isn't a city area. Not to mention, he is getting rid of the roosters. We're not going to hear them.

It's absolutely absurd that anyone would ever say that you could smell roosters. 15 roosters, 12 roosters across the road when you know very well he keeps it clean. That's not an eyesore. Nobody driving by knew it was a chicken coop. I thought it was a child's playhouse and I live two houses down.

LORI ARILOTTA, 502 Chestnut Ridge Road

MS. ARILOTTA: Lori Arilotta. I have a couple actually. Lori Arilotta, 502 Chestnut Ridge Road, right next to the chicken coop. Actually my bedroom is right next to it.

There a noise issue, a smell issue, a health issue. The variance issues and the hardship issues. This is an issue that my house has decreased value now that no one wants to live near farm noises. I built a home in Chili. I grew up here. I have a family. My family has been here. I have been living in this home now for ten years. I didn't build my house, my \$200,000 house paying over \$6,000 in taxes so I could live next to roosters and be disrupted. I can't enjoy the pleasures of -- as everyone else and quiet enjoyment of my house.

Mr. Valerio, you built my home and never was I told you would build a rooster chicken coop. Though, you took a great deal of money from me and I ask what your integrity is that you sold me this house and now that you're doing this, about your character.

Then the hardship issue. A hardship is something that causes difficulty to endure. It's pain. It's something that is self-created. You created it. I understand that you're saying that it's a hobby. And I'm sorry. But it is annoying. It is. I mean no disrespect to you guys. It is annoying. It has been all summer. Sorry.

Um, how about my quality of life? How about my hardships or the odor? How about disrupting the area? Um, the -- the noise ordinance was that no person with an intent to cause public inconvenience, annoyance or suffer/allow permit unreasonable noises or sounds. All summer, non-stop. From morning until night. Yes, we were promised it was going to be done. He was going to take them out. They still haven't. He waited right before the hearing? Shouldn't we have been considered before we did this? Couldn't you have talked to us then?

Yes, I have talked to Mr. Valerio. Yes, I am intimidated by him. Yes, I was. I do not like confrontation, but I don't really want to live next to the roosters or the chickens.

The variances are supposed to protect the best interest of the surrounding properties, the neighborhood and the Town as a whole. Okay. Not supposed -- and the restrictions are only you have -- cause unnecessary hardship. They're not an unnecessary hardship. He caused the hardship.

The -- the area variance is 200 feet. Then it should be 200 feet. I would rather not have 200 feet. I would rather not have them at all, but if it must be, that is what it must be.

It is something he created and, again, no disrespect to you guys. It's just -- it's a disturbance to me, my life, my company. I can't enjoy my home. And if you truly all would like to have this next to you, please do, buy my house. I would be glad to sell it to you at the price that it is now, not now that I have to live next to a little chicken coop and roosters.

I would have to ask you, I think one complaint might have been too much. Two or three? It seems that Mr. Valerio and his son without concern, compassion, integrity or character of anyone else's rights for quiet enjoyment after he even knows his actions caused disturbances or -- or annoyances and he didn't change it. He could have taken them out at any time. It's like we don't matter. We have no say.

I know Mr. Valerio has close connections with the Town and some of the Board members and several others; however, the Board was created to make decisions that are in the best interest and the safest and healthiest for the Town of Chili and the neighbors and residents as a whole. It's not one person's wants versus the Town ordinance and rules.

Mr. Valerio created this situation. There is no hardship on his part and only hardship is us -- us as the victims that he created.

Thank you for hearing me and listening. Of course I -- I hope that it's not, um, approved because I don't really want to live near that. I would like to have the same enjoyment that all of you do, when you go home. Quiet. And I would like to go outside and sit on my patio that I couldn't do all summer, or open my windows, because they were crowing all day and all night that I couldn't hear myself or anyone talk.

So thank you for hearing me.

TIM WALZ, 472 Chestnut Ridge Road

MR. WALZ: Tim Walz, 472 Chestnut Ridge. I came home one day and there was a sign posted on the right-of-way. We maintain the right-of-way. Never had any problems with the Pernas at all, but we were concerned that a coop was going to be built behind our house.

We also maintain the properties that is back behind it, and we thank you for that. I have five kids, so we were concerned that the chicken coop was going to be built behind our house. I'm concerned if this variance as approved, they could relocate the chicken coop to behind our house and we don't want to experience the same issues and problems that the adjacent neighbors do have. We don't have any current issues with the location of the coop where it is now.

LINDA YOUNG, 468 Chestnut Ridge Road

MS. YOUNG: Linda Young. I have to comment. I live at 468 Chestnut Ridge Road. My name is Linda Young. I grew up on a farm. And I know about chickens. I know how they smell, and I don't live as close to that coop as other people do, and -- but I appreciate what they're going through, because I understand it.

The -- to me, the coop is too small for 11 chickens. And we're never going to know how many more chickens are going to be there. And there is no reason -- because he owns the land in back of our house, and it's between Tim and I, there is a right-of-way there that has been maintained by neighbors, not Pernas, or Valerios, but our -- his property is in back of ours. It's a wooded area, and there's no reason, but some of that is maintained, too, just to keep the -- the bugs down, animals, things away from the houses. But I'm concerned about more wild animals back there. They cause -- they cause my dogs to bark. The chickens caused my dogs to bark, and they're way down there. I mean not way down, but they're a few houses down.

I could hear the roosters when they had roosters. And that's a ways down. I don't -- I really don't agree with -- I mean, I grew up on a farm in Gates. It was zoned as Agricultural until my parents died. Then it was zoned to be, um, apartments and so forth. And it's on Coldwater Road. Um, across from Shane Harris. We had 20 acres. And once it was sold, it was no farmland any more.

I don't -- Chili is -- is a residential area. I could have moved out to a farm in 1990 when I moved from the city in Philadelphia, so I could have had farmland, but this land I understood was not going to be able to be built on in the back because it was wetland, and even if the right-of-way, where I live, what I understood from the people in Town, that -- the right-of-way isn't big enough to go back there and build houses. So I'm not sure that there could ever be houses back there, but I don't want to see chicken coops back there.

I didn't buy in Chili because I wanted to live in a farming area. I could have done that, but I didn't. And so now all of a sudden it appears that it is out there.

I was never consulted at 468 about a chicken coop. We never signed anything. No one came to our house. I'm retired, so I'm there all of the time. And I never talked to anybody. And then all of a sudden it appeared.

I didn't approve of it. I wasn't called to a meeting. I didn't come here to say when it first came up that I approved the chicken coops here. And I don't. I don't want them in my -- in my backyard and they could be -- because his property is in my backyard, is past that -- that ditch,

that isn't maintained by anybody, because there is trees growing in the back of my house with the ditch, um, past that, he could move that chicken coop, if you give him a variance and these neighbors don't want the chicken coop. To please them, he could easily move the chicken coop down back of our backyards. There is no reason he couldn't. If you -- if that is on rollers, he could roll it down. Or roll it down the street and roll it back -- in the back of our houses, because even -- even, you know, to get back to the wooded area or to walk back there, we have little bridges over the ditch to mow property back there. Even -- you know, to keep the wild animals away.

So, you know, we're -- I -- I can't believe this is happening, that -- that if one chicken coop is going to be there, then another one will be there and it's -- or it could be rolled down to the back of our houses.

And I understand from my niece, who is a real estate person, that it does -- she buys and sells. She works for Nothnagle.

Yes, it does bring down the value of your house. There is no question about it. And if I wanted to sell my house and I don't have a \$200,000 house -- I couldn't afford that -- I wouldn't be able to sell my house for that much money.

But still, it is bringing down the property value for my house, too. Whether it's -- whether it's down there or five houses down, people know about it. And I don't see why it has to be there. I think he could put it on his own house property, if it is approved to be over there by his neighbors. Maybe that is one thing, but I don't want it in my backyard.

Fred Trott made a motion to close the Public Hearing portion of this application and James Wiesner seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

MICHAEL NYHAN: Very similar circumstances on -- we just had a very similar circumstances on Attridge Road.

PAUL BLOSER: For dogs.

ADAM CUMMINGS: Really we're just looking at the 200 foot versus 100 foot. They can have chickens if they want to put them 200 feet away. They can have it anywhere on that -- any of those parcels as long as it is greater than --

MICHAEL NYHAN: Which has already been explained it couldn't be done because of other hardships, which is why they're there for the variance.

ADAM CUMMINGS: They could do it physically, but they would have to do improvements to get there.

JAMES WIESNER: I don't have any comments.

FRED TROTT: It is a self-created hardship. I mean, they can go further back, you know. I have more an issue with the size of the coop than anything else for that amount of chickens.

ADAM CUMMINGS: We're not worrying about that.

FRED TROTT: I know.

ROBERT MULCAHY: Chickens are allowed in a residential area.

PAUL BLOSER: It's on ag land. Your land back there is registered now as ag or what, residential?

MR. JAMIE VALERIO: It's R-1-15, Ed (Shero)?

MICHAEL NYHAN: Residential land. They need 200 foot setback.

FRED TROTT: But they need 200 foot setback and they're asking for the variance for the 200 foot setback. If he goes 200 feet back, he is fine. He has 14 acres.

PAUL BLOSER: What I'm asking is, is that 14 acres classified as R-1, or is it Ag? He has to be 200 from Residential?

JAMES PERNA: We could deed it all over to the one lot if you want. No big deal.

MICHAEL NYHAN: It's Residential zoned. The zoning is Residential.

ADAM CUMMINGS: It's R-1-20.

MR. JAMIE VALERIO: That's why I'm here.

PAUL BLOSER: I just wanted to be sure.

MR. JAMIE VALERIO: Am I allowed to speak? I just want to point out that the ten people that signed this are not here. Two of them are here actually.

PAUL BLOSER: You did -- I apologize for that. I do want to make the comment that I have ten other neighbors that signed the letter of support with signatures for this, for the record in its current location and based on what he is asking for.

MR. JAMIE VALERIO: These are all very close to the location of the 506.

PAUL BLOSER: Based on the addresses, the street numbers, yes.

On the conditions, I'm going to put no roosters on the property.

The other thing I'm thinking about doing on this one, is we put like we did on this last one, a trial period to see response. If the roosters aren't there, if the noise continues.

Like the other one, if the chickens are gone for a period of six months, the variance -- nobody else can put them there. I would like that, just like we did with this past one.

Then we would put the limit on the amount of birds allowed also.

PAUL BLOSER: I would like to put it at say an even dozen. That will control it to the size of the coop.

With those conditions?

MICHAEL NYHAN: Are you looking for additional conditions?
PAUL BLOSER: Yes.
Mr. Valerio, the -- for clarification, the address that the coop is parked at now, is?
MR. JAMIE VALERIO: 492 Chestnut Ridge Road.
PAUL BLOSER: 492?
MR. JAMIE VALERIO: It's behind 506. You can make that a condition. If you would like to make that a condition, it can only be behind 506.
PAUL BLOSER: 492 is your access road?
MR. JAMIE VALERIO: That is my address for the property. 492.
ADAM CUMMINGS: It's the entire parcel.
MR. JAMIE VALERIO: Sorry. 492 is the land address.
PAUL BLOSER: That is the entire 14-acre parcel.
MR. JAMIE VALERIO: 14-acre parcel.
PAUL BLOSER: I have some conditions on here I will review with the Board.
On the conditions, no roosters allowed on the property.
Limit of 12 birds/hens.
Condition to review status in one year to see how it's been. You know, review any problems that might have been tied to it.
Number 4, I'm going to put hen house and coop to be cleaned out at least one time per week in 65 degree plus temperatures in the day, weather and every two weeks in the cooler colder conditions.
So in hotter weather where smells could possibly be more prevalent, taken care of on a regular basis. Colder weather those smells subside to, you know, a better degree.
Coop is to remain behind the 506 Chestnut Ridge address only. If the house is sold to a non-resident family member, the 506 property is sold to a non-immediate family member, the approval would become void. So you couldn't sell it to somebody.
MR. JONES: Mr. Chairman, I have to counsel that is not permissible with the variance. Variance condition can't be personal. It runs with the land. So the conditions have to relate to the land and the use of the land, not the ownership. Just -- I would hate to have it challenged.
PAUL BLOSER: Okay. But it can be -- as long as he owns that property, it has to remain behind 506.
MR. JONES: I think -- yes. You can limit it to the 506, because that's the land. You can put the duration on it and you can have an explanation that if it falls into disuse, but you can't have it conditioned on the person.
PAUL BLOSER: Okay. Or the transfer of sale. If it's not used for a period of six months or more, like we did with the dogs, okay. So we'll put that one in there, so the coop is to remain behind 506 Chestnut.
Anything the Board would like to see on this?

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.

James Wiesner made a motion to approve the application, and Adam Cummings seconded the motion. All Board members were in favor of the motion.

DECISION: Denied by a vote of 5 no to 1 yes (Paul Bloser) with the following finding of fact having been cited:

1. The Board determined that due to excessive complaints of neighbors and also the available acreage to relocate, the requested variance is not compatible with neighboring properties and could be relocated elsewhere on the property without the need for any variances.
3. Application of Lou Bivone, owner; 55 Alliance Drive, Rochester, New York 14623 for variance to allow parking lot for 11 vehicles within the required buffer zone at property located at 3765 Chili Avenue in NB zone.

John Caruso, Lou Bivone and Ken Bullis were present to represent the application.

MR. CARUSO: Good evening. Mr. Chairman, Board members, I'm John Caruso with Passero Associates. With me tonight is Mr. Bivone.

If the Board has had a chance to read our letter of intent, it very well describes the situation that we're experiencing at Creekside Commons.

For the edification of the -- of the Public Hearing, we're actually -- we're experiencing a good problem. The -- the plaza is doing very well, and as a result, we have a little bit of a situation that is not overwhelming. It's not very dangerous, but we do have a situation where the congestion of the parking lot, due to overlapping peak hours of the different operations with the restaurant, that there is times that it can be a safety hazard or -- and/or it can be a bit frustrating to some of the restaurant patrons who come to find a parking space and go to the restaurant and it happens to be occupied in the short term by the dance studio. The parents are there picking up

kids for a quick turnaround.

And we -- we have a solution to the problem and that is to add 11 parking stalls on the east property line, and unfortunately, that enters into the existing landscape buffer. Um, I want you to know that we took a hard look around the site before we chose that spot, and I know that this Board has granted some variances in the past to this site, but before this building and the parking layout, as you see it, was approved, we spent a significant amount of time at the Planning Board trying to work out the layout of this parcel.

And one of the layouts we have was having all of the parking in the front of the parcel. You can see that if you take the parking that is behind the building and put it in the front as to where we had it, that ten row parking stalls would have been in the front yard and we know better that that was an unacceptable solution to the design layout at that time. And that's why we still are looking for, you know, where we put these other ten stalls.

So the parking stalls that you see in the back of the building, um, were proposed initially in the front and you can see if you line up head-to-head parking and there is a drive aisle, we would have been able to go in and extend into the front setback. But that wasn't acceptable.

And so even though that's a solution now, we know it's not a viable one because it wasn't acceptable back then. So going forward into the front setback is not a viable solution for us to add some additional parking.

We also have considered going back into the -- behind the -- behind the building, and I can tell you that on -- on the plan that you may have, and -- it is shown on this plan, if I could. There is seven stalls located right here that we proposed that no longer will be proposed as we advance this application, if we're allowed to advance it. What I mean by that is, we know from working with the Building Department that we're going to need to take this to the Planning Board for an ultimate approval.

At the Planning Board, they will be looking at the things like the type of screen that we propose to mitigate. We're going to install a fence. I will describe all that. But that is what the Planning Board will take a hard look at when we go. The option to go into the back, they will also want to look at that, and what we found further investigating that is that our opportunity to build parking is going to be into the detention pond. We would have to fill that and build a retaining wall, and in doing so, creates some engineering issues in addition to the feasibility of constructing that.

And I'm not even talking about economically. It's just physically building that with a wall, having that wall around water is probably not a good idea. So what I am telling you is we won't be proposing those seven stalls in the pond as we go forward when we do go to the Planning Board, making the 11 that we're proposing in the proposed buffer, even more valuable to us.

So again, we don't have a -- a catastrophe here, but we do need these to ease this for the sake of improvements to some of the business patrons which are looking for ease of their customers to get into their facilities, but also it will improve some public safety on site.

So I wouldn't go any further without telling you that we looked at alternatives. We felt that this was probably the best alternative. Because we can easily mitigate any impact of putting these 11 stalls on that east property line with the buffering and screening.

So with that, some of the other standards and proof I would like to put out there is we don't believe this will have a change in character. This site is a commercial parking lot and business. And adding additional parking is really necessary. The variances, um, if we -- we don't believe is substantial because the -- the -- the Zoning Board of Appeals has already issued, um, a variance for us to enter into the buffer and they did that when we connected the roadway that serves the southeast corner of the parcel to the two homes and residents down in that area.

So if I could, there are two residents in this area (indicating). The access road that comes down through here (indicating) has entered the 30 foot area. We have already asked this Board for a variance to enter into that area. So we have already broken the mold here; adding 11 more cars in here doesn't make the situation better. Um, but we have -- we -- we have technically received a variance in that area. No adverse impact on the environment.

We feel that we can mitigate lights, motion, by locating this thing to the rear of the property of the -- of the neighbor next door. We respect that man. He has worked with us all along through this project, and so by putting these vehicles lined up in that situation, they -- they have a tendency to be more towards the rear of the backyard. And we can mitigate the impact associated with it.

Finally, um, we do not feel this is self-created. This situation has occurred as a result of good business. The businesses that Lou (Bivone) has put in that area are very good. They're an attribute to that area of the community. If you know the residential areas to the southeast along Union Street, Whispering Winds and the other developments over to the west all benefit from having a little restaurant in that area. There's no other place to go get a beer, a glass of wine and have food. Just -- just not.

So I think Lou (Bivone) is being very responsible in this self-creation, that it is not self-created. He is actually responding to what needs to be done. His customers are asking him to do something about it. And I think he is just being responsible.

So I would be happy to answer any questions you might have.

Lou (Bivone) is also available to answer your questions regarding operations, and we hope that you will grant us the variance.

Thank you.

JAMES WIESNER: Right now out back there was temporary parking created. How many spaces are out there now? There is like a little road or a little driveway.

MR. CARUSO: Right now I think we have 73, and we're going to be adding 11.

JAMES WIESNER: Out back right now there is some temporary parking, a little driveway.

MICHAEL NYHAN: A roadway along the detention pond.

MR. BIVONE: That's employee parking.

JAMES WIESNER: How many were added there?

MR. BIVONE: We have added six. Six spots.

JAMES WIESNER: Those will stay?

MR. BIVONE: Pardon me?

JAMES WIESNER: Those will stay?

MR. BIVONE: They have to stay. That would be employee parking.

JAMES WIESNER: Those aren't on the site plan.

PAUL BLOSER: State your name and address for the record.

MR. BIVONE: Lou Bivone, 29 West Ham Circle.

JAMES WIESNER: Those aren't on the site map at this point.

MR. CARUSO: No.

JAMES WIESNER: But they're staying?

MR. CARUSO: Um, yes.

JAMES WIESNER: The size of these parking spots in the buffer zone are the same size as throughout the whole plan?

MR. CARUSO: Yes. They meet code. They're a little deeper into the buffer than we would like, but the reason why, if you notice when we got the project approved, the residents to the south, the owner of the land wanted a sidewalk out to the roadway. Now, there is no sidewalk along Chili Avenue, but we constructed one along the front of our property to tie into future sidewalks. And because we didn't feel that it was, um, Mr. Bivone's responsibility to build the sidewalk, we actually granted a variance so that if the owner to the south wanted to build a sidewalk through there. And we built the sidewalk down to the front of the building. So there is a segment of sidewalk that was not constructed.

PAUL BLOSER: That is shaded out.

MR. CARUSO: So the sidewalk comes down to the front of the building and so that anybody walking along Chili Avenue could have a sidewalk and cross over and get to the front. When we build this parking, we will extend the sidewalk along -- down to this point here (indicating).

PAUL BLOSER: Along the curb.

MR. CARUSO: Yes. It's not a big deal, but it's hard not to build the sidewalk, but it was something that was going to be left for the owner of the property to the south and while we're there, you know, we're going to build that in.

PAUL BLOSER: Does the increase of 11 or whatever number you're proposing here, um, change the ratio of handicapped necessary?

MR. CARUSO: No. The building is -- it's a function of the building.

MICHAEL NYHAN: Will there be any changes in the lighting to the parking area?

MR. CARUSO: No.

MICHAEL NYHAN: Nothing will be moved for lighting.

MR. CARUSO: Not unless there is a conflict that I didn't see, Mr. Nyhan.

MICHAEL NYHAN: The existing plan doesn't show the lighting along that side if there is any. When I went down there, I don't recall if there was a post anywhere along where these parking spots are right now.

MR. BIVONE: There is no post, but the light -- the patio light shines over to the parking area.

MICHAEL NYHAN: Attached to the building.

MR. BIVONE: Attached to the building shines across the driveway.

MR. CARUSO: I didn't want to introduce another light pole in there. I was wondering if you saw one in conflict. That is why I was asking.

MICHAEL NYHAN: I didn't see one. That is what I was asking.

MR. CARUSO: We're not proposing a light there.

MICHAEL NYHAN: The fence that you will construct, where the existing fence ends, you would then go to the east there, it would be the same size, right on the property line; is that correct?

MR. CARUSO: Same exact fence.

MICHAEL NYHAN: Right on the property line with the fence?

MR. CARUSO: Might move it in a little bit.

MICHAEL NYHAN: That would be mounted on top of a retaining wall, some sort of --

MR. CARUSO: Yes. We're going to mount it on top of the wall.

MICHAEL NYHAN: All right.

I couldn't tell by looking, have you taken into consideration what is the drainage for the property to the east? Does it drain along that current buffer now down into Black Creek, or are there any drainage pipes that have been installed in that back area? And by putting a retaining wall up, will it change any of the drainage characteristics of the property to the east?

MR. CARUSO: Good question. No. The property to the east drains directly south to the creek. We're significantly higher.

MICHAEL NYHAN: Okay. All right.

ROBERT MULCAHY: Do you plan on filling that area in where you're putting the new

parking spots? Will you fill --

MR. CARUSO: Yes, sir. We have to fill a little bit to level it. We'll have a 3 foot retaining wall to hold up that area.

FRED TROTT: The ten parking spots are going to be sufficient for what you need?

MR. CARUSO: You know -- yes, we think so. We think they're going to take the edge off what we need.

MR. BIVONE: Really have no choice because there is no other room to put --

MR. CARUSO: But we also don't want to over-park the site.

FRED TROTT: Now, is this -- because I went there a few times and didn't see an issue with parking, but I assume it's just at a certain time, the meal time.

MR. BIVONE: It's not even the meal time. It's the conflicting with the dance studio who comes in on Monday through Thursday. Friday, Saturday, we have no problem whatsoever. It's the Monday through Thursday. When the dance studio opens at 4 and the restaurant opens at whatever, that is our conflicting times right there. It is only for a few hours, but it's been enough where the parents have been complaining that they're here to drop their daughters off and wait for an hour while they're dancing and they can't find a parking spot so they leave. And they told my daughter, who is the owner, that if she doesn't correct it, they will take the kids someplace else in another town to dance.

The restaurant is having the same issue with customers complaining and if they can't park, they won't come. This is -- you know, 11 is better than nothing. We put in the private road. We paved that private road to pick up spots for employee parking. It is only employee parking. It is no customer parking.

ADAM CUMMINGS: Does that alter your parking spot count here? What is the exact parking?

MR. CARUSO: 73 plus 11.

ADAM CUMMINGS: Plus 11, plus 6, or does the 73 include those six not shown on the plan?

MR. CARUSO: It doesn't. I didn't -- I didn't know those existed.

ADAM CUMMINGS: It would really be 97 instead of 91?

MR. BIVONE: Yes.

MR. CARUSO: No. The 91 includes 7 that we're eliminating, so it is 73 plus 11 plus 6.

ADAM CUMMINGS: Okay. It's a lot of arithmetic.

MR. CARUSO: I'm sorry.

FRED TROTT: I have another question. The front lot, you -- speaking with the Planning Board they said no way? I mean, did you have an off-table discussion?

MR. CARUSO: Oh, no. Fred (Trott) I was --

FRED TROTT: I know initially what the whole initial scope was. I'm just wondering, my personal opinion is, you do have enough there if they would consider that, because I look at ten spots, wondering is that going to be enough for you?

MR. CARUSO: We think so. We think so. It's enough to turn us over through that period. You know, going into the front setback would be a significant -- we would have intrusion. We would have to construct not only another length of stall, but then a service lane to get to it. Our intrusion would be another 45 feet into -- to the north.

Then we would have the whole entire retaining wall along the front of that. It would totally change the -- the front view of that property, which was what we argued with the Planning Board, the whole intent up front.

So I don't think we would be successful from our past experiences, with that as an alternative.

ADAM CUMMINGS: They would have to come back into us for another variance to allow -- so.

FRED TROTT: Yes. No. I realize that.

I just -- I'm afraid that -- I wonder if we're going to -- if they will be back for these -- if the restaurant is successful and everything else is successful and they're asking for front spaces.

ADAM CUMMINGS: This is one of the rarities where a business is doing so well it's almost too much for that parcel.

MR. CARUSO: I understand what you're thinking, when you said that, but we're not asking for that. That's a whole another -- if that ever happened, we would have to vet that out with the Planning Board and this Board, but we're not going there. Part of our presentation is we looked around at alternatives and this is the selected alternative.

PAUL BLOSER: John (Caruso), what is your timeframe on working this plan?

MR. CARUSO: Well, we were hoping to obtain our variance. We were trying to be realistic about our variance. We were hoping to go through the Building Department and the Planning Board through administrative review because quite frankly, it's an 11 car parking stall expansion. But, um, it is important to the Building Department and, um, Mr. Lindsay, who I spoke with, that this get looked at from the Planning Board's perspective. I have to respect that and I'm fine with that. I just didn't think it needed to. That was my opinion, but you know, he explained to me why and, you know.

PAUL BLOSER: Were you on for October then?

MR. CARUSO: I'm sorry?

PAUL BLOSER: Will you be on for October Planning Board?

MR. CARUSO: Yes, we are. We are proposing to submit in October. I will go in in November. It will be a November Planning Board.

MR. BIVONE: No, John (Caruso).

MR. CARUSO: I can't make it -- we have passed the deadline for -- this is why you can see, you know -- this is why we wanted to go administratively, but he -- he felt that it needed to go to the Planning Board and so we're going to go to the Board and show them, you know, what Mr. Nyhan asked about, are you going to have this fence, what color will it be, the same fence, of course. We're making it look like it was there from day one. That's our job.

PAUL BLOSER: Same trees down the buffer?

MR. CARUSO: Same trees in the same buffer and I will need to show that consistency to the Board. And I think that is what the Building Department was looking for. So that is our tact.

PAUL BLOSER: The only comment I really have is, um, first of all, your property has been -- it looks great. You have done everything you said you were going to do aesthetically, the fencing, the shrubbery. It's one of the nicer-looking properties and well kept in the Town. And I appreciate that. I have witnessed the times we have gone there, you couldn't park, so we went on someplace else to have dinner. They were all weeknights. You know, you just don't feel like... whatever.

So I have witnessed the problem. Um, great facility from the restaurant side. I have enjoyed it. It's a nice change on this side of Town because there is nothing like it.

MR. CARUSO: We appreciate you saying that. Mr. Bivone really, um -- really took on a challenge here. This was the first piece of land in the Comprehensive Plan to step easterly into the residential area and rezone.

This wasn't an easy project. I think he really did vet each of the alternatives in trying to site the building. It was difficult.

We worked with this Board several times trying to get a sign approved. He went through ARB, Architectural Review Board. And, you know, ultimately it paid off.

The Gates-Chili Chamber of Commerce, um, granted him an award for beautification. He has done a nice job. We want to continue with that here. I think this is very responsible of him coming forward. You know, we don't want to over-park this. We appreciate Mr. Trott trying to give us ten more spots up front, but I think we're good with where we are.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: My first question would be why is this at Zoning Board before it goes to Planning?

PAUL BLOSER: Because of the engineering costs and the -- it can't move forward Planning without Zoning.

MS. BORGUS: Yes, it could.

PAUL BLOSER: The costs and expenses if we were to turn it down, they wouldn't have to incur those costs. So we talked about this internally to see which way to route it. We have done this before, Dorothy (Borgus), and it is just the way we decided to run it this time.

MS. BORGUS: You got into a problem with the dogs because, you know, that was -- but at least that was the proper order, with the four and the ten dogs.

PAUL BLOSER: There was no engineering involved there. There was no cost.

MS. BORGUS: Well, that's not the Town's problem. It's not the Board's.

PAUL BLOSER: But we try to work with our Town's people.

MS. BORGUS: This is backward. Again, this building, this whole project from day one has been a quart in a pint bottle. If you remember, sufficient parking was a major issue at the time that permission was granted by the Planning Board to put this project there.

Um, I'm a little confused about where these fences are going to be put -- these retaining walls will be put. I wonder if somebody can point them out to me.

MR. BULLIS: Ken Bullis, 660 Bromley Road.

Can I speak with her directly?

PAUL BLOSER: You can move up to the Board and point to it.

MR. BULLIS: Currently right now, the fencing would be extended on top of the retaining wall for sole purpose of aesthetics reason as well as privacy.

MS. BORGUS: Please point out -- I still don't follow where you will put the wall.

MR. BULLIS: This wall goes down the back side of the hill right here (indicating). We're extending it away from the -- the driveway that leads down to the southern properties. Um, the retaining wall would -- would -- what was mentioned before would be only about 3 foot tall, basically gloving out that area for more parking on the east side. That fence would be going on top of the wall.

MS. BORGUS: I guess I don't follow. You will pull in off the driveway or roadway that goes down to these homes. Where is -- now where is this wall going to go? You want to be able to pull into these parking spots, so just point to me where the wall is going to go.

MR. BULLIS: The wall is going up along the property border here (indicating).

MS. BORGUS: So you will dig into the hill?

MR. BULLIS: No. We're bringing it up. Are you familiar with the property?

DOROTHY BORGUS: I live there. Yes, I live at -- almost at the intersection. I'm very familiar with it.

MR. BULLIS: Do you know how the property to the east is lower?

DOROTHY BORGUS: Yes.

MR. BULLIS: We're higher. We need to build a wall to level out for the new parking

areas.

MS. BORGUS: Okay. Thank you.

Now, I am also very familiar with the fact there is a very steep slope as you go down the hill, toward the back of the restaurant and then down to the homes along Black Creek. That's a steep slope. I don't see how in the world you're going to pull into those parking spaces and not -- certainly inconvenience, that's a gentle word really-- inconvenience all of the people that have to use that as an access to get to their homes.

PAUL BLOSER: They will still have the same amount of roadway width.

MS. BORGUS: But you will have cars backing across.

MR. CARUSO: Mr. Chairman, I object to this woman, her comments. This is a comment. She can make her comments. I don't think she is entitled to grill the Board, ask engineering questions that could be addressed to me or the consultant. I don't believe that this woman should antagonize the Board and tell you what to do. She can make her public comments just like everyone else.

You don't understand what is going on. We showed it to you. If you would like to get your consultant to look at it, we would be more than happy to talk to your consultant.

MS. BORGUS: Enough. Enough. This is a Public Hearing. And I don't believe it's in the best interest of this Town to have citizens who care enough to come in here and comment to be muzzled by somebody who has got an axe to grind and wants this approved no matter what. I object to this. I think it's rude and it's just not satisfactory. This is too much.

Back to my point. You're now going to be backing across to enter and leave these parking spots as they're proposed. You're going to be backing across -- you have to back across or pull across the roadway that the people along Black Creek use to access their property.

MR. BIVONE: Can I speak?

PAUL BLOSER: It's a driveway. Not a roadway.

MS. BORGUS: Nevertheless, it's their access point. You're plugging it up here.

PAUL BLOSER: They're not plugging it up.

MS. BORGUS: Now, this buffer, there was a big point made they will have a buffer. How much buffer will be left if these cars pull in as proposed?

MR. CARUSO: 17.

ADAM CUMMINGS: That's minimum.

MS. BORGUS: Is that minimum?

MR. CARUSO: 7.

ADAM CUMMINGS: 7 feet, and it looks like it tapers towards the road, if I'm correct.

MS. BORGUS: More than 7 toward Chili Avenue.

ADAM CUMMINGS: Yes. Just looking at the scale of the drawing.

MS. BORGUS: And I heard more landscape mentioned. Where would that be placed? Because we have gotten to the point with this property that it is pretty much covered with pavement and building.

PAUL BLOSER: If you look at the print, the fence continues down the property line.

MS. BORGUS: Right.

PAUL BLOSER: The trees, they're planting along the fence line, consistent with what they already have, there would be an offset in the fence as it exists right now, to go around the parking spots and then heading south along the back side.

MS. BORGUS: Now, I have heard it said that it doesn't matter because this would only impact the backyard of the neighbor. Um, I guess backyards don't count. I don't know. It's a new thought. If you're going to have headlights pointed at the fence -- is there a solid fence or is there spaces within it?

PAUL BLOSER: It is and it's within code.

MS. BORGUS: I know that. Now, it wasn't in code. When they put their fence up originally, they had to get a variance for that, as I remember, because they put up a fence that was too high.

PAUL BLOSER: It was more the building than the height it was. It is behind the building, so they can do it.

MS. BORGUS: From what I'm hearing, the site map you're looking at or the map you're looking at --

PAUL BLOSER: Just like that one.

MS. BORGUS: -- does not show all of the parking spaces? Including the employee parking? It's just like this one, you say?

PAUL BLOSER: Yes. That's what we have in front of us.

MS. BORGUS: Okay. Now, are all those parking spaces along the back of the building currently in use?

MR. BIVONE: Yes.

MS. BORGUS: They are.

PAUL BLOSER: From time to time, yes. Sometimes they all are. Sometimes they're empty.

MS. BORGUS: Well, I don't recollect, but maybe the Board can refresh my memory, the -- there were four businesses proposed here originally or three?

PAUL BLOSER: That would be part of the site plan and that was not part of this Board.

MS. BORGUS: Right. It's just a point of --

PAUL BLOSER: I'm going to stay within what's -- within our -- what we're looking at.

MS. BORGUS: Now they had at least four variances already. One for the 6 foot fence.

One for sign size and one for front parking. And now, I guess, this -- there is another sign that is illegal there now?

PAUL BLOSER: There is not.

MS. BORGUS: There is not.

PAUL BLOSER: I have checked it twice in the past week and there is not one up. There was a banner in the front window or on a post, just a cloth banner. It is no longer there. It was not a permanent sign. It was not in the ground.

MS. BORGUS: Well, they have had some sign issues at this place, this business. They put up a sign out front, a monument sign, didn't have any street number on it. That's a standard requirement. Then they had an A frame sign there. I think they have had some sign issues already so they -- I think that these people better understand that they can't just do whatever they want on that corner.

And I -- I really think that this building, this whole piece is really overbuilt for what is there. And I don't think that's a very good place to put parking spaces. I realize it may be their only option, but it doesn't make it -- it doesn't make it the only one. I'm glad they succeed. I'm glad they have good businesses. I glad. I had visions of that being a total wasteland down there when they built it, not working at all.

I'm glad they succeed, but if it's too big, maybe they should look for another spot to put the restaurant. You can't just keep jamming more and more cars on a very small piece of property that probably wasn't big enough in the beginning. I would be very much against this addition of parking spaces.

PAUL BLOSER: Is there a posted speed limit on that driveway now?

MR. BIVONE: No.

PAUL BLOSER: Just curious.

MR. CARUSO: It's a driveway.

PAUL BLOSER: It's a driveway. It's not a 45, 50-mile-an-hour speed zone.

Has there been any parking issues with, accidents --

MR. BIVONE: Never. Never.

PAUL BLOSER: Thank you.

MR. BIVONE: We have eight spots right now that back into that road that are up to the patio side. These would just be on the opposite side. Believe it or not, there are only two cars that go back to the parking lot in the back, two people that live there and there is a person that has dogs that has a couple of dogs that are brought in in the morning and they're picked up later. That is the only traffic that there is.

MR. CARUSO: Any chickens?

MR. BIVONE: No chickens. (Laughter.)

PAUL BLOSER: No windmill back there either. It's too low.

JAMES PERNA, 26 Florentine Way

MR. PERNA: James Perna, 26 Florentine Way. And I would just like to say to the Board that what Mr. Bivone did with that piece of property is a total (indiscernible) of the whole community. There is not another building around that looks as nice as that. The guy takes care of that property pristine. You don't ever see weeds. You don't see anything. I mean, that place is perfect. If we have more areas in Chili that looked like that, we could really big more activity out to this Town.

So I mean -- I can -- you know, like he said, the -- in the summertime, the dance studio is closed anyway. It is just the -- the early -- late spring and early summer months that that -- that there is a problem, so I really think that that thing is an asset to this Town compared to everything else that is around there.

MATT MCLAUGHLIN, 18 West Ham Circle

MR. MCLAUGHLIN: Matt McLaughlin. I live at 18 West Ham Circle. I'm also a tenant at 3765 Chili Avenue. I lived on the west side my whole life. I'm a 16-year resident of Chili.

The thing that made me want to operate a business at that location was the -- the location itself, but it's a gorgeous piece of property. I live within a mile of that area. I like what happened to that space and I'm a proud tenant there. The parking has been a hardship, so we have been fortunate to be successful at that location. But we have had feedback from neighbors and guests that it's been a hardship to find parking at certain times of the week.

So between Monday and Thursday, when the dance studio is dropping off, families are dropping off kids and picking them up, we start to get busy around 5:30, so there is a short period of time when our dinner rush starts that patrons of the dance studio find it difficult to find a place to let their children out to get in and guests of the restaurant, as well as some of the other businesses in the plaza, are finding it difficult to find a place to park.

So I'm very much in favor of granting the variance for the parking as a resident as well as a tenant of the plaza. Thank you.

DAN BOON, 351 Morgan Road

MR. DANIEL BOON: Dan Boon, 351 Morgan Road. I understand Dorothy (Borgus), what she is saying, but I also got to go with Lou (Bivone) on his side of it here. You know, if I stand there and look at Byrne Dairy or look at his neighbor across the street, who has done a tremendous job and made that place, you know, as -- you know, I'm proud to drive by there and look at that. I look at Byrne Dairy and some of the stuff they do, they use every piece of property

they got there for pavement to park. And so has the neighbor across the street.

So I just -- I look at Lou (Bivone) has done a good job. Successful at it.

And I understand both sides of it, but I think it's unfair at this point if he is limited because he is trying to do the right thing, to try -- I -- nobody said anything here, but his neighbor to the east, to my knowledge, he is not here and he has no concerns over -- Lou (Bivone) has talked to him about it, and I believe he's -- he hasn't got a problem with any part of it. I think if he did, he would be sitting here, so thank you.

JOHN GOULD, 8 Shetland Circle

MR. GOULD: John Gould, 8 Shetland Circle. My mother owns the salon that is in this plaza. It's a family-owned business. We get a lot of feedback that maybe certain other businesses might not be able to get because we have clients that are there for an extended period of time.

Since the plaza went in, um, everyone who lives in the surrounding area has said nothing but positive feedback. They love having a restaurant to go to, a pastry shop. Everything there. So a few extra spots, I do believe, would control like the little amount of overflow that we do get on those days. Sometimes it is just a handful of cars that get in the way, so I don't see how it would be anything but beneficial for everyone. So.

CHRIS MARMO, 5 Stemrose Lane

MR. MARMO: Chris Marmo, 5 Stemrose Lane.

Basically, my family owns the pastry shop in the plaza, and we get a lot of parents that are dropping their kids off during that timeframe from the dance studio and so we hear firsthand every night there is an issue with the parking.

So it is definitely something that would improve the plaza. The plaza is absolutely gorgeous. It's been a great experience there, very successful, and again, that is part of the reason why this has to be done. It's a direct result of the plaza being successful and all of the businesses in the plaza being successful, so I'm obviously in favor of the variance.

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

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

ADAM CUMMINGS: These are businesses that aren't pizza shops where people come and go.

MICHAEL NYHAN: Any feedback from the folks that live along Black Creek that travel through here to get to Chili Avenue?

PAUL BLOSER: I personally haven't.

MICHAEL NYHAN: Has the Building Department had any complaints or comments from the people that live down on Willowbrook or Willowbend, the one house down there or two houses down there?

ED SHERO: Not that I'm aware of.

MICHAEL NYHAN: Okay. Thank you.

PAUL BLOSER: I will leave the design of everything, because it will be reviewed at site plan. So I am not going to do anything on conditions with that other than if this Board votes positively, these variances are contingent on site plan approval.

MR. CARUSO: Thank you.

PAUL BLOSER: I don't believe for a parking lot there is any permits required. With the parking lot, are there any permits required?

ED SHERO: No permits required.

PAUL BLOSER: What about the fill?

ED SHERO: Fill permit may be required. We'll address that.

PAUL BLOSER: We'll know head of time before you start that.

MR. CARUSO: I would think site plan approval would grant -- cover all of the design and landscaping, retaining wall to be built.

FRED TROTT: Where the retaining wall is, that is your property?

MR. CARUSO: Yes.

FRED TROTT: That is your property. The 7 feet would be on the other side of the fence, on your -- on --

ADAM CUMMINGS: That's the 7 feet point (indicating). The southern -- the most southern point is where the 7 feet is. Then as it bends in, has that little radius, that is why it is hatched out, so it has a little radius and then bigger than the 7 feet goes toward Chili Avenue.

FRED TROTT: Just curious. I just wanted to make sure that the 7 feet, which side of the fence is 7 -- the 7 feet was. That's all.

ADAM CUMMINGS: Then we hope the surveyor is okay when he goes out in the field.

PAUL BLOSER: For conditions of approval, I got down approval subject to site plan approval by Planning Board.

And any permits required must be obtained prior to the start of work.

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 Michael Nyhan seconded the motion. The Board all voted yes on the motion.

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

DECISION: Approved by a vote of 4 yes to 2 no (James Wiesner, Adam Cummings) with the following conditions:

1. Approval subject to site plan approval by the Planning Board.
2. Any permits required must be obtained prior to start of work.

The following finding of fact was cited:

1. The Board determined that the request is needed to provide for additional parking to an already congested lot. The impact is minimal and will not have a negative impact to neighboring properties or the environment.

The 8/27/13 Zoning Board minutes were approved.

The meeting ended at 9:14 p.m.