

CHILI ZONING BOARD OF APPEALS
September 25, 2007

A meeting of the Chili Zoning Board was held on September 25, 2007 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Paul Bloser.

PRESENT: Todd Benz, Jordon Brown, David Cross, Michael Martin, Richard Perry, James Wiesner and Chairperson Paul Bloser.

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

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

PAUL BLOSER: We'll start by going over the listing for the signs.

The Board indicated they would hear Application 1.

The Board indicated they would hear Application 2.

The Board indicated they would hear Application 3.

The Board indicated they would hear Application 4.

The Board indicated they would hear Application 5.

PAUL BLOSER: We'll proceed with hearing each of these items then.

1. Application of Mr. & Mrs. George Lagana, owner; 8 Hitree Lane, Rochester, New York 14624 for variance to allow a 33' long recreational vehicle on property (28' long maximum allowed) at property located at 8 Hitree Lane in R-1-15 zone.

Mr. and Mrs. George Lagana were present to represent the application.

PAUL BLOSER: You got a pretty good size motor home there. How often are you moving it? Does it sit there most of the time? How long have you had it there?

MR. LAGANA: Um, we have had it there for a year.

MRS. LAGANA: Since we moved into the house.

MR. LAGANA: We moved into this house two years ago, but we had to remove a tree. I spent about \$3,500 to remove a tree and put a stoned-in area so that we could back the RV in there.

Before we purchased this, I just want to -- before we purchased this house, we came down to the --

MRS. LAGANA: Town Board.

MR. LAGANA: -- Town Board, and we -- we talked to people, and they said there is not a problem as long as you don't put it past the front of the house.

MRS. LAGANA: From -- we were told from November 15th to April 15th, it had to be behind the front of the house. Couldn't protrude. That's what I heard. Because we went. In order for us to purchase this house, I came down here to see if we could even park the RV, because that was one of the stipulations of us even buying this house. If we weren't going to be able to park this RV there, then we really didn't want the house. That is why I came down. I talked to the lady, and she said -- she gave me the rules. But they never handed me a piece of paper saying this is the written rule. What I heard her say is we can park that RV. Yes. Okay. We can park the RV there. That is good, we can buy the house then. So we went ahead and bought the house.

But prior to that we lived up the street, 4 houses, for 27 years and we had the camper right there.

MR. LAGANA: We had the -- we had that RV, the same RV there for 2 1/2 years. We had 3 fifth-wheels and a -- for the last 13 years, and not one neighbor ever complained or got upset or whatever. I mean, we're not the type of people to park it out front and turn it on the lawn and wash it out there. You know, make it very noticeable. We -- we utilize it in a very discreet fashion.

And I -- I left pictures with all of you, and, I -- I got to be honest with you. I mean if any of us were to walk or ride our bicycles or drive our vehicle past our house at 8 Hitree, I mean you

would have a real problem discerning if it was 15 feet, 28 feet, 35 feet. I mean because we always park it in the back there. There are trees on the left, and our house on the right.

We are on our property, and that is what we're -- we had followed the rules. We don't ever park it in the front. Well, the only time we ever park it in the front -- or not in the front, but we pull it out is when we're going to go on a trip the next day. We fill it up with water. We get our refrigerated items from our house and we put them in there, and then the next morning we take off.

MRS. LAGANA: And then we're gone for four months out of the year. We go to Florida. God has blessed us that we're able to go for four months. And that's what we do. We're just normal people. We have been in Chili for 29 years. You know, doing what everybody else does, I guess. I don't know.

PAUL BLOSER: You were on CHECK Hitree previous to this.

MRS. LAGANA: No. We were on Archer.

MR. LAGANA: The corner of Archer and Bellmawr.

JORDON BROWN: You take the RV with you when you're gone for the four months?

MR. LAGANA: Oh, yes.

MRS. LAGANA: That is our home for four months.

JORDON BROWN: Just checking.

MR. LAGANA: And our neighbor, who is the most, shall I say, quote/unquote affected, and she has never complained. She is gone from September until June of every --

MRS. LAGANA: She is gone eight months out of the year to Myrtle Beach. She is not even home.

MR. LAGANA: The only thing people see, if you were to go by our house or look at these pictures, you would have a bit of a problem to discern if that is a 28, or a 15 foot or a 35 foot or a 40 foot. So --

MRS. LAGANA: We would like to keep the camper where it is.

MR. LAGANA: It needs to be started and exercised, and that's the reason for having it near the house. And of course, bringing it to these other places, yeah, they -- you pay for it. It is not the paying so much as that --

MRS. LAGANA: Inconvenience.

MR. LAGANA: Inconvenience, and you need to exercise it. So that's where we're at.

DAVID CROSS: To the side table, have there been any complaints received in the Building Department?

CHRIS KARELUS: Yes. We had the opportunity to talk to the adjacent homeowner and she was concerned about its location. She is an elderly lady, and more than anything, I think her complaints were regarding the visual impact it had to her property. Those situations with buffering could be considered. But if you look at the location with the proximity to the parking -- or the property line, um, you know, there is not much room on the Laganas' property to do any type of buffering improvements or anything that. Anything that would happen would have to be on the adjoining property owner's, if that would come to be.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: The gentleman says that he talked to the Town Board. Is that what I heard?

PAUL BLOSER: The Town Building Office?

MRS. LAGANA: Yes. The lady next door.

MS. BORGUS: The Building Department then. Not the Town Board.

MRS. LAGANA: I'm sorry. I did not realize.

MS. BORGUS: Okay. This gentleman says he has followed the rules. It doesn't sound like he has followed them in a long time. As far as where the RV is -- how it is viewed, and there is nothing on the Board, by the way, for the public hearing.

Any RV that is parked alongside a building is only seen from the front. I mean the gentleman is right, you can't tell how long it is from the front, but that's true of any -- any RV that is parked legally or not, whether it is 27 or 40 or whatever. So I have seen the pictures. I looked at them briefly in the Building Department, and I will have to be honest with you, if I lived next door, I wouldn't want that on my property line.

And the fact that the neighbor next door is gone for many months of the year is really not a relevant detail. The lady is home some of the year. She owns the property, and I wouldn't want it there, either.

Now I'm wondering why -- where -- when he says he has to exercise this, does the Board know what he means? Because I don't.

PAUL BLOSER: I do, and I guess for -- I will speak for you. Any type of motor vehicle that you -- you want to run it periodically to circulate the oils and lubricants through it. You want to run the brakes so they're not seizing up, they don't rust over on the rotors or drums. They have to be run periodically just to keep them running.

MS. BORGUS: So when this neighbor lady is home, it isn't as though that motor home just sits there. It is started up. It is run. She has the noise, the fumes. She has everything right on her property line. And how often does this have to be done?

MR. LAGANA: Two weeks.

MRS. LAGANA: We take it out. We don't run it there. We take it out so that we get it

rolling, get the wheels rolling.

MS. BORGUS: Now this poor lady next door has got to have that thing pulled out and put back every two weeks. I don't blame her for complaining.

Now, the trees that this gentleman says -- shield this -- this thing, whose land are the trees on?

MR. LAGANA: Her land.

MRS. LAGANA: Those are her trees.

MS. BORGUS: She provides the shield for it, and the applicant is using it as an excuse as to why he should have an unprotected RV on his property. That doesn't work. The lady next door planted those trees because she wanted them obviously for aesthetic reasons, not so that she could provide him for a shield for an RV that is parked illegally. There are many places within Town. I can think of three that close, Churchville, Chili and Riga where they would welcome the storage of a 33 foot long recreational vehicle.

MR. LAGANA: Okay, so --

MS. BORGUS: If you let this gentleman and this woman leave that there, you will have a lot more in here claiming their neighbors have enough screening on their property that it doesn't matter. You will start something you don't want to start.

MR. LAGANA: So, ma'am, are you saying then if I had a 28 foot here, that that is going to change anything? So if I sell this tomorrow, and put a 28 foot, which is absolutely, according to all of the rules, that everything she -- she is going to turn her head? Is this what you're saying?

PAUL BLOSER: Sir, you will need to address the comments here.

MR. LAGANA: Pardon me? I'm sorry. I'm very sorry. I won't do that no more.

MRS. LAGANA: In other words, it will look the same as it is 28 feet, or 96 feet from the front. It will look the same, just like that (indicating). A 28 12-foot --

PAUL BLOSER: It is a 32 12-foot vehicle right now?

MR. LAGANA: Exactly. 5 foot more. I mean I could --

JORDON BROWN: 33.

MRS. LAGANA: It is 33 feet long. Your rules right now say 28 feet long.

MR. LAGANA: I mean so -- I mean tomorrow I will sell this thing and put a 28 foot there, and --

MRS. LAGANA: It will look the same.

MR. LAGANA: It will look identical. That is why I say, a person walking by would not have -- see, the -- ma'am, the -- and let me address the rest, when I pay my taxes, I pay it right to the line. Now, if this lady next door has trees that are on my property, which they are, they're over-shadowing, I mean I could come in there and cut them down and all of this. I could complain about everything, honestly and truly. We all agree. We all have neighbors. So if we're talking about a 5 foot difference, and if I went out tomorrow and put a 28 foot there, the lady could complain all she wants and I'm 100 percent in accordance of the rules.

PAUL BLOSER: That's correct.

MR. LAGANA: If -- if that is the case, then tomorrow I will have to do that. I don't want to. It will cost me a bunch of money, but the rules are the rules, too.

MRS. LAGANA: But it will look the same.

MR. LAGANA: It will -- I mean, like I say, you have a problem going by on your car or your vehicle...

PAUL BLOSER: Height and the width is the same, just the length.

MR. LAGANA: Absolutely. The width are all 8 to 9 foot wide. The height -- 99 percent of them are all between 11'1" and 13'3" high, height.

PAUL BLOSER: Are there any other vehicles you tow with that? Do you tow a boat with it?

MR. LAGANA: I tow my car which is -- you would never -- I mean --

MRS. LAGANA: Our car that we drive every day.

PAUL BLOSER: What I am asking is do you have any other trailers that you're storing on the property with this?

MR. LAGANA: I have a tow vehicle, which is -- it is about 5 foot long. It is in the back, beneath my deck.

MRS. LAGANA: The dolly. The tow dolly. A little dolly.

MR. LAGANA: My tow dolly. It is not connected.

PAUL BLOSER: That is all I was asking.

MS. BORGUS: I wasn't finished.

PAUL BLOSER: I was just going to ask you if you had anything else.

MS. BORGUS: Thank you, Mr. Chairman.

The leaves on these trees I would assume come off in the winter, too, so in -- after -- after there is a frost, this would not be -- this would be visible. What kind of trees --

PAUL BLOSER: They are evergreens.

TODD BENZ: They're evergreens.

MS. BORGUS: Well, I haven't heard any excuse that these people have to offer that everybody who has a 33 foot recreational vehicle couldn't offer. So I don't see where this is any different than many, many other ones in Town that have had to store their vehicles.

Thank you.

DEBBIE HARRINGTON, Janice Drive

MS. HARRINGTON: I walk by there almost every day, every evening, and it looks fine. I

wouldn't know what size it was. And I mean, I would more complain about the people in certain areas that have six cars in their driveway and, you know, other trailers that look like trash. That doesn't --

MRS. LAGANA: Thank you. Thank you.

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

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

Michael Martin made a motion to approve the application with the following condition, and Todd Benz seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 5 yes to 2 no (Jordon Brown, Paul Bloser) with the following condition:

1. Applicant will discuss with neighbor to the right as to ways to better shield the recreational vehicle with trees or landscaping, at applicant's cost.

The following finding of fact was cited:

1. The applicant cannot realize a reasonable return on their investment by downsizing vehicle size. Does not alter the character of the neighborhood.
2. Application of Steven Novak, owner; 19 Province Drive, Rochester, New York 14624 for variance to allow existing 14' x 20' utility shed (approved on 11/27/90) to be 6.14' from side lot line (8' req.) at property located at 19 Province Drive in R-1-15 zone.

Steve Novak was present to represent the application.

PAUL BLOSER: For the record, could you please state your name and address for the record?

MR. NOVAK: Steve Novak, 19 Province Drive, Rochester, New York.

PAUL BLOSER: In going by the property, it is very well kept. I am assuming it is the shed in the back right-hand corner. You have like an awning built onto it.

MR. NOVAK: (Indicating).

PAUL BLOSER: This was originally done in '90. My understanding is that the setbacks were 10 foot at that point, and since then they have been changed to an 8 foot setback. I do also understand when this was originally approved, this was done on a tape map as opposed to an instrument survey map, and in Chili here a lot of our tape maps are plus or minus 3 foot in a direction on some of the old tape maps, just for informational purposes.

When you -- when you applied for the shed back then, you did have it -- I'm assuming by looking at the record, it was inspected and -- upon completion?

MR. NOVAK: It was actually built by a previous owner, and when I purchased the house, it was already existing, so I did not build it or apply for the previous permits.

PAUL BLOSER: You had this since '90.

MR. NOVAK: I have owned the house since '95, so for 12 years I have lived there, and now I'm in the process of selling it, and we had a survey done which brought this to my attention, so at this point, I found out I had to apply for a variance for the preexisting shed.

KEITH O'TOOLE: Nominal variance.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

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

1. Original location placed by use of tape map.

2. Variance does not alter essential character of the neighborhood.
3. Application of Karen Osterling, owner; 124 Loyalist Avenue, Rochester, New York 14624 for conditional use permit to allow an office in home for a cake decorating business at property located at 124 Loyalist Avenue in R-1-15 zone.

Karen Osterling and Brad Osterling were present to represent the application.

MS. OSTERLING: I'm Karen Osterling, 124 Loyalist Avenue.

PAUL BLOSER: What can you tell me about your business other than you didn't bring samples?

(Laughter.)

MS. OSTERLING: I have pictures. Um, it is just going to be a very small business, just me in a basement. There is a room existing down there consisting of junk right now, but we'll clean out and make a kitchen only because I have to be approved by a Health Department in a separate area of the house other than my own kitchen.

Not a lot of traffic. It would be some people coming to pick up a cake if they don't want to pay a delivery charge, but usually it is me delivering the cakes.

PAUL BLOSER: You will do the baking there also?

MS. OSTERLING: Uh-huh.

PAUL BLOSER: How many a week does everyone think you will be doing here? One of the concerns that I have in looking at your application is you got -- you're running some late hours there. 6 to 10, 6 to 11. 6 to 10:00 p.m. That is getting late in a neighborhood. Are you going to be having traffic that late at night in there?

MS. OSTERLING: No. That is mostly because I have two small children and I'm home with them all day. That is the only time I have to work during the week.

MR. OSTERLING: We would have the times people could come and pick them up.

MS. OSTERLING: Usually it is on Saturday afternoons that cakes are picked up or delivered.

PAUL BLOSER: Any employees?

MS. OSTERLING: No.

PAUL BLOSER: Any additional help you will have with these?

MS. OSTERLING: No.

PAUL BLOSER: You are going for the Health Department certification on this?

MS. OSTERLING: Uh-huh.

PAUL BLOSER: Have you proposed any plans to the Building Department that you're putting a kitchen down there, having running water, any waste, tap mains, if they're aware of any changes to the house?

MR. OSTERLING: Not yet. We wanted to do this first step and make sure we could go ahead with it before I started -- I happen to be in construction, so this whole process is kind of familiar to me. So I wanted to do this portion first. If we ran into any resistance, we wouldn't progress forward. Once we got this, I would go into design/build.

PAUL BLOSER: As a Board, we would put a condition on this that it be inspected, plans be presented and be inspected by our Building Department and our Plumbing Inspector so that everything is to code for you.

MR. OSTERLING: Sure.

PAUL BLOSER: The Health Department would probably require that any ways.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

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

1. Granted for one year starting on date of building Certificate of Occupancy needed to complete basement kitchen.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.

6. Applicant to obtain and maintain any required state and local licenses.

The following finding of fact was cited:

1. Business variance will not alter essential character of the neighborhood.
4. Application of Keith Foxton, owner; 209 Humphrey Road, Scottsville, New York 14546 for variance to erect a 30' x 40' two-story detached garage to be a total of 2400 sq. ft. (1840 sq. ft. previously approved) at property located at 209 Humphrey Road in PRD & FPO zone.

Keith Foxton was present to represent the application.

PAUL BLOSER: Mr. Foxton, you're asking for an addition over what you had before. What -- what is going on?

MR. FOXTON: The only difference was is that somehow the 1860 got put down on the application, and 2400 was the actual square footage. It is the same building, same construction. The difference is that upstairs, I'm not losing all that square footage with the pieces on the side. I have the full upstairs instead of the --

PAUL BLOSER: What is the height on this now?

MR. FOXTON: 20 feet.

PAUL BLOSER: 20 feet. Is that -- has that changed?

MR. FOXTON: No. Nothing has changed except for the square footage. That was my fault. I -- the application that I put in had the 1800 square feet on there, and it was supposed to have read 2400.

MICHAEL MARTIN: What was the footprint on the original application? Was it the same as this original footprint?

MR. FOXTON: I don't think so because the blueprint I got -- the reason I didn't get that the first time was because it cost me \$5,000 for that blueprint and I didn't really want to spend that 5,000 just to show you what it was going to look like.

RICHARD PERRY: The overall size of the vehicle --

MR. FOXTON: Everything -- everything stays the same.

RICHARD PERRY: That is the same. It is just that you're adding storage space on a second level?

MR. FOXTON: Right. I'm basically not losing it -- it is -- through the construction they're able to -- they're able to just build the roof without the supporting --

PAUL BLOSER: You're using a different truss design then then?

MR. FOXTON: Right.

PAUL BLOSER: No (inaudible) truss?

MR. FOXTON: Right.

RICHARD PERRY: The overall height, width and depth are not changing?

MR. FOXTON: No. Everything stays the same except for -- it was my mistake for putting that through to begin with. I didn't realize it was even on the application.

DAVID CROSS: We talked the footprint is the same. Is it the same distance to the property line?

MR. FOXTON: No. Everything is the same. The only thing is I had to change the square footage. The property lines are all the same. Everything -- I'm not going over the height of my house.

PAUL BLOSER: Has any construction started on this yet?

MR. FOXTON: No. The only thing I have done is I put in the base.

PAUL BLOSER: Stone base?

MR. FOXTON: That's all I have done.

PAUL BLOSER: Do you have a permit in place for this?

MR. FOXTON: Permit for?

PAUL BLOSER: Stone base or bringing in any of the fill?

MR. FOXTON: No. I didn't bring in any fill.

PAUL BLOSER: Where did you get the stone?

MR. FOXTON: I just brought in stone.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have -- unless I am misunderstanding the applicant, I have a little problem with what he just said about the upper floor and the size. On page 15 of the Zoning Board minutes from 4/24, I assume the Board has looked at these, since you're taking another look at the same application.

Mr. Chairman, could you ask the Board for me if they have looked at these minutes, in reference to this second application?

KEITH O'TOOLE: Mr. Chairman, we're not here to interrogate the Board. If Miss Borgus wants to make some public comments, she is welcome to do so.

MS. BORGUS: I wasn't aware I was addressing Mr. O'Toole. I was addressing the Chair.

At the bottom of the page, and I'm sure because you're all good Board members and you do your job and you have read this, Mr. Perry says, "Not concerned about that. I'm concerned about the square footage, the dimensions of that second story."

"Mr. Foxton: It's almost -- it's almost the same size, 30 by 40. The only thing you're losing it is it doesn't have a normal truss that you --"

"Mr. Perry: Understood. Usable portion of it."

Few comments down Mr. Foxton says, "Yes, just take your -- take the two sides that make it and just cut those out and it goes straight, just like the roof line. Take the roof line and that's the way the top looks. There are no trusses."

Now the gentleman is saying that he needs an addition onto what you gave him before because there are no trusses. There were no trusses here (indicating). There were no trusses in April.

The other thing that I am concerned about, the second point, is that I brought out that Mr. Foxton operates -- it appeared operates a business from his home. And upon questioning by Mr. -- Mr. Michael Martin, um, Mr. Foxton says that -- he admits on page 17 that he has a home business. He has a computer. He does record keeping. He has a home office. He has a fax machine, and he agrees that he will apply for a conditional use for home business.

Number 2 in the decision on page 18 says, the condition of his previous granting is that all permits are to be obtained. As of yesterday, I hear that Mr. Foxton does -- has never appeared in the Building Department and -- and has put in an application for a home occupation.

Thank you.

PAUL BLOSER: Are there any other comments right now from the public?

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

Paul Bloser made a motion to table the application, and Jordon Brown seconded the motion to table. All Board members were in favor of the motion to table the application.

DECISION: Unanimously tabled until October 23, 2007 at 7:00 p.m. for the following reason/
finding of fact having been cited:

1. Applicant has not complied with Board's previous condition of approval to obtain in home business variance.

5. Application of Hess Corp., c/o FRA Engineering, 530 Summit Point Drive, Henrietta, New York 14467 for variance to erect 3 wall signs on building totaling 75 sq. ft, 2 wall signs on car wash totaling 20 sq. ft, 4 signs on canopy totaling 24 sq. ft, variance to erect a 7'2" x 4'6" double-faced addition to freestanding sign at property located at 4371 Buffalo Road in G.B. zone.

Dennis Kennelly was present to represent the application.

MR. KENNELLY: My name is Dennis Kennelly from FRA Engineering with offices in Henrietta. We have been before this Board before to seek a variance for the side setback for the car wash. We have also been in front of all of the other boards as far as site plan and Conservation Board. All approvals are in place except for the sign application package that we have here. The building permits are obtained and we are under construction.

What we are asking for tonight are variances for Hess to identify themselves according to their branding and co-branding, and what we're asking for is the basic sign package so they can operate their business to the best of their ability.

The sign drawing that we did submit as part of the application package for the Zoning Board was also part of the site plan application package throughout, so the Planning Board has scrutinized the entire project.

Hess has made many concessions to make this the best project they can. For instance putting in the brick building, quite a bit of additional landscaping, additional green space from the existing site. I think it's fair to say the project was very well-received by the Town and the Planning Board to date.

What we're asking for specifically, I would like to go over again, because the agenda item doesn't identify the square footage of each sign quite the same as the application was stated. So on the main building, on the convenience store we're asking for a total of four signs. The Hess Express sign which is 57 square feet, and then three what we call co-brand signs which would be the Blimpie, the Godfather's and then one other co-brand. They were all identified on the elevations and on the site plan. So there is actually four signs on the building, and this is consistent with the application package. But it differs from -- from your agenda.

On the canopy we're asking for four Hess signs, just the letters H-E-S-S. Each of those is 24, for a total of 96 square feet, versus what it says in the agenda of a total of 24.

On the ID sign, it is an existing ID sign, or the freestanding sign out by the road. That sign has an existing variance. When the State DOT came through and did their roadway improvements, we had to come before the Board to get a variance. So the existing sign is -- is -- is noted on there with the -- with the dimensions, and we're adding 32.25 square feet to that existing sign for a total of 96.75 square feet.

Then on the car wash, we're asking for two signs at 16 square feet for a total of 32.

In going around the neighborhood, we also submitted some pictures with the application package just to show that the signage we're asking for is not inconsistent with other area businesses, some recently constructed. And I think we're all familiar with the area and we know what some of those places are. We don't have to single them out probably.

But what we're asking for is reasonable. It is for Hess to operate in the fashion that they have to operate and frankly to avoid losing customers, we need to identify to the people that are fueling up what is inside the building in the way of co-brands as far as the soups and salads and the pizza and the coffee, and then the car wash obviously needs to identify itself. So that is the intent for Hess to operate in the way that they can best compete.

PAUL BLOSER: I have a couple of comments to start with. I will start with the car wash. I'm looking at the layout of the building.

The applicant hung up the plans for the Board and audience.

PAUL BLOSER: The car wash, I'm looking at the east and west sides, is where you're proposing the sign. In driving by there, if I am approaching from the south Union Street, I can't see the "car wash" at all.

If I'm approaching from the west, coming in from Churchville, as late as this afternoon, looking at where your walls are going up, I have a question whether that sign will even be able to be seen based on the rise of the ground elevation, definitely to the west and the building that is there, if we will be able to see those two signs from any direction other than if you're standing right next to the building.

You know, second part of this is, you got a lot of square footage for signs here, and I'm wondering, did you look at putting the the car wash sign directly on the north face? It seems like that would give much better exposure directionally to people coming into Town from the west and from the north. From the south you're not going to see anything. And I would think coming from the east on Buffalo Road, you would be able to see that better than you could on the side of the building. I -- my own personal opinion on this is those two signs are a waste of money. They're not going to be visually seen from any kind of optimal view.

MR. KENNELLY: I think one of the main reasons we want the one on the east is for the people in the fueling position so they can see it. Actually they will be able to see it from here if they're not accustomed to the the car wash being on the site. It will call them in from the site versus from the road. That is a big part of it.

The one on the west side, there isn't a great visibility. There is some. It is probably not the best. I don't know, and I, if you want to add anything to the -- Andy Lautenbacher is here from Hess with me.

MR. LAUTENBACHER: Good evening.

PAUL BLOSER: Can you please state your name again clearly for Sandy (Hewlett)?

MR. LAUTENBACHER: Sure. I'm going give her a card. It is easier. My name is Andy Lautenbacher. I'm with Hess. I kind of agree with everything both of you said, with the exception of the location of the -- I will say on the westerly side of the building.

We would prefer to have it on the westerly side as opposed to the northerly side. It is just part of our business model. I can kind of agree with you on the one on the west side. I get mixed up with north going down on the plan. The one Dennis (Kennelly) was just pointing to.

MR. KENNELLY: On the outside.

MR. LAUTENBACHER: Yes.

PAUL BLOSER: Again, maybe I am grasping for a compromise here just because of the amount of square footage you're looking at, but I was also looking at the layout of the property lines, just for a visual. It appears almost the gas islands are the only ones that are going to see the sign, and could they better see it from the front --

MR. LAUTENBACHER: If it is a compromise you want, I will remove the one on the outside I think we called it from the application.

MR. KENNELLY: Are you suggesting, Mr. Chairman, we bring it around to the front?

PAUL BLOSER: I don't think you will have a good line of sight coming from the west.

MR. LAUTENBACHER: May I ask a question? If we put it on the easterly side and find it is a problem, is it a problem with the Board if we just move it? I mean does the exact location matter?

PAUL BLOSER: Exact location is very definitive to the project.

MR. LAUTENBACHER: Okay. Our preference is to have it on the side of the building.

PAUL BLOSER: The other --

RICHARD PERRY: That's news to me. I thought it was just the square footage.

PAUL BLOSER: The square footage. Well, the site plan, they want to see where signs are located, how they are, where they are at, for your frontages.

RICHARD PERRY: Well, site plan has already been approved.

PAUL BLOSER: With the signs on it? My understanding is they weren't?

KEITH O'TOOLE: The Planning Board did not approve the location of signs.

MR. KENNELLY: Mr. Chairman, if I may?

PAUL BLOSER: Yes.

MR. KENNELLY: The site plan, agreed that the Planning Board does not approve the signs, but all of the signs were on the plans throughout the project life in front of the Planning Board, so they saw the locations, the sizes on the site plan and actually in the drawing package, we had each and every sign with size in the package, just for your information.

KEITH O'TOOLE: To which I say, so what? The Planning Board did not approve those signs.

PAUL BLOSER: The other question I wanted to bring up is on the December 12th Planning Board meeting, item Number 4, and I will read it right off the minutes "Pending Zoning Board of Appeals approvals of all required variances; Number 5, the intensity of the back-lit canopy lights shall be at the lowest possible level. Technical data pertaining to this illumination level shall be provided to this Board."

I haven't seen anything on it. Jim Martin had not seen anything on it. And Kathy (Reed) in the office, in talking with Mr. Karelus, we could not find anything on file with that.

MR. KENNELLY: That was submitted. I probably have copies of it with me. That was submitted after the meeting to the Planning Board. And we presented it with the final site plan package, because that was a condition of approval of prelim, so we had to submit it to gain final approval. We submitted photographs and technical data to the company that was submitted to the Planning Board.

CHRIS KARELUS: I think what they submitted was the photometrics for the light spill and a lot of the spill-over.

MR. KENNELLY: That, too, but we had the actual band width of the sign. That is up in the canopy. There's -- the (inaudible) sign, if I'm not mistaken, has four fluorescent bulbs and this knocks it down to two at half the wattage. I think I have some of those photos with me.

PAUL BLOSER: What size are the bulbs, do you know?

MR. KENNELLY: No.

MR. LAUTENBACHER: Same as these (indicating), whatever these are. If I may, what we showed to the Planning Board was, um, a reduction of the number of tubes in the canopy fascia to two, and then each bulb will be wrapped with a film that -- sit around a separate tube. The fluorescent tube goes in another tube that is wrapped in this film that reduces the light level by almost 50 percent. This is going to be very dim as compared to, for instance, the one down on Chili Avenue.

PAUL BLOSER: That was one of my questions, because they tend to be --

MR. LAUTENBACHER: It will be less than half of what that is. And we did -- I have been through this with a few boards, so I had the background data already -- already done. It was based on laboratory experiments we did.

PAUL BLOSER: You have done a great job on the building. The brick looks fantastic.

MR. LAUTENBACHER: Thank you.

PAUL BLOSER: I would hate for the signs to be an overpowering factor.

MR. LAUTENBACHER: Understood.

MR. KENNELLY: Mr. Chairman, I don't have copies of the photographs, but it was a condition of prelim we submitted to gain final approval. And it was submitted on January 11th, '07, in my notes, but I don't have the actual letter with me, because the -- the -- we're not actually talking about the signs when we were talking about the band for the canopy. That is the canopy versus the illuminated sign. They're two different things. So I guess I am asking the relevance of that item to the sign application?

PAUL BLOSER: Well, it is not relevant to the square footage, but it is still an issue, as far as I could tell, from research had not yet been fulfilled. And I'm going to request then if you would please forward that document --

MR. KENNELLY: Sure.

PAUL BLOSER: -- another copy to the Building Department so that we do have it on file.

MR. KENNELLY: We'll do.

PAUL BLOSER: If there is any question with that, it will be addressed at that time, but I will leave it as a condition of approval.

MR. KENNELLY: Understood.

PAUL BLOSER: You mentioned co-brands, Godfather's, Blimpie. What is the additional one, the third one?

MR. LAUTENBACHER: It will say undoubtedly, Mountain Top Coffee. That's our own brand.

PAUL BLOSER: Okay. Are you -- internal signage on the windows, like beer signs, fluorescent, neon signs?

MR. LAUTENBACHER: None.

PAUL BLOSER: Pardon?

MR. LAUTENBACHER: None. No.

PAUL BLOSER: That was going to be a thing --

MR. LAUTENBACHER: I believe that was an issue with the Planning Board, as well.

PAUL BLOSER: And signage, posters and -- things going up, that is a huge issue.

MR. LAUTENBACHER: Yes. We're aware of that. See this thorn here (indicating)?

(Laughter.)

TODD BENZ: I have a question regarding the existing sign out in front. You said you will put a couple signs underneath it. Right now your plan says from the top of the sign down is 9 feet. That leaves 11 feet from the bottom of the sign down. You will add another 4.6 on it. I think your measurements are wrong because I went out there and I can touch the bottom by jumping, and I know I can't jump 11 feet.

I drove down coming from the west, and I drove down coming from the south. Will you put any plantings underneath that sign? I'm concerned about -- there is so much signage on that one sign if you put anything underneath it coming from either direction, first of all, I can't see the

streets going other way. I also can't see any of the stores on either the northwest corner or the southeast corner. It kind of blocks them out. So I'm kind of concerned about the amount of stuff that you will put on there, and if you will put any plantings on there to cut out more visual on that intersection.

MR. KENNELLY: They were just low shrubs around the base, foundation type.

TODD BENZ: Another foot or 2 feet at the most. You're bringing it down to 4 feet. But when I went out there and kind of roughly measured by jumping, I can touch the bottom of your existing sign, so if you come down another 4 1/2 feet and you bring up 2 feet, that will only leave a couple feet to see able to see that sign.

It is such a large sign, such an angle that you can't see any other businesses when you come up to that intersection and you can't see around the corners coming from the west or coming from the south. I'm kind of concerned safety wise coming up in that intersection by adding those additional two signs down there. I just wanted to make that point. I drove up in my truck, and come -- sitting in a truck is a little higher than a car, but I -- coming through there, I can't see the business on the southeast corner. I definitely could not see the businesses coming up on the northwest corner. So I was just a little concerned you will be blocking their vision out.

MR. KENNELLY: There is existing plants -- I have a picture of it, if that would help. What we were looking at is something similar to what is existing (indicating).

TODD BENZ: Okay. So about a foot.

MR. KENNELLY: Now to be consistent with what is there now.

TODD BENZ: In the picture, 4 1/2 feet, you're cutting off anything seeing -- being able to see in there, and I'm concerned about safety coming into the intersection.

MICHAEL MARTIN: Still leaves 7 feet, 4 inches the bottom.

TODD BENZ: No. Because I think their numbers are wrong. I can jump and touch. It should be 11 feet to the bottom of the sign.

MICHAEL MARTIN: Nine.

TODD BENZ: Nine from the top, 11 from the ground. It is not 11 from the ground. I can jump up and touch the bottom sign, but I know I can't jump 11 feet.

DAVID CROSS: It is 4 1/2 and 4 1/2 is fine.

TODD BENZ: Then 20. So I don't think the numbers are adding up. I think it is 2 feet lower than what it is. It is not 20 feet high. The sign is 18 feet high. Or the signs that are existing in there are bigger than what they show, bigger than 9 feet. But it doesn't add up. Because I can jump and touch the bottom of -- on that picture where it says the number. I can jump and touch that. I know there is no way I can jump and touch 11 feet. I can barely get to 10. I'm just concerned about adding another 4 1/2 feet underneath there, underneath that sign and putting it -- putting an -- additional bushes or the existing bushes or whatever is there, that you will have a space that is only 2 1/2 to 3 feet.

MICHAEL MARTIN: Is it possible it is only an 18 12-foot high sign?

MR. KENNELLY: Well, anything is possible. Of course what I used as the basis of the drawing was the previous application dimension. So whether it was constructed exactly that tall, I can't say for sure.

MICHAEL MARTIN: That does not leave a lot of room on the bottom for --

TODD BENZ: It leaves --

MR. LAUTENBACHER: If it is 20 feet high, it should leave you a reasonable clear site view distance underneath.

TODD BENZ: Right. But I don't think it is 20 feet high. I don't think you have 11 feet. What I am saying is from -- I don't have you 11 feet from the current sidewalk to the bottom of the existing sign.

MR. LAUTENBACHER: We will insure that we do. We'll guarantee that.

TODD BENZ: How? How -- will you raise --

MR. LAUTENBACHER: If it is supposed to be 20 feet, we'll make sure it is 20 feet. If it is not, we'll adjust it. If the panels in between are -- if they're different than what we show, we'll correct that. It is all correctable.

MICHAEL MARTIN: On that drawing, you have the price of gas at \$0.00.

MR. LAUTENBACHER: Wouldn't you like that?

(Laughter.)

MR. LAUTENBACHER: That's the thorn in the other side.

(Laughter.)

JAMES WIESNER: The other side of that question, the co-brand signs that you're proposing on that freestanding sign, some of those are already up on the building, too.

MR. LAUTENBACHER: Our franchise agreements with those companies require that we have a sign at the street and one on the face of the building.

DAVID CROSS: Would you actually have three co-brand signs on this sign out front?

MR. LAUTENBACHER: No. Only two. We only have two franchise --

DAVID CROSS: Godfather's?

MR. LAUTENBACHER: Godfather's Pizza and Blimpie Subs.

DAVID CROSS: Mountain Top?

MR. LAUTENBACHER: Mountain Top is proprietary, our brand.

MICHAEL MARTIN: I guess if they guarantee the sign is at a 20 foot height, and there is actually 11 foot from the ground to what is there now, and you add the 4'6," that would leave 7'4."

TODD BENZ: That would be enough. If it goes up higher where it should be, you would

be able to see both directions and be able to see through there.

MR. LAUTENBACHER: Most State Highway Departments require 7 feet.

JORDON BROWN: You will have to go back there and jump again.

TODD BENZ: I go there a lot. I guess gas there, so...

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BEVERLY NEDER, 82 Attridge Road

MS. NEDER: I live just a short distance from this, around the corner on Attridge Road, and near Buffalo Road. And I object to the visual pollution that these signs are going to bring to the neighborhood. They justify their request for a variance saying that all of the other businesses in the area have variances for their signs. I maintain that just because previous Zoning Boards made mistakes in granting those variances doesn't mean that we have to perpetuate them and give us more visual pollution.

That is a very busy intersection, and on the opposite corner, kiddy-corner across from that will eventually be a CVS store -- I'm sorry, Walgreens that is going to come in here and want more signs. And then you're going to see Eckerd, Rite Aid, well, we need more signs, and then the other car wash, because of the competition, they need more signs.

That corner is not an exit of a Thruway, or an interstate highway that would be bringing strangers into the area. I would suggest that probably 95 percent of the cars that go through there go through there on a daily basis at least once or twice a day. They know Hess is there. We don't need 13 signs telling the residents that Hess is there. We all know it. We can see it.

And he says that there will be no additional signs in the window. I would like to know how when they are running specials on Pepsi or Coke products they are going to advertise those? Where will those signs be? I think this is a self-imposed hardship. No one told them that they had to put three businesses on one location and squeeze them in and then have 13 signs advertising what these three places are selling.

Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have to agree with what Mr. Wiesner said about the duplication of signs. The -- the Godfather's Pizza and the -- what was the other one?

TODD BENZ: Blimpie's?

MS. BORGUS: Blimpie's, they already have signs right on the face of the building they're putting up. They certainly don't need them on this sign in addition. It's an unnecessary duplication. We're sign happy here.

And as far as what their franchise arrangements are, that has no impact on this Board or their Town. It is an internal thing they will have to work out. It shouldn't be a consideration at all.

And I don't see a need for three car wash signs. There is one on the sign at the road, and now two on the car wash. Again, what are we doing here? We're just going -- we're just crazy with signs.

When that variance was given for that sign that is at the road, I definitely remember the discussion about the sign being that close to the pavement and being so far out into that intersection. The argument at the time that Hess made was that the sign would be high enough -- all of the printing at least would be high enough from the ground that there would not be an obstruction of a view of oncoming traffic.

I say if you put those three signs up, that they want on the bottom, you're going to be undoing the very thing that the previous Board thought about and let go because they thought it was okay. Whoever thought that they would want to come back and block off more of the view? This is just too, too much signage.

Now, I don't know where -- I guess I'm not clear, where was this coffee sign going to go?

PAUL BLOSER: That is on the -- the way I am reading the print, it's on the main building, to the left of the Hess Express main sign over the doors, and it will be to the right of the Godfather's sign.

MS. BORGUS: How many signs will be on the front of the building?

PAUL BLOSER: The main building itself, it appears there are four signs. Correct?

MR. LAUTENBACHER: Yes.

MS. BORGUS: Too much. Too much. Eliminate some of these somewhere. We don't need duplication.

This Board has rules, and to follow. And if ever you were going to make them work, stick to it, this is where. This is -- because the point Ms. Neder made is absolutely correct. The drug store planned on the opposite corner has already been pushing for signs, electronic reader boards even. They are going to go crazy with signs over there, too. We don't want that in North Chili. It was a big, a big fight to keep Hess within our architectural plans for that community. Let's not ruin it with 13 signs.

Now I also have to ask, are the directional signs within the project included in the approved Planning Board plans? Like directional signals how to get into the car wash, exit and entrance? Where do they come in?

PAUL BLOSER: I don't think I saw them on the plan.

MS. BORGUS: No. I just don't want them coming back for more after they dip here. We don't double-dip in this Town.

PAUL BLOSER: Are there entrance and exit signs on the car wash?

MR. KENNELLY: No.

PAUL BLOSER: How do they know what door to go into?

MR. KENNELLY: Arrow on the pavement.

PAUL BLOSER: Okay. Arrow on the pavement.

MS. BORGUS: And when it snows?

PAUL BLOSER: They snowplow.

(Laughter.)

RICHARD PERRY: Heated driveway

(Laughter.)

MS. BORGUS: Heated driveways. I just -- if they're going to ask for signs, they better get all of the signs out here tonight. Don't think about coming back for more. We see too much of that lately in the Town. They get a decision and they don't like it and they come back and plead their case a second time. It doesn't work. It shouldn't work.

I would appreciate a direct comment from the -- I guess they have given their comment. There aren't going to be any directional signs. Okay.

I guess that -- the -- the numbers on this chart speak for themselves. It is just too much. Too, too much. Cut the duplication. That would be a start.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Good evening. My name is Steve Ginovsky. I live at 19 Hubbard Drive and that is North Chili, by the way. And I drive by this location numerous times during the day.

First of all, I would like to address the big sign that is out in the front. You want to close off basically the site plan of coming out on Buffalo Road or Union Street. A two-foot window to look out. You have a sidewalk. You have a number of people riding bikes and children running around, going over to our park across the street from the Hess.

There has been numerous accidents there because vehicles cannot see the pedestrians. To lower it down to a 2 foot window, totally unacceptable.

Next part is, this here happens -- for the signage, excuse me, that they want for the three -- three wall signs and then the -- and the two for the car wash, I believe everybody in Town and on the west side of the County knows that Hess is going to have a car wash here. It has been explicitly put out. There is competition across the street. I think it should have been better, but that is okay. This is free enterprise.

But with all these signs on here, and I pollution, it is going to look worse than another Las Vegas. We have everything except neon going on here now.

The original plan was I -- I thought I heard from the planning, they submitted the plans after it was submitted to the Town Planning Board? And you -- and they don't have a copy. The Building Department doesn't have a copy. And you folks don't have a copy. How many more hidden in here? The answer is probably more to get what you want.

And as Ms. Borgus said, the other businesses are going to ask for more signage. This -- I believe it would be in the best interest of the Town, the community and what we have here in North Chili not to over-pollute it and -- which this is going to do. We need to sit back and say no, that's not acceptable, and we're not going to have it.

And I cannot over-emphasize that corner, where the signal light has been at Buffalo and Union, that is a real dangerous corner there. People are popping through there, not only the children, but adults driving their vehicles. This past week we had a three-car accident there. That was Friday morning at 7 o'clock. Guess what? We don't even have a gas station dumping out of there yet. Are we going to add more to it? And two of the vehicles were towed.

Thank you.

MR. KENNELLY: Can I ask for one clarification?

PAUL BLOSER: Yes.

MR. KENNELLY: Just to clarify on the requested technical data that was a condition of the preliminary site plan approval in December 13th, '06, I did find a copy of it. We submitted ten copies of the letters from Hess and the photographs on the illuminated band on January 11th to meet that condition and were granted final approval by the Planning Board on February 16th. I don't have extra copies, but -- that was a condition of the Planning Board, not the zoning -- there were no conditions on the Zoning Board variance.

All of the signs we're asking for now have been on the plans from day one. Granted they were to the Planning Board, but nothing has changed from the beginning of the project. Just -- just for clarification. There is nothing hidden. Just so you can see.

PAUL BLOSER: I will still ask that you give a copy to them --

MR. KENNELLY: Absolutely. But I don't have extra copies with me tonight. Thanks for letting me butt in.

CAROL THOMS, 122 Stryker Road

MS. THOMS: As we all know, Walgreens and the Stage Coach are going to be built -- rebuilt and built on the other corner and the Town went to considerable trouble to insure that Walgreens was going to put appropriate signs to match the building. Now do we want to have something across the street that doesn't have the same dignity as the signs that we're going to have for Walgreens? I think not.

Chili is going in the direction of putting more architectural, um -- discussions on the

Board with people and requiring better -- look at the building. They have asked for a brick building. Do you want to then go and put back lit signs? I think signs lit from the outside would be nice. Signs that are going to agree with what the Planning Board and what the Town has started since Walgreens -- Walgreens' settlement. I think that is where you really should look, because I think it is going to look very detrimental to what is going to be done on the other corner. That is a very important corner. That is the hub of North Chili. We have a hub here, but North Chili has its own hub. I think those people deserve -- deserve to have something tasteful.

Thank you.

MICHAEL MARTIN: If I could, a couple speakers this evening indicated there are 13 signs. Can you -- can you correct that if that is not the case? I only counted nine on the application.

MR. KENNELLY: We're asking for additional on the ID, so we're asking for three additional signs on the ID sign, the free-standing sign, the block of signs, if you will. We're asking for four on the building, four on the canopy and two on the car wash.

MICHAEL MARTIN: Four -- the -- the gas islands?

MR. KENNELLY: Yes. One on each side -- or I'm sorry, two on the north side and one on the east and one on the west.

MICHAEL MARTIN: Can you go over again what the total variance requested is for -- as far as total square footage versus what is allowed. I think you have the sign table in the package.

MR. KENNELLY: Yes, we do. But it is getting lost in the shuffle now.

Okay. On -- what -- what is allowed, according to the code, if it is -- a single facility, 100 square feet on -- on the front and if it is on a corner, which it is, it is half the size of the first sign. So basically 150 square feet on the main building. We're asking for 84.

On the canopy I don't believe it's specifically stated in the code. I don't think that is addressed. We're asking for four signs at 24 square feet for a total of 96 on the canopy.

MICHAEL MARTIN: Double-sided? The signs are double-sided on the canopy?

MR. KENNELLY: On the dispenser, over the dispenser island I'm talking about.

The free-standing ID sign, according to the code -- well, according to the existing variance, 64.5 is allowed. We're asking for an additional 32.25 for a total of 96.75.

And on the car wash it is a separate building, so again, that is another 32 feet, so -- they are separate buildings, so how it is treated as a single facility, you know, it is not specifically addressed in the code that I can find.

MICHAEL MARTIN: And I recall, before all of the demolition work there were several different buildings and stores operating on that corner.

MR. KENNELLY: Yes, there were.

MICHAEL MARTIN: In totality with multiple signs of their own.

MR. KENNELLY: Yes. We did submit some pictures of those.

PAUL BLOSER: It is still up on the screen here.

MICHAEL MARTIN: It doesn't seem to be a whole lot different than what was there, maybe even less in totality.

MR. KENNELLY: Well, I believe that is the case, it is less than the existing, and it is less than some of the adjoining properties. We're not using that as a basis. But we're simply stating it is not inconsistent, and indeed it is less than some of the other facilities around that are a single-use versus the multiple use that is going on at this facility. In my opinion.

PAUL BLOSER: The canopy, for all intents and purposes is about a wash from (inaudible) to the exception from what I am reading by that letter, the light level will probably be lower.

MR. KENNELLY: It will be lower. The lowest possible, yes.

PAUL BLOSER: That had a 47 percent reduction based on that note right there.

MR. KENNELLY: Yes.

PAUL BLOSER: So the 100 square foot is the maximum allowed on the combined, for the property, on a tax number. The -- when you're looking at going around the corner -- and Chris (Karelus), correct me if I am wrong, um, you do, by code you're allowed an additional 50 percent, but it is still the 100 square foot is the maximum allowed for that. So it is not 150 square foot. Is that correct, Chris (Karelus)?

CHRIS KARELUS: Yes. I can help. With the project, it -- it is by the frontage of the building, facing the road. So in this case, and whether it is the one building or the two buildings, it is over the maximum allowable of 100 square feet. That automatically triggers the need. What is unique about the property, it's a corner lot. So within the sign code it allows a corner lot to have half that maximum square footage on a second sign.

Now the intent of that is to have the second sign be on the second face of the building, so if you're on the corner of the building, the intent of the code is to have the first face at the initial sign and the second face be on the alternate side of the building, so that is the intent of the code with regard to the second sign.

And to clarify the point Mr. Kennelly made our code does specify 32 square feet is allowed on a freestanding sign. And just with this application, understand that the applicants had a previous variance and they did a reconstruction project on the sign where they have actually left portions of the sign and rebuilt it, so they had some back doorway to keep the sign where it is. With this action the Board has, they could in essence ask the applicant to relocate that sign because they're changing the sign. That was previously approved in variance, previously approved in site plan.

I know with the expansion of Union and Buffalo, there have been some takings in this area

that could have affected the sign location in proximity to the original property line and today's property line. Again, this is an action this Board can consider in moving forward with this application. In addition to all of the canopy signs for this Board's information, too, our department views it as brand new signs. We would have to view them with today's standards, regardless of how big they were prior, they're all viewed with today's standards in the code because they are newly constructed signs.

The free-standing sign was the only one that was unique because they rebuilt that sign, they reconstructed it. That is how they approached the Town. Basically everything were to remain, just building it up from the ground up. So they're refinishing that sign. We allowed them to do it. I hope that lends some clarity to it.

PAUL BLOSER: Thank you, Chris (Karelus).

MICHAEL MARTIN: Just one other concern about the street sign is the speaker was worried about a 2 foot window, and I think it has been clear that that will be adjusted to the plan for the 20 foot height with the 7'4" ground clearance?

MR. KENNELLY: Yes.

MICHAEL MARTIN: To the top of the first sign.

MR. LAUTENBACHER: May I?

PAUL BLOSER: Absolutely.

MR. LAUTENBACHER: You have used the word "compromise" before. That's why I am here. We already knocked off one car wash sign. I believe that was 16 square feet?

MR. KENNELLY: Yes.

MR. LAUTENBACHER: There are four canopy signs proposed. I'm willing to let that go down to two. I will cut them in half. We'll put one on the west side and one at the west end -- wait a minute. One on the east side, and one at the west end of the northerly part of the canopy.

What I would like to do is go over there and cross out the ones I am taking out.

JORDON BROWN: Feel free.

MR. LAUTENBACHER: It might be easier for me to describe. This is the easterly one. We'll take that out.

PAUL BLOSER: You sure that is the one you want to take? Because you will lose visibility from -- a potential customer coming down Union Street.

MR. LAUTENBACHER: We have the ID sign here (indicating).

PAUL BLOSER: All right.

MR. LAUTENBACHER: Number 1, on this side here (indicating) we'll take out.

PAUL BLOSER: Okay.

JORDON BROWN: The car wash, the two side ones you will take out and put it on the front.

MR. LAUTENBACHER: We'll take this one out and leave it the way it is.

JORDON BROWN: Which is only mainly visible from inside the station.

MR. LAUTENBACHER: He wants to make sure what I did.

And last but not least of least, we had a lot of discussion about the ID sign. I know it is existing, and as Mr. Karelus said, um, it is existing and that's -- you know, that is how it is.

If it pleases the Board -- this one is a big one for me -- we will move it back. I can't tell you exactly how much, but we'll bring it on into the property.

PAUL BLOSER: Is -- is there grass land in there?

MR. LAUTENBACHER: Yes.

PAUL BLOSER: I will say to the west and to the south of the sidewalk? Is that all grass land?

MR. LAUTENBACHER: Let me look at what you're pointing at.

PAUL BLOSER: Is this grass here (indicating).

MR. LAUTENBACHER: Yes.

Mr. Lautenbacher approached the Board.

JORDON BROWN: And keep the height --

MR. LAUTENBACHER: Just as we have discussed.

PAUL BLOSER: You got it there. The 20 foot maximum height.

MICHAEL MARTIN: That would require a complete rebuild of the ID sign.

MR. LAUTENBACHER: We'll use the same one. Just put it on a new foundation is all.

MICHAEL MARTIN: So you're proposing -- you're proposing to us to adjust this application for the canopy to have two signs at 24 square foot and on the car wash, one sign, 16 square feet, eliminating 64 square feet of signs?

MR. LAUTENBACHER: I can't do the arithmetic in my head.

MICHAEL MARTIN: 48 and 16.

PAUL BLOSER: Based on the individual signs -- let's start with the car wash building. You would be eliminating the sign to the west side?

MR. LAUTENBACHER: East -- west. West. I'm sorry. I'm sorry. I have to go turn that upside-down.

MICHAEL MARTIN: 50 percent of that proposed sign?

MR. LAUTENBACHER: Correct.

PAUL BLOSER: That's 16 foot on the car wash sign, Mike (Martin)?

MR. LAUTENBACHER: Yes.

MICHAEL MARTIN: Yes.

PAUL BLOSER: The main building proper, at this point we're proposing no changes?
MR. LAUTENBACHER: Correct.
PAUL BLOSER: Canopy, you're eliminating --
MR. LAUTENBACHER: Two.
PAUL BLOSER: -- two of them.
MICHAEL MARTIN: 50 percent.
PAUL BLOSER: And the two that you're proposing eliminating would be to the left north side?
MR. LAUTENBACHER: Yes.
PAUL BLOSER: The other one is the one on the west.
MR. LAUTENBACHER: Wait. I think I said yes too fast.
PAUL BLOSER: I already have written it down. Sorry.
(Laughter.)
MR. LAUTENBACHER: Let's use left and right and front and back.
PAUL BLOSER: North exposure --
MR. LAUTENBACHER: No. We're looking at it from Buffalo Road.
PAUL BLOSER: That is the northern exposure.
MR. LAUTENBACHER: Okay. And the one on the right side we will remove. That will be west.
PAUL BLOSER: Okay. The one on the left side of the northern exposure, Buffalo Road exposure you're leaving?
MR. LAUTENBACHER: Left side?
KEITH O'TOOLE: Mr. Chairman, the Building Department has a print that is marked up. Why don't we just have you and the applicant initial the signs that are being deleted rather than trying to read the record and figure it out.
PAUL BLOSER: What I am trying to figure out is the total square footage.
MR. LAUTENBACHER: Let's just talk numbers then. There will be two canopy signs at 24 square feet each.
MICHAEL MARTIN: 50 percent.
MR. LAUTENBACHER: I will read down the list I see up there on the board. The building will have three co-brands signs at 9 square feet each. And a clap -- or building sign, the Hess Express sign will be 57 square feet.
MICHAEL MARTIN: Which is 16 feet under the allowable by code already.
PAUL BLOSER: Right.
MR. LAUTENBACHER: So maybe we take them out of the mix, so as to not confuse things.
MICHAEL MARTIN: There is no problem.
MR. LAUTENBACHER: Does that make sense?
The ID sign will be as shown on that list, total of 96 3/4 quarters square feet. And relocated onto the property. I don't know how to describe that location other than what I scribbled on your plan.
PAUL BLOSER: I think what we'll do is put a tentative marking on here and then we'll just identify it at a later point with the Building Department so we're all in agreement with where it is --
MR. LAUTENBACHER: Okay. And last is 16 square feet on the car wash.
MICHAEL MARTIN: Just one sign.
MR. LAUTENBACHER: One sign.
PAUL BLOSER: Okay.
MS. THOMS: Just another quick statement. Carol Thoms, 122 Stryker Road. The gentleman was saying he was willing to make concessions. I just want to remind you, it is not his choice to make concessions. You're the ones that make the decisions, not the developer.
Thank you.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: Just wanted to make a couple of comments. As I heard them earlier in the meeting, the Planning Board in their meetings, their presentations, the decision, the decisions are totally separate from the decisions of the Zoning Board, just to -- as I am stating to the Chair, which is making the applicant aware of that fact. Number 1.

Number 2, in regard to the variance for the corner sign, that originally was given a variance as its proximity to the State right-of-way, and that was done under circumstances at that time without any changes to the sign square footage based upon its proximity to the right-of-way. And that's where I see that personally there is not a need for a larger square footage on that location specifically.

I agree with Mr. Karelus' comments, the Building Department Manager stating in regard to the issue of the corner sign and the variance at that time since I was aware of it at the specific meeting.

I would agree with Counsel, who you are as a Board dealing with, that to make this correct, the easiest and the best way to do this is to get the signatures on the drawings so that there is absolutely no discrepancy in what's stated versus what is understood versus what is documented. If that takes this Board a tabling to accomplish that task, that's your prerogative, if you do not have all of the information.

My comment hearing -- seeing the application is a question of sign, square footage,

reasonableness versus excessiveness and my comment is I believe it is excessive.

Now, getting back to what the applicant volunteered in the way of revision of signage, what I would like to hear is the total square footage as it is added up for the new proposed signage group by this Board before any approvals because as I calculate it out, the number of signs per the original application, realizing you're now looking at some compromise and revision, I came out with 151.25 square feet, which I do feel is excessive. So I think this Board is rational and reasonable in looking at a reduction accordingly, and that's the Board's discretion based upon the fact that we don't need excessive signs on a corner -- kiddy-corner across from Walgreens. That was limited in signs and type, if you recall. Their signs are not lit. They're lit, I beg your pardon. They're lit by external lighting. They're not internally lit, and therefore, they're not excessively bright compared to what Hess may be on the southeast -- southwest corner.

So I bid this Board to carefully look at it, and if you do not have complete information at this meeting, and square footage and delineation of signs, please consider tabling. That doesn't mean you don't go ahead, but table for detailed information. Because I ask the question of myself: For similar to what happened to an On Trac sign. My question is, has Hess already made up their signs in spite of the fact that this has not been approved, and that's their problem, not the Town -- not the Town Zoning Board's problem.

Thank you.

PAUL BLOSER: Thank you.

MS. BORGUS: Thank you, Mr. Chairman.

DOROTHY BORGUS, 31 Stuart Road.

MS. BORGUS: Just one observation. According to my numbers they're still asked for 245 square feet of signs.

MR. RETTIG: Thank you.

MS. BORGUS: Thank you.

PAUL BLOSER: If I look at the front sign, the street sign excluded, I have the four signs on the main building, total of 57 square feet; is that correct?

MS. BORGUS: Uh-huh.

PAUL BLOSER: Canopy had 96 square feet.

MR. LAUTENBACHER: Wait a minute.

MS. BORGUS: 48 now.

PAUL BLOSER: But it did have -- you were proposing 96.

MR. LAUTENBACHER: Yes.

MR. LAUTENBACHER: Excuse me. On the building, the main sign is 57 square feet. The three smaller ones total 27.

MICHAEL MARTIN: Total is 84 on the building. With 100 allowed.

PAUL BLOSER: And the car wash had 32.

MR. LAUTENBACHER: Correct.

PAUL BLOSER: I'm looking at basically with -- what you were just proposing to us, we went from -- I ran numbers at 217 total. We're now down to 121. And that's without the street sign. We're almost in half already.

MR. LAUTENBACHER: I -- that was my goal when I started this.

PAUL BLOSER: Okay.

MICHAEL MARTIN: I had 244.75 proposed. 100 allowed. Takes it down to 144. And existing variance for 64 1/2 which brings the requested variance down to 80.

TODD BENZ: That's what I got. Same numbers. Down to 80.

PAUL BLOSER: Is this an 18-hour or 24-hour operation?

MR. LAUTENBACHER: 24.

PAUL BLOSER: 24.

Um, one of the significant things I see -- are there any other public comments that point?

MS. NEDER: I was just wondering if I could have an answer to what they plan to use for signage when they have a sale? Because they usually have sales on Coke products and Pepsi products, and the other Hess stores do have signs in the window or outside when those sales are in progress.

PAUL BLOSER: Okay. We have already been clear that there is not going to be window signs. Is that correct?

MR. LAUTENBACHER: Permanent window signs. We are -- under your code we're entitled to temporary sale signs. I believe it was 28 days per sign.

PAUL BLOSER: What about free-standing ones out by the gas pumps?

MR. LAUTENBACHER: They're normally not allowed. I -- I hear that everywhere I go and we accept that. Whether the salesmen that come to the site live with it, you know, we try. But it is not our intention to do that.

MS. BORGUS: Thank you, Mr. Chairman.

I -- I don't think I have heard that correctly. Does he think every sale he can put signs up for 28 days? I think you better get a clarification.

PAUL BLOSER: I think on the ruling for a temporary -- Chris (Karelus), did you clarify that? Do you have that in front of you?

CHRIS KARELUS: I think it has to -- it begs to find out what the Planning Board, when they said no window signage and the applicant agreed to that, what their perception of that would be? No signage at all in the windows? Because what the Building Department has -- signage that is put up on the inside of the window, it is not signage that we permit. That is the way our

code is interpreted. What the applicant had told the Planning Board is there would be no window signage.

My thought process on that there would be no displays through the window. So I guess a point of clarification that needs to come from that condition to this Board on what the intent from the applicant's answer to the Planning Board's request was, I wasn't here during that process, but I just think that's important.

Just on the side table also, the only comment I did have is if they are going to agree and the Board asks them to relocate the existing sign, they do have the opportunity to make it go compliant with the setback we restricted to the size of the location previously with the canopy, it's basically front loaded building, front loaded canopy that guided where the sign was, but now with the green space over, it appears there is electric lines to try to avoid but they can bring that sign to conform with the setback.

MR. LAUTENBACHER: May I ask what the setback is?

CHRIS KARELUS: 15 feet.

MR. LAUTENBACHER: We'll do it.

PAUL BLOSER: 40 right-of-way.

MR. LAUTENBACHER: I will not read the whole thing. I will give you the section I'm relying on for interpretation of the signs. It is Section 115-34.4(10). Um, I will read it. It is short.

CHECK temporary commercial permanent advertising a special sale or event not to exceed two per location. May be erected for a period not to exceed 28 days.

PAUL BLOSER: That is what I remember reading.

CHRIS KARELUS: But I ask just for clarification when the Planning Board had asked for that point to be made and the applicant agreed to what the Planning Board had requested, I guess find out with clarity --

PAUL BLOSER: If we so move and pass this, I will put that in as a condition that -- that its clarified with the Planning Board what those signs were -- what their interpretation was.

CHRIS KARELUS: What the window signage was.

MS. BORGUS: Mr. Chairman, did you take the applicant's statement to mean if he were to run a sale on Coke, every time he has a sale on Coke, that he could put a sign up for 28 days?

PAUL BLOSER: The way the code is written, yes. That can happen.

MS. NEDER: Next month it is Pepsi.

MS. BORGUS: Thank you.

PAUL BLOSER: What I will do is as I just stated, if the Board so moves to approve this, we would put a condition on there that Planning Department's interpretation of window signage will be clarified and understood by the applicant so that we're all on the same page with that.

MR. LAUTENBACHER: If I may, typically in our locations, what we try to get the managers to do is check in with the Town Hall and find out what they can do before they do it. That's what we try to do.

PAUL BLOSER: And we appreciate that. We do.

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

The Board discussed the application.

PAUL BLOSER: Back on the sign illumination, I know we were talking about the canopy and we greatly reduced the illumination on that. Was there consideration given on the building structure signs themselves as far as what they're going be, output wise, the light output wise and the car wash sign on the side of the car wash, how bright that is going to be.

MR. LAUTENBACHER: I'm not sure how to answer that other than to say the canopy, if it was at its full brightness, if we weren't doing anything to knock it down, the illumination that comes from it is not measurable on the ground.

PAUL BLOSER: Right. You have to do it at --

MR. LAUTENBACHER: It has to be right next to it. It is where the measurements were taken that you read. So I would say the same thing about the signs. They're not even as bright. So, you know, they're not measurable, and they're boxed. So the only illumination is visible from the front of each sign. So it is not, you know, wrap around.

PAUL BLOSER: What about the car wash sign itself? That is a blue background.

MR. LAUTENBACHER: Uh-huh.

PAUL BLOSER: Is that going to -- how bright is that going to be? Because that could potentially with the red brick, the Blimpie sign is dark, the Godfather's --

MR. LAUTENBACHER: Sorry to interrupt. It is actually kind of muted. It is blue to keep the background from showing through as much. It is the white car wash letters is what we want to show. I'm not saying it is invisible, but it is more muted than you may think.

PAUL BLOSER: It would be nice if it was, but I'm not expecting it to be invisible.

MR. LAUTENBACHER: I won't spend money for it.

PAUL BLOSER: Well, when you have a nice building there, I just don't want it to be swallowed up by --

MR. LAUTENBACHER: It is actually a pretty small sign. It's not very big.

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

action with no significant environmental impact, and Jordon Brown seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with no conditions, and James Wiesner seconded the motion. All Board members were in favor of the motion.

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

1. Street sign to be moved back into lot meeting new code setbacks as per submitted plan.
2. Clarification on Planning Board agreement as to decisions on window signage.
3. Sign reduction: One sign on car wash, Two signs on canopy to be marked on print by applicant and Zoning Board Chair, and submitted to the Building Department, and requested four wall signs and addition to freestanding sign allowed.

The following findings of fact were cited:

1. Applicant has reduced square footage sign request by up to 40% therefore not altering essential character of the neighborhood.
2. Canopy illumination reduced by 47%.

The 8/28/07 Zoning Board meeting minutes were approved.

The meeting was adjourned at 9:05 p.m.