

CHILI ZONING BOARD OF APPEALS

September 27, 2005

A meeting of the Chili Zoning Board of Appeals was held on September 27, 2005 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: Gerry Hendrickson, Michael Martin, Peter Widener, Jeffery Perkins, Dan Melville, Richard Perry and Chairperson Beverly Griebel.

ALSO PRESENT: Daniel Kress, Director of Planning, Zoning & Development;
Richard Stowe, Counsel for the Town.

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

BEVERLY GRIEBEL: Before we begin, we'll start with the signs to see if there were any problems.

On Number 1, Johnson, any problems?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Okay. Number 2, Bill Howard?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Okay. Number 3, William Powell?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: 4, William Crocker?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 5, Robert Stone?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 6, Stuart Chait?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Number 7, Timothy Gaffney?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: And Number 8, Stacy Wawrzyniec. I think I slaughtered that name. Any problems?

The Board indicated they would hear the application.

BEVERLY GRIEBEL: Okay. That is a good record tonight.

RICHARD PERRY: Twice in one year. Very good. Good job everybody.

Now we'll go back to the top of the agenda. Application 1.

1. Application of Randall Johnson, 2000 Wind Willow Way, #16, Rochester, New York 14624, property owner: Mr. & Mrs. Clinton Galbraith; for variance to erect a single-family

dwelling to be 90' from front lot line (100' req.), 15' from north side lot line (50' req.) and 20' from south side lot line (50' req.) at property located at 2150 Scottsville Road in A.C. and FW zone.

MR. CHARLIE JOHNSON: Good evening. My name is Charlie Johnson. I'm an architect with Paradox Design Architects representing Randall Johnson here tonight. Before I get started, in the intervening week since we made application, we had a chance to refine the drawing of the house. I have plans or drawings with a modified footprint of the house, which we'll pass out. It doesn't change the application or the setbacks that we are requesting, just a slight change.

Keith O'Toole arrived.

MR. CHARLES JOHNSON: We are here tonight for a preexisting, nonconforming lot. We are looking for relief from the front and side yard setbacks. This property is also located in a flood way zone. Due to a steep drop-off from the property down to the river, we are still 17 feet above the flood zone.

BEVERLY GRIEBEL: For the audience, if anyone would like to go over and take a look there (indicating), please feel free to quietly do that. Thank you. I didn't see you hang that up.

MR. CHARLES JOHNSON: This sites has a practical difficulty, because if we applied the 55 foot side yard setback, it would exceed the total width of the lot. We have utility lines and steep topography on the lot. So we have a preexisting, nonconforming lot. It's considerably smaller than the minimum five acre required. Considerably smaller than the 250 foot of width that is required. So how do we apply zoning standards to a substandard lot? That was the challenge.

I took a look at the 100 foot total area, compared it to the 250 that would be required and found a proportional rate. I did the same thing to the smaller lot. I took the 15 foot on the north and the 20 foot on the south, 35 foot, divided it into the 80, and it is less than what is required. So that 100 foot to 250 is a 36 percent ratio. We are providing 44 percent. So we are exceeding what would have been required if we had the appropriate size lot.

We have placed the house on the lot to the north for two reasons. To create a little more passive solar orientation, and increases in the topography to the north to berm the house down into the hill a little bit to make it less visible to surrounding properties.

I have got two side yard setbacks, as well. We have the 15 and the 20, so I took a look at the smaller of the two 15 foot and compared to the 50 foot setback required, and that is an 18 percent ratio, both 18 percent of the lot. So I'm within that minimum side yard setback ratio. I don't know if that makes sense. That is how we came up with the dimensions we are trying to use tonight for your review.

We are also looking for relief of 10 feet from the required 100 foot setback. That is due to the drop-off. We have to place the house between an existing utility line that bisects the lot and a steep drop-off.

We are also trying to get a daylight basement so we can keep the footprint. We have a 1200 square foot house with additional place for living so we have minimized impact of the house size to the lot. The house is bermed from the street, as well. The garage and house are roughly at the level of the road, and then the site comes up.

So again, the visibility from the street with the 10 foot relief will be minimal at best with the existing bushes staying intact.

There are no feasible alternatives that impact this site and the neighborhood to a lesser degree. We have investigated a number of plans. I have brought some plans if you want to look at alternatives, but – we have gone through a number of plans to minimize the size of the house. The granting of the variance will not produce a change to the essential character of the neighborhood and will be in harmony with the intention of the existing zoning.

The variance will not have adverse impact on the environmental or physical conditions of the neighborhood because the house is designed to blend with the surrounding houses. This variance is the minimum needed to construct a single-family home on this small lot.

With that, I would be happy to answer any questions the Board would have and I hope you approve this tonight.

BEVERLY GRIEBEL: There is another house already built just south of this property.

MR. CHARLES JOHNSON: That was correct.

BEVERLY GRIEBEL: And the other side, it is on the curve of the river?

MR. CHARLES JOHNSON: There is a house to the north and the south.

BEVERLY GRIEBEL: Both sides. So you're trying to utilize this parcel in between, and yet get a river view which is desirable property.

MR. CHARLES JOHNSON: Right.

BEVERLY GRIEBEL: So you had to get a little creative to do that.

MR. CHARLES JOHNSON: Yes, we did.

BEVERLY GRIEBEL: It looks like it is going to be a beautiful site. It looks kind of nice, at least on the drawings.

DAN MELVILLE: Do you know what the size of the lots are then on either side of it?

MR. CHARLES JOHNSON: I only have a tax map information. The one to the south is -- here is this. It is roughly the same -- same as this one.

MR. CHARLES JOHNSON: Well, this is to the south and the north. It is a graphic. I don't have any dimensions.

BEVERLY GRIEBEL: So they're all kind of small.

MR. CHARLES JOHNSON: Frontage roughly stays the same.

DAN MELVILLE: Is this on sewers or septic?

MR. CHARLES JOHNSON: Sewers. All municipal services.

JEFFERY PERKINS: Is there an easement for the overhead telephone?

MR. CHARLES JOHNSON: We couldn't find anything specific written or granted. We have even contacted the utility. It is a telephone line. They have no record of easement. So I simply worked with a 10 foot easement on each side of the center line just for ease of placement.

JEFFERY PERKINS: Do you know the approximate distance between the corner of the garage and to where the telephone pole is?

MR. CHARLES JOHNSON: It is about -- we have left 10 to 12 feet from the corner to the center.

BEVERLY GRIEBEL: This went to the Planning Board, and it was tabled.

MR. CHARLES JOHNSON: Correct. There were a number of conditions that the Planning Board wanted us to take a look at. We have contacted the owner, and they're in the process of granting us approval. One of the conditions was to determine soil condition, so that meant digging. The neighbor to the north had also expressed some concerns that the process of this construction may impact his site, so the Town Engineer was going to be there as well and examine some of that. We are still waiting for approval from the seller to do that.

BEVERLY GRIEBEL: Because until you get all of the approvals, your client doesn't want to purchase the land.

MR. CHARLIE JOHNSON: Right. Right.

BEVERLY GRIEBEL: It is kind of wise to continue on with all of these things. So that is really all it is waiting for, those Planning Board issues that you will resolve?

MR. CHARLES JOHNSON: Correct.

BEVERLY GRIEBEL: It is due to go back there October 13th --

MR. CHARLES JOHNSON: Correct. If we get our approval in place, we'll get the backhoe in place --

BEVERLY GRIEBEL: You have to go that each --

MR. CHARLIE JOHNSON: 6 to 8 feet deep in three locations across the site.

DANIEL KRESS: Just so the Board is clear, this application did receive preliminary approval only from the Planning Board. Gaining the necessary variances is one of the conditions.

BEVERLY GRIEBEL: Did this go to the Monroe County Department of Planning? I didn't get anything on it.

DANIEL KRESS: It did, and it came back marked local matter.

BEVERLY GRIEBEL: Okay. I think it had to be on that road.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DENNIS INCH, 2146 Scottsville Road

MR. INCH: Good evening. I'm Dennis Inch. I'm the property owner at 2146 Scottsville Road. I-n-c-h.

BEVERLY GRIEBEL: Okay. You live --

MR. INCH: On the north.

BEVERLY GRIEBEL: On the north side. Okay.

MR. INCH: The architect talked specifically to the undersized lot, and it is my feeling that he is stretching the boundaries of what size house can go onto that lot. It will change the character of the surrounding area.

But most specifically, I'm concerned about the type of construction on the river bank slope. That is not 15 feet from my property. That is 5 feet, is what you told me before?

MR. CHARLES JOHNSON: Um, the -- he is referring to the retaining walls. The extent of

our construction to construct the retaining walls gets us as close as 5 feet to his property line --

MR. INCH: And the nature of that slope is -- is extremely steep. I don't believe you can build what he is intending to build without causing erosion on my property. The soil testing issue as was already discussed, that is also of prime concern of mine.

The other inaccuracy is the -- the slope elevation drawing is -- is not accurate to what is currently -- what is that slope. It's much steeper, almost -- in certain areas, a vertical drop. It is not gradually implemented as the elevation drawing shows. And that should be looked at.

BEVERLY GRIEBEL: Well, that issue -- both of those would be Planning Board issues.

MR. INCH: Well, I -- the Planning Board is not open to the public, is my understanding.

BEVERLY GRIEBEL: It is just like this.

DAN MELVILLE: We are just doing setbacks.

BEVERLY GRIEBEL: They would have to have public hearings.

MR. INCH: You told me it is not open to the public.

BEVERLY GRIEBEL: Address questions here. They have public hearings just like this.

MR. INCH: We were not notified of them.

BEVERLY GRIEBEL: Well, I -- I can't answer for them.

MR. INCH: Well, is --

BEVERLY GRIEBEL: Is there a public hearing coming up for this?

DANIEL KRESS: There already was a public hearing in August.

BEVERLY GRIEBEL: There was one in August.

MR. INCH: We were not notified of that hearing.

DANIEL KRESS: I know for a fact that there were neighbors at that hearing.

BEVERLY GRIEBEL: Hmm. Because those are all Planning Board issues. They have to make those final determinations about the slopes and the soil and all of that.

MR. INCH: I'm just here to voice my objection to the setback on the north side. And specifically, the setbacks to the retaining walls. Because that is a setback also. A retaining wall is construction.

BEVERLY GRIEBEL: At this point should he write a letter to the Planning Board Chair with these concerns, since apparently he missed the public hearing?

KEITH O'TOOLE: That may be appropriate.

BEVERLY GRIEBEL: So that may be the best way to go, to do a letter, express your concerns.

MR. INCH: Okay.

BEVERLY GRIEBEL: Address it to the Chair. You can mail it or you can deliver it to the Building Department, and that would get to the Planning Board.

MR. INCH: Okay. Thank you.

CHRISTINA GULNICK

MS. GULNICK: Christina Gulnick, G-u-l-n-i-c-k. I'm a landowner to the south of this property. I own two lots, just to the south of this property. One of which has my home on it, and one which has a slab for a garage. There was a garage there. It kind of demolished in the winter, and I plan on putting one back.

I also was never notified of the Planning Board hearing. It is kind of ironic that two of us should not get notification. I have been living there for 20 years. I have enjoyed this property without the obstruction of another house for 20 years. I -- as soon as I found out someone might be purchasing the home, or the land, it was like a red flag, the hair went up on the back of my neck. There is certainly no way that -- it would be something I would miss. Let's put it that way.

When this gentleman said there were definitely neighbors there, I'm the only neighbor to this lot besides this gentleman that was up there. Directly across the street from the proposed building site is the Wehle horse farm. That just recently was dissected and sold off, and I know for a fact that the two people who have purchased the home separately -- one was 2170 and I do not remember the address of the other one -- have never been notified of these instances because one lives in Maryland, and the other one just purchased the home not too long ago, and I spoke with him two days ago. His name is George. He had no idea of this meeting this evening. So I don't feel as though our neighborhood has been properly represented for this meeting. Two people have not.

BEVERLY GRIEBEL: Well, this was --

DAN MELVILLE: There were signs up.

BEVERLY GRIEBEL: This was tabled from last month because the sign was not put up properly, and it wasn't visible in both directions.

MS. GULNICK: I understand that.

BEVERLY GRIEBEL: So it came back here tonight.

Mr. Kress, was there a sign required for the Planning Board hearing?

MS. GULNICK: I would have noticed that.

BEVERLY GRIEBEL: I'm not sure what the Planning Board --

DANIEL KRESS: I don't believe there -- I can tell you we keep a list of all of the mailing labels that have gone out, and every time we have ever had this question, we have been able to find a mailing label with the address in question on it. I would be happy to check that list.

MS. GULNICK: Would you do that for me? I would appreciate it.

BEVERLY GRIEBEL: I guess if you have concerns about it, I would advise you the same as the other gentleman. I don't know what happened. Generally, the nearest neighbors get the letters. The -- the property owner on record is the one who gets --

DAN MELVILLE: What they get is the agenda, I believe. It looks like this (indicating).

MS. GULNICK: Absolutely. I figured it would. I'm a property owner. I pay the mortgage. I think I would get the letter. If he can find a label, then I will say somehow or another I tossed it. I don't know why I would. I don't think I would. But I'm also here to voice my objection. If -- if the proper zoning is 50 feet and only going to be 20 after this obstruction is built, then I feel as though it is an infringement on my property rights.

When Mr. Johnson claims it will blend in well with the existing houses, I'm sorry, but it doesn't even sort of. We have ranch homes, and farm homes. I don't know if one has been able to see the proposed building. It is very modern, very artistic.

BEVERLY GRIEBEL: We have seen drawings on it.

MS. GULNICK: It is not going to in any way, shape or form blend. It will stick out like a sore thumb. One of things myself and others may be concerned with is that cookie cutter -- not cookie cutter because the houses won't look the same, but the houses butt up against each other coming down the river -- most of us on that side of the river have enjoyed lots of space of our own. I'm not interested in opening my eyes in the morning and seeing someone pouring coffee out their bedroom window. So I am --

BEVERLY GRIEBEL: Your comments, both of you are noted on the record. I would advise sending a letter --

MS. GULNICK: What would be the address for the Planning Board, if I were to send it in the mail?

DAN MELVILLE: Right here at the Town Hall.

BEVERLY GRIEBEL: 3333 --

MS. GULNICK: I know. But it would be addressed to the Planning Board?

DAN MELVILLE: Yes.

MS. GULNICK: Nothing more specific.

BEVERLY GRIEBEL: Planning Board Chair, if you want. That is fine. That is sufficient. That would get there.

MS. GULNICK: I thank you for listening to me.

BEVERLY GRIEBEL: The next meeting is going to be -- October 12th? 13th, I think.

MS. GULNICK: For the Planning Board.

Will this issue be brought back up at that time?

BEVERLY GRIEBEL: Well, according to what I read here, it was at the -- it was at the Planning Board from the meeting of September 20th, and tabled until October 13th.

MS. GULNICK: It will be back up.

BEVERLY GRIEBEL: But if they haven't done all of the testing, that could delay it. So you can always check with the Building Department a few days before that and see if it is coming up that night.

Will that be a public hearing for more input from the community?

DANIEL KRESS: Ordinarily, it is not a second public hearing held for final approval since there already was one held for preliminary. So basically it is the -- the Chair's discretion whether he wishes to take additional comments at that time.

BEVERLY GRIEBEL: You can put your comments in the letter and state to them you did not receive notice of it or whatever you want to put.

MS. GULNICK: Mr. Kress, when you check on those addresses, would you contact me, or would -- you want me to give you a call?

DANIEL KRESS: You're welcome to call.

MS. GULNICK: Thank you.

JUSTIN ANDRE, 2259 Scottsville Road

MR. ANDRE: 2259 Scottsville Road.

I have concerns of where the driveway is going.

BEVERLY GRIEBEL: Where do you live in relation to this?

MR. ANDRE: Just over the hill and down the road a bit, but I most recently lived in 2171 Scottsville Road, which is right across the street.

As a matter of fact, I still receive mail there. I never got anything, either. I apologize if I'm confusing zoning versus planning on the driveway issue, but I -- but that is a dangerous hill side there. Christina's driveway is at the top of the hill. I plow it for her quite often. It is a dangerous section of road. And I just have concern for where this driveway is going to be.

BEVERLY GRIEBEL: Did you look at the diagram over there? It does indicate the driveway.

MR. ANDRE: Right.

BEVERLY GRIEBEL: It is a paved drive.

MR. ANDRE: Right. It is down the hill a little bit from where Christine's is.

This driveway is opposite of -- where 2171 is situated, there is what used to be Scottsville Road, wrapping through there, and that is how we would access that property. The northern section of that, we never pull out that driveway. Nobody from that family has pulled out that driveway in 30 years because you absolutely cannot see a car coming over the hill. We have always gone out of our way to go back down.

BEVERLY GRIEBEL: There are a bunch of curves in that area, and it is difficult. I know when I'm out there looking at property, you have to be very careful.

MR. ANDRE: I have all -- probably every winter I haul three or four people out of horse pastures along there, and I mean just to the north and south of there, are numerous accidents every winter.

BEVERLY GRIEBEL: There is a big road curve in that area.

MR. ANDRE: There are curves on both sides. There is the hill there. I plow -- plow all of the driveways along there. I have to be very careful. I'm in a 90 horsepower tractor, 10 feet with flashing lights, and I still have problems. So I would just be concerned about having another driveway and another source of cars coming in and out of there.

BEVERLY GRIEBEL: Of course, if they do get the approval on this, they would have to have a driveway. So --

MR. ANDRE: I understand that. That is why I am expressing concern for where -- there is a logical place to put a driveway along there.

BEVERLY GRIEBEL: That would be a Planning Board issue, and I would advise you to write a letter to the Planning Board Chair.

MR. ANDRE: I guess I'm in the same situation as everybody else. This was the sign we saw. This was our opportunity to come, and I apologize if we confused what the function of the two boards are --

BEVERLY GRIEBEL: Put your concerns in the letter. Well, this Board does generally the more minor things, the setback variances. It is the Planning Board that does all of those site plans. The soil, and the placements of driveways, and placement above the water and all of that. They're concerned with all of that. So put your concerns in the letter, and get it -- get those letters in as soon as you can.

MR. ANDRE: Okay. Thank you.

MR. INCH: If I may ask one other question.

BEVERLY GRIEBEL: Okay. You can ask me.

MR. INCH: Sure. My point about the setbacks, the retaining walls, is that pertinent to this group?

DAN MELVILLE: That doesn't affect our setbacks that we are hearing tonight.

BEVERLY GRIEBEL: No. They're -- they're asking for setbacks to fit this on the lot. But then it is -- but then it is the Planning Board that determines if all this will work for a house.

MR. INCH: But your Board rules over setbacks? Setback is construction. They're constructing retaining walls, 5 feet from my property.

BEVERLY GRIEBEL: They're asking for variances from the setbacks.

MR. INCH: But that is my point. This Board has jurisdiction over setbacks.

BEVERLY GRIEBEL: But the site still has to work for the Planning Board to get all of the things in there, and all of the other -- we are not hearing any setbacks on a retaining wall tonight.

RICHARD PERRY: But the point is, is that -- is that a Planning Board issue or our issue?

DANIEL KRESS: Well, it is a Planning Board issue. And Planning Board has already required soil testing be done to verify that the retaining wall can be built in such a way that it will not cause erosion problems, but I can tell you, I do not apply setback requirements to retaining walls.

BEVERLY GRIEBEL: We handle setbacks from the road or the side setback.

MR. INCH: That was my question.

MR. CHARLES JOHNSON: Could I have a chance to recommend on a couple of points?

BEVERLY GRIEBEL: Yes, sir.

MR. CHARLES JOHNSON: The driveway, the Planning Board requested that we go to New York State D.O.T. and get a driveway permit and we have done that, and it has been granted.

I think Christine (sic) (Gulnick) and Dennis (Inch), the two people who spoke were both at the Planning Board meeting. The issue about erosion and the retaining walls were conditions that -- because of Dennis' comments we are now having to fulfill to get Planning Board approval. His comments have been addressed at the Planning Board effectively.

Christine (sic) (Gulnick) talked about distance to the house -- oh, and the Planning Board does require the posting of a sign just like the Zoning Board does on the property. So there was a sign posted for the Planning Board.

Christine (sic) (Gulnick), the neighbor to the south, talked about the 20 foot setback here. That is to a point of the house.

You can see here we have got some retaining walls. Those retaining walls stand 6 feet tall above the first floor of the house.

So at this point, it is 20 feet everywhere beyond this point, it is in excess of 20 feet, and it is 6 feet below grade with shrubs on top of the planting area.

We were concerned trying to minimize her visibility onto this site.

I think her house doesn't even show up here. It is quite a distance from the property line. She talked about the two lots, so she is at least 60 feet away with her building.

Dennis has a bunch of existing trees and his house also sits lower, not visible to this. To proximity and visibility to neighbors, we have tried to do our best to minimize -- that's it.

BEVERLY GRIEBEL: And still get everything on site.

PETER WIDENER: Has this lot been purchased already?

MR. CHARLES JOHNSON: No.

PETER WIDENER: It is subject to approval for a building on it? Is that my understanding?

MR. CHARLES JOHNSON: It is pre-existing, so it can be built on, but subject to your review and approval.

PETER WIDENER: Has it been approved for building?

MR. CHARLES JOHNSON: Existing -- preexisting, nonconforming building lot.

JEFFERY PERKINS: Do you have a licensed professional engineer looking at retaining walls?

MR. CHARLES JOHNSON: We will. I have brought the survey, too. The other comment was about the topography being inaccurate. I brought the surveyor's survey. I just traced from that to do my site plan. So the surveyor has to get a license from New York State.

BEVERLY GRIEBEL: And those are all of these marks that are on this new one that you brought into us?

MR. CHARLES JOHNSON: Correct.

MS. GULNICK: If I may be so allowed. One more point.

It is Christina, not Christine.

MR. CHARLES JOHNSON: Sorry.

MS. GULNICK: That's okay. I know he has done a really good job trying to say they will put in a wall and bushes. I have been living there 20 years, okay? That top lot has been in my mind to establish for something. Now, I haven't. No. But my plans in my -- of what to do with the land that I have been putting money into for 20 years, is going to be drastically altered. Being able to sell or to do something with this land, develop it in any way, um, without the proper setback and the proper yardage is going to be one of my concerns.

So they can make it -- it can look all pretty and they can put bushes and say all they say. It is still infringing on my rights as a landowner to the south, no matter how pretty we make it. I just want to make sure --

PETER WIDENER: Do you know how far back your house is from his property?

MS. GULNICK: How far back?

PETER WIDENER: You don't know for sure?

MS. GULNICK: I'm not exactly certain because the map I have that was given to me the day I bought the house shows -- if I can go over here -- the telephone pole -- it shows my property to the north of the telephone pole still a little bit. I don't know now how this is set up.

MR. CHARLES JOHNSON: The pole is right here (indicating).

MS. GULNICK: Which way are we looking at this -- my house is here -- no.

MR. CHARLES JOHNSON: Your house is down here (indicating).

MS. GULNICK: If you will so indulge me, since I'm here -- I might as well do this.

BEVERLY GRIEBEL: I don't know if that will really get us anywhere. We are not talking about your lot but this lot.

MS. GULNICK: Right. And so here (indicating) is the said telephone pole that he just showed, and on my map it shows the telephone pole here (indicating) with my existing --

PETER WIDENER: Where is your building?

MR. GULNICK: Over here (indicating).

PETER WIDENER: Two addresses there.

MS. GULNICK: 2156 and one is 2154.

PETER WIDENER: Two lots?

MS. GULNICK: I do. One is 80 and one is 60 foot.

PETER WIDENER: They're two separate lots.

MS. GULNICK: They're -- I mean I mow it all at once, but they're two lots. I get two different tax bills for them, yes. So as I said, I came here today. I have been living there for 20 years, and I would like to make sure that my voice was heard. Thank you.

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

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

Michael Martin made a motion to approve the application with no conditions, and Beverly Griebel seconded the motion. The motion was approved by a vote of 4 yes to 3 no (Richard Perry, Jeffery Perkins and Gerry Hendrickson).

DECISION: Approved by a vote of 4 yes to 3 no (Richard Perry, Jeffery Perkins, Gerry Hendrickson) with no conditions, and the following findings of were cited:

1. Lot is pre-existing.
 2. Setbacks are consistent with the neighborhood.
 3. Alleged hardship is unique to the neighborhood.
 4. Alleged hardship is not self-created.
2. Application of Bill Howard, 3313 Chili Avenue, Rochester, New York 14624, property owner: Five Star Properties; for variance to erect two additional wall signs - Sign #1 to be 4' x 3', Sign #2 to be 5' x 3'10" at property located at 25 Old Chili Scottsville Road in G.B. zone.

Al Arilotta and Bill Howard were present to represent the application.

MR. ARILOTTA: Good evening. My name is Al Arilotta. Last name is spelled A-r-i-l-o-t-t-a. I'm an architect with offices located at 530 Summit Point Drive in Henrietta.

My client with me here tonight is Bill Howard, with offices at 3313 Chili Avenue in Town.

The project in question is at 25 Old Scottsville Road. I'm sure you're familiar with the bakery and Gelato's, the ice scream stand. We are seeking a variance for two signs. A 12 square foot sign on the south side of the building, facing the inside of the plaza and 19 square foot sign on the Old Scottsville Road side, facing the road and the ball parks. The outdoor area.

The signs will be for business identification only. As you can see, the colored sign there is the Gelato's symbol. There is an existing sign up on the building already in the center that was put up during construction, Fedele's sign, 50 square foot sign. This would make the total building

square footage of signs 81 square feet which would be well under the 100 square feet allowed for one main sign.

Additionally, if possible, as you can see from the photographs, we would like to add two temporary sized ice cream cone shaped signs that were given to us promotionally as far as the grand opening goes. They're temporary, sitting in steel sleeves. They can be removed and were removed during the opening weekend. They got to be too heavy to keep moving. The owner would like those seasonally permanent during the summer.

Prior to the previous meeting at which we were tabled, Mr. Howard gave Gelato's the go ahead to order at least one of the signs that faces Old Scottsville Road. He was under pressure from Gelato's. They had just opened up the business and had no business identification at all on the building. I gave the approval myself. I figured that the Town's past history and track record with granting businesses multiple signs, you know, such as the Subway or the Tim Horton's -- Mr. Howard's own building, sub shops, numerous banks in Town with multiple wall signs.

After that meeting, again which we were tabled, the Saturday after that meeting, the sign was put up. It was put up temporarily. It hasn't been siliconed in. It can be removed, and if we are denied that sign, or for that matter both signs, we'll put the one sign out on a pole sign out front.

As you can see from the pictures -- I think it looks a lot better on the building than it would on a pole sign.

All of the signage together, including those cone signs adds up to about 111 square feet. It is not a lot of signage for two businesses. And -- especially compared to many of the businesses in the area that have received variances.

If there are any questions that I can answer, or Mr. Howard can answer.

BEVERLY GRIEBEL: So right now there is a sign for Gelato's on the south side, and --

MR. ARILOTTA: No. Facing Old Scottsville Road. That is the east side.

BEVERLY GRIEBEL: So that one is up.

MR. ARILOTTA: When you come down the road, next to the ball field, that one is up.

BEVERLY GRIEBEL: Is there any plan to put Fedele's sign on that wall frontage?

MR. ARILOTTA: No.

BEVERLY GRIEBEL: They just have a sign on the front, Fedele's?

MR. ARILOTTA: They have a 50 square foot sign.

BEVERLY GRIEBEL: A little bigger in the --

MR. ARILOTTA: Yes.

BEVERLY GRIEBEL: In the overall dimensions.

MR. ARILOTTA: The two Gelato signs are -- I believe the one is 4 by 5 foot, and the other one is 3 foot by 5 foot. I mean, they're relatively small.

BEVERLY GRIEBEL: Now, there are two businesses in there.

MR. ARILOTTA: Fedele's bakery and the last 16 feet towards Old Scottsville Road is Gelato's.

BEVERLY GRIEBEL: Any other business in that building?

MR. ARILOTTA: No. Well, within Fedele's, he has a little florist area as part of his counter space, but that's under the Fedele's name.

BEVERLY GRIEBEL: Not going to be a third business in there?

MR. ARILOTTA: No.

BEVERLY GRIEBEL: The bakery and the ice cream shop. Just wondered if there would be any more signs needed.

MR. ARILOTTA: Hope not. I don't think there is enough room. In fact, we had trouble getting the two Gelato's signs. That space is not very large up there.

BEVERLY GRIEBEL: To get the shape in.

MR. ARILOTTA: Right.

BEVERLY GRIEBEL: Do you want to see these?

KEITH O'TOOLE: We'll add them to the file.

GERRY HENDRICKSON: Will that do away with all of the little ones strung along the road?

MR. HOWARD: Yes.

GERRY HENDRICKSON: They don't look good there.

MR. ARILOTTA: No, they don't. It opened -- the last good month of the season is August, and the -- just the whole opening was -- they were under immense pressure to get it open and get people to know where it is, and so we --

BEVERLY GRIEBEL: Before we had much snow.

MR. ARILOTTA: Yes. We had some temporary signs.

BEVERLY GRIEBEL: So I guess those signs will disappear. Any other questions?

GERRY HENDRICKSON: No, that is all.

DAN MELVILLE: I'm surprised you let him get away and didn't slap his hands for putting that sign up without a variance.

DANIEL KRESS: I would only ask that the Board be specific in its approval if, in fact, you are going to permit any signage beyond what is specifically identified in the application. Whether we talk about signs along the road or ice cream cones or anything else. There is all kinds of stuff out there and I need to know what you are approving.

BEVERLY GRIEBEL: They only asked us for these two signs. We can add a clause those are the only signs that are approved.

DAN MELVILLE: They didn't even bring us any ice cream.

(Laughter.)

BEVERLY GRIEBEL: We usually require samples.

(Laughter.)

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

MR. HOWARD: The cones?

MR. ARILOTTA: The cones are the two signs. They're not a part of the application.

BEVERLY GRIEBEL: They're not a part of the application.

MR. ARILOTTA: We can't include that?

BEVERLY GRIEBEL: No. No. That would be a significant change.

MR. ARILOTTA: So that would require another variance hearing?

BEVERLY GRIEBEL: Yes. If you want to do that.

MR. HOWARD: He did mention that in the beginning. That is why I wanted to clarify. Dan Kress was clarifying that. I wanted to make sure you understood what that was --

MICHAEL MARTIN: The application is for the two wall signs for Gelato's. The cones show in the picture there, but they're not included on the application.

MR. ARILOTTA: So to have those up permanently would require another variance hearing?

RICHARD PERRY: To have them up at all.

MR. ARILOTTA: Correct. At least. We are allowed one.

BEVERLY GRIEBEL: There is a -- temporary signs are generally -- is that about a month or less, Mr. Kress?

DANIEL KRESS: 28 days.

BEVERLY GRIEBEL: For a temporary grand opening kind of thing people have --

MR. ARILOTTA: And how often can you apply for those?

BEVERLY GRIEBEL: You have only one grand opening.

MR. ARILOTTA: You can't apply for a temporary sign the beginning each summer?

BEVERLY GRIEBEL: No. Well, you can apply for whatever you want. It doesn't mean it will be approved.

MR. ARILOTTA: Who would we apply to for that? To the Building Department?

BEVERLY GRIEBEL: Yes. That would be -- you would have to come to this Board.

MR. ARILOTTA: Dan (Kress) wouldn't have a problem with that.

MICHAEL MARTIN: Just make sure you're specific. If you want to use them seasonally, or permanent.

DAN MELVILLE: Or if they're just going up certain days, or things like that. Just to be specific.

MR. HOWARD: I thought that is what he said in the beginning.

BEVERLY GRIEBEL: But it was not part of the application. Something like that will add more signs and be out, so it would have to be something that would be advertised.

MICHAEL MARTIN: Is the ice cream going to be open the year round?

MR. ARILOTTA: First year. We'll see how it works out.

BEVERLY GRIEBEL: If someone comes to this Board and makes a very minor change in the sign, they change the design a little bit or change something like that, or make it a few inches bigger or smaller, then that can be part of the application, but when it is to add other things like that, that would change it too much.

RICHARD PERRY: Especially once it has been advertised and anybody who might be an interested party, would not be aware that this was a part of the application, your request.

BEVERLY GRIEBEL: So all we can hear is what was advertised on this, or slight changes,

but we can't get big changes.

So any other comments on that?

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

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

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Gerry Hendrickson 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 Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

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

1. The wall signs are the only approved signs.

The following finding of fact was cited:

1. Signage needed to advertise a new business.

Note: A sign permit is required.

3. Application of William Powell, owner; 52 Cassandra Circle, Churchville, New York 14428 for conditional use permit to allow an office in home as a mortgage broker at property located at 52 Cassandra Circle in R-1-20 zone.

William Powell was present to represent the application.

MR. POWELL: Hi. My name is William Powell, Jr., and I'm applying for a permit to use my home address as a temporary business address while I'm in the process of getting my mortgage broker's license. I'm already a broker. However, I'm splitting with the guy that I'm currently with, and in order for me to get a new license, I need to either have existing commercial space or I need to use my home address as temporary space. However, it takes about six months in order for me to get the license, and I won't be able to function in the new space until I actually have the license. However, you do need a permit or commercial space in advance.

BEVERLY GRIEBEL: You need a permit for commercial space?

MR. POWELL: No. I need a permit to use my home address as temporary space. Once I get the license, that is when I am going to retain my permanent space.

MICHAEL MARTIN: So the requirement to get the mortgage broker's license --

MR. POWELL: To get the license, right.

DAN MELVILLE: So you need it for about six months?

MR. POWELL: Until I get the license. It could be between three and six months, but they won't process the application until either I have a permit for my home or I have other space, other commercial space.

KEITH O'TOOLE: Are you suggesting you won't actually be conducting business out of the house?

MR. POWELL: That was correct.

BEVERLY GRIEBEL: Well, you have on here all business is done by telephone, fax and e-mail.

MR. POWELL: Basically what will happen is, as a broker, the -- the way I do business now is via e-mail, fax or telephone. However, when I do get my license, you know, the operation is -- it is going to be more than just myself, so I wouldn't be able to function out of my home anyway.

DAN MELVILLE: You will look for office space then?

MR. POWELL: Absolutely. But I will not secure that until I have the license because I don't want to pay the lease until I get the license.

BEVERLY GRIEBEL: Now, there is a letter that came in the mail, and I will read it for the

record. This is a letter from Whispering Winds Homeowners' Association, from the President, Steven Hendershott.

"Dear Chairwoman: On behalf of the Board of Directors of Whispering Winds Homeowners' Association, I am writing to you to provide comment on the application of William Powell, 52 Cassandra Circle. The application is for a conditional use permit to allow an office in his home to conduct a mortgage broker business. The application is scheduled to be heard by the ZBA on September 27th.

The Board of Directors would like you to enter into the official record that the" association "is opposed to this application.

Every homeowner in the Whispering Winds Subdivision that is a member of the Whispering Winds Homeowners Association is subject to specific deed restrictions and covenants that are attached to the properties. One such restrictive covenant prohibits a property owner from conducting any type of business on the property. Every person who purchases a home with these restrictions is made aware all of the restrictions and is furnished a copy of them at the time of closing. As such, the applicant would be in violation of legally imposed covenants on the property were this application to be approved by the ZBA.

Respectfully, the" Association "strongly requests that the ZBA deny this application."

And he has a phone number for further information or explanation.

Did you get a copy of that?

MR. POWELL: No, I did not.

DAN MELVILLE: Does not affect us.

BEVERLY GRIEBEL: It does not affect us. We can go by the Town law which does allow a home business such as this, home occupation.

DAN MELVILLE: They to have the right though to come back and, you know, stop you from doing business there.

MR. POWELL: Right. I will not conduct -- I just need it to get the license.

RICHARD PERRY: I do notice the way this thing is worded, it suggests that not every home in there is a part of the association.

BEVERLY GRIEBEL: Yes. I don't know.

DAN MELVILLE: They should be.

RICHARD PERRY: Well, again, poor choice of wording on their part if that is the case, but that does not have anything to do with us. It is something you might --

BEVERLY GRIEBEL: Every homeowner in the Whispering Winds Homeowners' Association that is a member of the association is subject to specific deed restrictions -- I'm not sure what that means. It does not affect this Board, but the Association can prevent you from doing it.

DAN MELVILLE: What will they prevent him from doing?

BEVERLY GRIEBEL: I don't know. That would be up to them. They can do whatever they want.

DAN MELVILLE: They can do whatever they want.

BEVERLY GRIEBEL: Because this is allowed under the Town code, this type of thing, then this Board can approve it regardless of what kind of letter we get. It is not frankly our problem. It is the Association's problem.

MICHAEL MARTIN: You also say you don't have any intention of conducting business in your home?

DAN MELVILLE: No.

MR. POWELL: No.

DAN MELVILLE: He can't until he get his broker's license.

BEVERLY GRIEBEL: And you can't apply until you have an address. You're using it as an address, but you're not going to work there.

MR. POWELL: That was correct. So this is a common practice in the -- you know, when you get a broker's license, to use your home address until you have the license and then you go out and secure your commercial space.

BEVERLY GRIEBEL: Where do you work now? Do you work with somebody else now?

MR. POWELL: Yes. I'm over at Clearway Mortgage now, and now it is just going to be me. I'm splitting from Clearway. It is going to be just me.

BEVERLY GRIEBEL: But right now you're working over there?

MR. POWELL: Yes.

BEVERLY GRIEBEL: Because you want to keep working?

MR. POWELL: Yes. Absolutely.

PETER WIDENER: When did you purchase your home?

MR. POWELL: A year ago. A year and three or four months.

PETER WIDENER: When you purchased this, did you join the membership?

MR. POWELL: With the association, well it is a part of the package. You don't have a choice basically.

RICHARD PERRY: Just poor choice of wording on their part.

PETER WIDENER: I'm trying to read into this. If you have a choice to be a member or not a member --

DAN MELVILLE: You have no choice.

PETER WIDENER: Refresh my memory. This is only temporary?

MR. POWELL: This is only temporary until I get my license.

PETER WIDENER: You used the word "temporary" about five times. I just want to make sure it is temporary, three to six months.

MR. POWELL: Right.

BEVERLY GRIEBEL: Well, I guess I would hesitate to put a specific time limit.

MICHAEL MARTIN: No. You never know.

BEVERLY GRIEBEL: Normally with this type of thing, it is for a year, and he said that as soon as he gets that broker's license, he will get commercial property because he would have more people working for him, so I would hate to put -- he said maybe six months, but if it takes longer than that, it would hamper him, so I would hate to put that constraint.

PETER WIDENER: But there is a time frame on top of it. I mean --

MICHAEL MARTIN: One year. Just good for one year. On the application, it is good for one year. Application is good for one year. That is it generally.

BEVERLY GRIEBEL: Normally on our first --

PETER WIDENER: But I want it clear it is temporary.

BEVERLY GRIEBEL: If it takes longer than that, but he said it should be --

DAN MELVILLE: Shouldn't take any longer.

BEVERLY GRIEBEL: Somewhere around that time frame?.

PETER WIDENER: There will be no customers coming to the house?

MR. POWELL: No.

BEVERLY GRIEBEL: I asked the question, and he has testified that he is working at another place right now to keep working.

PETER WIDENER: I just wanted to clarify it to me.

JEFFERY PERKINS: I have a question to the side table. Are there any legal ramifications linking the deed restrictions to the zoning requirements?

KEITH O'TOOLE: No. The deed restrictions are private.

BEVERLY GRIEBEL: This has come up before in some other situations, and we cannot be more restrictive than the Association. They can do whatever they want, and -- it is not our claim.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Michael Martin made a motion to approve the application with the following conditions, and Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

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

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.

6. Applicant to obtain and maintain the required State and local licenses.

The following finding of fact was cited:

1. The home office is a customary home occupation.
4. Application of William Crocker, owner; 37 Bellmawr Drive, Rochester, New York 14624 for variance to erect a 12' x 24' shed/cabana to be 288 sq. ft. (180 sq. ft. allowed) at property located at 37 Bellmawr Drive in R-1-15 zone.

William Crocker was present to represent the application.

MR. CROCKER: Good evening. My name is William Crocker. I recently put an in-ground pool in over the summer, and I would like permission to erect this shed cabana to house pool toys, supplies, as well as partially for a shed for lawn mower and miscellaneous tools, et cetera. As opposed to having two smaller set of buildings, I would like to put up one and side it matching the house, with windows -- with a setback just off from the pool.

BEVERLY GRIEBEL: I walked into your background. You have a very deep backyard.

MR. CROCKER: Yes, I do.

BEVERLY GRIEBEL: You have got some kind of swing set tree house kind of thing for kids?

MR. CROCKER: Yes.

BEVERLY GRIEBEL: That is off a little further back.

RICHARD PERRY: Are you planning on electricity to the shed?

MR. CROCKER: I think eventually. What they're putting in the pool, they ran a conduit back to that general area. I don't think it would be anything that would be immediate. Because there is no pool equipment like you used to have in there. The pump and everything is not in there. I would say more than likely, no, but I wouldn't say that forever.

RICHARD PERRY: What kind of a floor?

MR. CROCKER: Concrete slab.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Michael Martin made a motion to approve the application with no conditions, and Gerry Hendrickson 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 finding of fact was cited:

1. The oversize shed/cabana is needed to combine two functions.

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

5. Application of Robert Stone, owner; 3735 Chili Avenue, Rochester, New York 14624 for conditional use permit to allow an office in home for an internet photo/print business at property located at 3735 Chili Avenue in R-1-15, FPO, FW zone.

Robert Stone was present to represent the application.

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

MR. STONE: Hello. I'm Robert Stone and I live at 3735 Chili Ave. I would like to ask for a conditional use permit for my photo business. I would be taking wedding photography and

probably selling photos over the internet. I don't expect a whole lot of traffic coming and going. Probably no more than two customers per week in and out of my home.

The office would be in the fourth bedroom.

BEVERLY GRIEBEL: Do you have another job that you do, or is this your only job?

MR. STONE: I work at Kodak. This will be part-time to start.

BEVERLY GRIEBEL: You have no one else who works with you.

MR. STONE: My wife will be working.

RICHARD PERRY: You listed your hours of operation would be 12 hours a day, 7 days a week.

MR. STONE: Because I didn't really have a schedule set on that. So I just picked those out of the --

RICHARD PERRY: That's ambitious, especially with another job.

BEVERLY GRIEBEL: Maybe he is hoping to quit the other job.

MICHAEL MARTIN: You have to be open as long as you listed in the application.

(Laughter.)

MR. STONE: Oh, really?

BEVERLY GRIEBEL: There is a diagram on the board if anyone wants to look at it.

RICHARD PERRY: No other questions.

MICHAEL MARTIN: All digital?

MR. STONE: Digital strictly, yes.

MICHAEL MARTIN: Just like processing on the computer?

MR. STONE: Yes. Using Photo Shop, and I will have a wide format printer that I will be able to print and send them out in tubes over the internet.

BEVERLY GRIEBEL: So you wouldn't have any chemicals or anything like that?

MR. STONE: No chemicals.

BEVERLY GRIEBEL: That is one of the good things about the digital photography.

PETER WIDENER: On your application, you state you do have a license. What type of license is necessary for this?

MR. STONE: A license?

PETER WIDENER: It says --

PETER WIDENER: License to conduct this business, and you said yes?

MICHAEL MARTIN: Do you have a d/b/a?

MR. STONE: A d/b/a is all. I didn't know -- that is what I was assuming.

PETER WIDENER: D/b/a, license, okay. Stone's Digital. Okay. Thank you.

DANIEL KRESS: You're not intending any signage?

MR. STONE: No signage.

BEVERLY GRIEBEL: You might have a customer come once or twice a week, you think?

MR. STONE: For weddings only, yes. Just to go over plans, wedding plans and probably look at proofs.

Other than that, I don't see any traffic really at all.

BEVERLY GRIEBEL: And you have sufficient parking in your driveway for customers?

MR. STONE: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Michael Martin made a motion to approve the application with the following conditions, and Jeffery Perkins seconded the motion. All Board members were in favor of the motion.

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

1. Granted for a period of one year.
2. No on-premises advertising.

3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.

The following finding of fact was cited:

1. The home office is a customary home occupation.
6. Application of Mr. & Mrs. Stuart Chait, 21 Slate Drive, North Chili, New York 14514 for variance to erect an open porch to be 55' from front lot line (60' req.) at property located at 21 Slate Drive in R-1-12 zone.

Stuart Chait was present to represent the application.

MR. CHAIT: Good evening. My name is Stu Chait. I'm an architect with offices at 234 Mill Street in Rochester. My wife, Cindy, and I own and reside at 21 Slate Drive in North Chili.

You have in your packet drawings that I have prepared showing the proposed porch, approximately 7 foot in depth and approximately 23 foot in width which goes across the front of the house. It matches a porch that the ZBA approved a few years ago at 20 Slate Drive.

BEVERLY GRIEBEL: Very frequently this happens. It becomes contagious.

MR. CHAIT: As they say, it's the sincerest form of flattery. We are in the process right now of residing, reroofing, replacing the windows in our house. It is an opportune time for us to undertake this at this point. We have talked with Chris Ruby who is the resident across at 20 Slate Drive. I believe he sent a letter to you on that.

Again that was approved by the ZBA.

BEVERLY GRIEBEL: He is in agreement with that. He has no problem with that. Excellent addition to the front of the house, fitting in the character of the neighborhood.

MR. CHAIT: The neighborhood itself has a lot of charm, and we believe this will be a very worthwhile addition not just to our house but to the neighborhood, as well. Glad to answer any questions.

BEVERLY GRIEBEL: This is similar to other changes people have requested in other neighborhoods. Your house is 62.39 foot from the front lot --

MR. CHAIT: Built literally almost to the setback line. The entire tract was built that way.

BEVERLY GRIEBEL: 2 foot porch --

MR. CHAIT: Not feasible.

BEVERLY GRIEBEL: Hard to get a foot on there.

MR. CHAIT: Exactly.

BEVERLY GRIEBEL: The only way to put a porch where you can have a place to sit is with a variance. They didn't leave much room. The other side of the house, that wouldn't help either.

MR. CHAIT: That is the opposite side. It is the opposite side from the garage, so there would be no way of getting to the driveway.

BEVERLY GRIEBEL: That is the only way to do it, to get a reasonable porch, is to request the variance.

RICHARD PERRY: Just one. Have we not exceeded the number of variances for this front porch situation this year?

(Laughter.)

DAN MELVILLE: Will this look like the -- your neighbor's house?

MR. CHAIT: Identical. My wife looked at it and said, "Do it like that."

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Michael Martin made a motion to approve the application with no conditions, and Gerry Hendrickson 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. Will enhance the appearance of the front of the house.
2. In keeping with the neighborhood.

Note: A building permit is required prior to construction of this porch.

7. Application of Timothy Gaffney, owner; 2043 Westside Drive, Rochester, New York 14624 for variance to erect a 6' x 8' deck to be 23' from side lot line (60' req. abutting a street) at property located at 2043 Westside Drive in R-1-15 zone.

Timothy Gaffney was present to represent the application.

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

MR. GAFFNEY: I'm Tim Gaffney. I'm requesting basically to build a deck on the side of my house. This is a picture there. I want to go right here (indicating), covering up an existing porch that is there.

Right now the one that is there, my wife and son, the first week we were there fell down.

BEVERLY GRIEBEL: I think you noted that on your application.

MR. GAFFNEY: There is no railing on it now. We just want to make it safer, but with the setbacks, my house is only 30 feet from the road on that side. I live on a corner. My lot size is only 70 feet wide. It is kind of hard not to get a variance.

BEVERLY GRIEBEL: Right. It will -- it would be hard to put much on there.

MR. GAFFNEY: The whole lot I need a variance for basically.

Basically we'll cover up existing what is there and not make it any bigger. The stairs will come down towards Westside, not Baylor.

BEVERLY GRIEBEL: So it will be the same size as the existing porch?

MR. GAFFNEY: Yes.

BEVERLY GRIEBEL: Sturdier.

MR. GAFFNEY: And safer.

GERRY HENDRICKSON: Can't open your door without falling off?

MR. GAFFNEY: Not really.

BEVERLY GRIEBEL: You don't realize it when you first look at a house and then you move in and realize the problem.

JEFFERY PERKINS: Is this deck or porch, if you will, going to be connected to the deck to the rear?

MR. GAFFNEY: Yes. It will all blend in and look like it has always been there together. That is my plan on it.

BEVERLY GRIEBEL: Now, in some areas here it says porch and other areas a deck. Is it all the same thing?

MR. GAFFNEY: Yes. It's going to be a 6 by 8, and it is going to blend in. It will have the same railings, same spindles and everything as to the existing one there.

BEVERLY GRIEBEL: But nobody will be able to fall off.

DAN MELVILLE: It is a porch/deck

(Laughter.)

BEVERLY GRIEBEL: It is called different things back and forth.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

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

1. A safety factor to construct a sturdier deck to replace existing deck.

Note: A building permit is required prior to construction of this deck.

8. Application of Stacy Wawrzyniec, owner; 30 Bolton Trail, North Chili, New York 14514 for conditional use permit to allow an office in home for a consulting business at property located at 30 Bolton Trail in PRD zone.

Stacy Wawrzyniec was present to represent the application.

MS. WAWRZYNIEC: I'm Stacy Wawrzyniec. I live at 30 Boldstone Trail, and I'm here to ask for permission for a conditional use permit to have an in-home office. I'm starting an event planning business. The office would be used just for administrative purposes only. There would be no client consultations in the office. So no signage, no traffic. Nothing of that nature.

BEVERLY GRIEBEL: You would see your clients at their home?

MS. WAWRZYNIEC: At their home or at a venue, a coffee shop.

DAN MELVILLE: Their office.

MS. WAWRZYNIEC: I prefer not to meet in my home because I have safety reasons. I have a four-month-old daughter who is quite a distraction at this point.

BEVERLY GRIEBEL: It is hard to do that.

Meeting with clients would take place at homes or business making additional traffic signage unnecessary. So you would have a desk and a file cabinet and phone.

MS. WAWRZYNIEC: And computer.

RICHARD PERRY: Your business is almost all evenings.

MS. WAWRZYNIEC: It is. That is when the majority of my clients would be available, as most people are working, as am I. I have a full-time position.

BEVERLY GRIEBEL: So it would be evenings or weekends? Whatever works out.

MS. WAWRZYNIEC: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

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

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.

The following finding of fact was cited:

1. The home office is a customary home occupation.

The meeting ended at 8:40 p.m.