

CHILI ZONING BOARD OF APPEALS  
September 27, 2011

A meeting of the Chili Zoning Board was held on September 27, 2011 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Paul Bloser.

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

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

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

PAUL BLOSER: I will change a few things around tonight for the sake of time.

Signs, we'll go over those first. Any problems?

ROBERT SPRINGER: I did not see one on Boon.

PAUL BLOSER: On SunCap, for the sign, because they are back, that was tabled, they did show their sign before. We heard the application. We had a Public Hearing on it and we tabled it because of some changes we wanted to see incorporated, so therefore, they would not be required to have a sign up.

Other than that, I saw signs at --

JAMES WIESNER: The one on Names Road had the Planning Board sign up. It wasn't Zoning Board. It was -- was for a hearing on September 20th.

PAUL BLOSER: I didn't notice that. I saw a sign, but I didn't notice it was for Planning.

JAMES WIESNER: I don't know if anybody else noticed that.

UNIDENTIFIED SPEAKER: There was two signs up at that address. One for the 20th and one for the 27th.

JAMES WIESNER: When I went by on Sunday, all that was showing was the one for the 20th, for the Planning Board.

UNIDENTIFIED SPEAKER: The other one got knocked down or something happened to it. It was both there. We live right across the street.

MR. KOTAK: I put it up because it was my property.

JAMES WIESNER: Was it there the whole ten days?

MR. KOTAK: It was there the whole ten days. Two signs up.

JAMES WIESNER: Maybe it was down briefly on Sunday then when I went by.

MICHAEL NYHAN: Did you see two signs?

PAUL BLOSER: I saw one.

I guess I'm in favor of hearing this this evening only that I know that they did have a hearing last week at the Planning Board. There were many people in attendance for that meeting, so they were aware of it, and it was announced at that meeting also that he would be back tonight in front of the Zoning. So I -- so I am comfortable with letting this go and hearing it tonight.

Anybody have any -- all in favor of that?

The Board indicated they would hear the application.

JAMES WIESNER: Something we need to watch out for in the future, though.

PAUL BLOSER: Yep.

JAMES WIESNER: Because it is pretty slippery to -- especially when they're so close to each other.

PAUL BLOSER: I will move forward to Application 1. I'm going to hear Number 7 first.

7. Application of Open Door Baptist Church, 350 Chili Scottsville Road, Churchville, New York 14428 for variance to erect an 8' x 4' double-faced externally illuminated freestanding sign to be a total of 64 sq. ft. (32 sq. ft. allowed), variance for sign to be 7' high (5' allowed) at property located at 350 Chili Scottsville Road in RA-1 & FPO zone.

Ed Shero and Keith O'Toole arrived.

PAUL BLOSER: As you come forward tonight to the podium, before you speak, I ask that you state your name and address for the record. Thank you.

Joel Lima was present to represent the application.

MR. LIMA: My name is Joel Lima from Open Door Baptist Church. My work address is

350 Chili Scottsville Road Churchville New York. L-I-M-A.

We're here for a variance permit for -- to replace our existing outdoor signage. We currently have 24 by 8 signs that are in a V-shaped format mainly because of the speed of the traffic that goes by our facility on Chili Scottsville Road so they can see it.

We -- we intend to replace those signs by -- with two similar signs, 24 by 8 signs made of HDU material, high density urethane material, similar to the signs that the Town of Chili has.

We will install those on the existing 4 by 4 posts. When we take the old signs down, we plan to refurbish the posts, sand them, paint them, put some post caps on them and then install the new signs.

That is going to be burgundy lettering on a white background so they're highly visible and just gives us a better exposure. It's just maintenance replacement. They have been there since 1998 and just need to be updated.

PAUL BLOSER: You are going to maintain the same ground lighting --

MR. LIMA: Same ground lighting, yes.

PAUL BLOSER: -- with the side shields you have right now, so nothing is changing on the lighting?

MR. LIMA: Correct.

PAUL BLOSER: Based on the before and after what your existing is right now -- we don't have a picture up on this screen. I guess I would like to put that up, if we can, so we can see -- for the public. Since you have it.

Doesn't come out real well. The new sign is much simpler, a lot less information on it.

MR. LIMA: Yes.

PAUL BLOSER: Street number is very prominent for identification, which is good. We have had positive recommendation back from Architectural, so I guess I don't really have any questions at this point.

It is going to be more of a maintenance free, longer term sign.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: Just a question. Aren't we encouraging monument signs?

PAUL BLOSER: We have been. This is a design that was submitted to Architectural. They're updating their existing approval. So they're using the existing posts. It came back with approval from Architectural for design.

DOROTHY BORGUS: Which you don't necessarily have to stick with.

PAUL BLOSER: They're an advisory committee, yes.

DOROTHY BORGUS: They're an advisory committee.

It's a good looking sign. It isn't that. Except I thought we were establishing a standard for something different and I thought that when signs were -- were replaced, that was the time that we -- we put our new wishes into -- into practice, which would be monument sign.

Thank you.

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

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

MICHAEL NYHAN: Is there a minimum -- is there a variance for the original sign? I don't see it on the sheet.

PAUL BLOSER: I don't believe there was on the original one. It was just the permit that was on file for what they put up. Slightly bigger this time, so that is why we're going to -- that is why the variance on this one.

JAMES WIESNER: It is interesting because they show the posts and the approval drawing from the Architectural Review Committee. The posts are actually sticking up above the sign whereas before they were hidden behind it. I guess the question is how will that -- you're saying it is bigger.

PAUL BLOSER: I think it is wider from what it was.

MR. LIMA: The new signs are 4 by 8. The existing signs are 4 by 8. I don't know if the scale there is -- just the way it is drawn looks a little different. I guess I -- until they bring them out and --

PAUL BLOSER: You're not moving the posts at all?

MR. LIMA: The posts are showing a little more there than in that picture, but when we install them, I intend it to look like that (indicating) when they're done. I don't want to see the posts myself.

JAMES WIESNER: I would like to see it that way, too.

MR. LIMA: Right.

FRED TROTT: So the height and the size of the sign stays the same. It is just the wording of the sign and the design of the sign?

PAUL BLOSER: Correct. They're just changing panels out basically.

If there are no other questions from the Board, I'm going to proceed.

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

PAUL BLOSER: On conditions of this, I am going to put on conditions of approval per the Advisory Board, Architectural, I'm going to put the post caps will be added as per Architectural Advisory Committee.

Paul Bloser reviewed the proposed conditions of approval with the Board.

JAMES WIESNER: Architectural Review Committee is saying have the posts protruding and putting caps on them.

PAUL BLOSER: They're asking for caps. I think on a wooden post, if you put the aluminum or poly caps over the top of them, it will help with the life of the posts. You won't see them, but at least they are capped out. That would just be a smart thing to do anyways.

MR. LIMA: Right.

PAUL BLOSER: They're very reasonable in cost.

Paul Bloser further reviewed the proposed conditions of approval with the Board.

Robert Springer made a motion to approve the application with the following conditions, and Michael Nyhan seconded the motion. The vote on the motion was 6 yes to 1 no (Michael Nyhan).

DECISION: Approved by a vote of 6 yes to 1 no (Michael Nyhan) with the following conditions:

1. Post caps will be added as per Architectural Advisory Committee recommendation.
2. Sign permit must be obtained.

The following finding of fact was cited:

1. The proposed variance is not significant in nature and will not have an adverse impact on the neighborhood or surrounding properties. The sign size has not increased, it is just being updated in design and color.
1. Application of SunCap Property Group, 3419 Seward Place, Charlotte, NC 28211; property owner: Jarvee Associates; for variance to erect a 9' x 6' double-faced non-illuminated freestanding monument sign to be 108 sq. ft. (32 sq. ft. allowed), variance for sign to be 8' high (5' allowed) at property located at 2 Boon Drive (formerly known as 3516 Union Street) in G.I. zone.

Glen Thornton and Daniel Boon were present to represent the application.

MR. THORNTON: Good evening. Glen Thorton, Thorton Engineering here representing SunCap Property Group the applicant for the sign. It is for the new FedEx freight facility off Union Street on Boon Drive.

Um, SunCap has had various representatives in front of the Zoning Board over the past few months presenting the application for the sign variance. At the last meeting, the June -- I think it was the June 30th meeting -- I have the notes from that meeting -- there were several requests that were made to the applicant on the sign layout, the sign design and the application itself.

At that point in time, SunCap asked me to get involved because some of the requests pertained directly to the site plan for the project, especially the new design of Boon Drive, the intersection with Union Street and the ultimate placement of the sign in the northeast quadrant at that location.

We responded to the comments from the June 30th meeting by letter. I think it was August -- August 22nd with our responses to each one of the comments from the Zoning Board, which was the reasons for the tabling of the application at that time.

Um, we -- we also at that time provided a new drawing showing the location of the sign, which will now be placed on a berm, a 4 foot high berm, 15 feet from the -- at least 15 feet from the -- the right-of-way with Union Street satisfying the -- the placement requirements in the Town Code.

We're going to build a 4 foot high berm which the top of the berm will be about -- I think it is about level with the -- with the Union Street grade at that point.

Um, the front of the berm will be -- will be landscaped. We noted a number of plantings that can be placed in front of the sign, on the side of the grass berm, and then the berm -- the sign itself will be placed near the top of the berm, but not at the very top. It will be on the front face of the berm. We'll flatten out an area on the berm for the placement of the sign with the landscaped plantings below and kind of around the sign.

Um, the sign itself will now be 8 foot tall, which provides 2 foot of clearance beneath the sign. So the sign itself is 6 foot and with the supports on the sign, it's -- the sides of the sign will be 9 feet wide. The sign itself will -- will have an area of 6 foot by 48 -- I'm sorry, 6 foot by 8 foot, or 48 square feet, on each side of the sign. It will be aluminum, metal supports. The colors are noted on the drawing for the sign.

I think that is drawn fairly or -- or actually depicted fairly accurately with the sign colors.

Um, it will be non-illuminated. It will be painted on aluminum. Um, the -- the sign placement, where we have got it in the northeast quadrant is outside the site triangle for the new intersection that we're creating, so the berm, the sign, the landscape plantings will not restrict the site lines at all in that area.

Um, another condition or another comment as for the tabling of the application at the last meeting was to make sure that, you know, the sign layout, the size, everything was coordinated with Mr. Boon, Mr. Dan Boon who is here with me tonight. We wanted to make sure the sign was being proposed -- Dan (Boon) is getting the same size of sign. His previous variance that was granted allowed him to place a sign up to 9 feet above ground, each -- each side of the sign would be 24 square feet in size, a total square foot area of 48 square feet, which is exactly half the sign we're proposing.

So what we have shown is "Boon & Sons" on the lower portion of the sign, with 24 square feet on each side, and with the street address identifying Boon & Sons and the same for FedEx Freight at the top of the sign with the street address. And again, 24 square feet on each side of the sign.

I believe with that we have responded to all of the previous comments that we had.

PAUL BLOSER: Glen (Thornton), did you receive a copy of the recommendations from Architectural on this?

MR. THORNTON: What was the date of that?

PAUL BLOSER: Dated August 31st.

MR. THORNTON: I did not, no.

PAUL BLOSER: The only comment they had on it was on your sign here, you see "FedEx Freight" with "2 Boon Drive" over the top of it. And with "Boon & Sons," the "1 Boon Drive" over the top of their name.

Their recommendation is to have the address underneath FedEx and underneath Boon, just flip those, so -- they're on there, but they want to see it -- they felt it would look better kind of reversed. If you follow what I am saying.

MR. THORNTON: I know what you're saying.

PAUL BLOSER: Do you see that as a problem?

MR. THORNTON: I -- I don't with FedEx.

Dan (Savage), is that a problem with you?

MR. DANIEL BOON: No. I guess --

PAUL BLOSER: Lettering size will still be the same?

MR. DANIEL BOON: Yes. I guess just where you see the number on the top. That's -- here or there I guess it don't matter.

PAUL BLOSER: That's the only other comment we had on the thing.

JAMES WIESNER: I have a question. You have a section, AA on your drawing, and it cuts perpendicular to the road and through the long portion of the sign. If you look at the elevation as it is drawn, it doesn't -- if I understand the drawing correct, it doesn't look to scale, because the width is about half the height, and if you look at the actual width of the sign, it is actually a little bit longer than the height is.

MR. THORNTON: It's 20 foot scale horizontal and a 10 foot scale vertical.

JAMES WIESNER: So it's not --

MR. THORNTON: It is going to be distorted.

JAMES WIESNER: I understand. So it is not 1 to 1.

MR. THORNTON: I think on that section you can see -- actually the place -- the sign will be placed on the berm at -- between elevation 563 and 564, and that is on -- within a 4 foot tall berm. The street elevation on Union Street is about 566, so that is -- so the berm is still 2 foot lower than the street. The bottom of the sign is about at street level, so we think, you know, with somebody in a vehicle with the eye height being 32 inches or so above grade, you know, the sign will be at about eye level.

JAMES WIESNER: That makes sense. It will be a terrace where the sign is, a flat area.

MR. THORNTON: Yes. It may not be perfectly flat. We want to maintain some slope there for drainage, but it will be much flatter than the rest of the berm. The berm, I think, we have shown at a 1-on-4 foot slope, 1 foot vertical, 4 foot horizontal, which is not a real steep pitch. But where the sign is placed, we'll flatten it out there.

JAMES WIESNER: Okay. That makes sense then.

FRED TROTT: I do agree with the Architectural Review on the placement of the address.

KEITH O'TOOLE: Couple comments.

I guess the concern originally was to jack it up, the sign 2 feet to keep it above the snow, but if you're going to put it on top of a 4 foot high hill, that would seem to negate the hill for jacking it up that extra 2 feet. I would think you would get that protection from snow drifting if that is the concern.

I think also traditionally we have measured signs from finished grade, and what we're really doing is kind of getting around that by just mounding up a -- a pile of dirt and dropping the sign on top of the -- you know, the dirt. I -- I think technically speaking, I would add in the

height of that hill that they're adding when measuring the sign. Because I think they're miscalculating base on the code.

Nothing further.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

MR. DANIEL BOON: Dan Boon, 1 Boon Drive. Just my only concern is -- I guess I go with Mr. O'Toole's comment there, is it doesn't matter where the sign is placed. I want it 2 foot up from the bottom so the snow -- the normal snow here, we don't have to plow any snow to get 2 inches of build-up. I just don't want the sign sitting in the snow. I want it visible.

So I don't -- it doesn't matter where, what elevation it is at. It has to be up off the existing ground underneath it so we don't have snow build-up. Or I'm better off leaving the sign I have there because it is up high enough and doesn't get any snow under there.

Thank you.

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

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

MICHAEL NYHAN: Have they addressed all of the issues we had before?

PAUL BLOSER: They have.

I will move forward on the conditions of approval.

Paul Bloser reviewed the proposed conditions of approval with the Board.

PAUL BLOSER: In going through the minutes of the previous meetings, I could not find where we had done SEQR on this, so I will proceed with that.

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 Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

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

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

1. Names and street address text to be flipped on each portion of the signs (street address to be beneath company names/logos).
2. Sign permit must be obtained prior to commencement of work.

The following finding of fact was cited:

1. The proposed variance is not significant in nature and incorporates existing variances for 1 Boon Drive that were previously approved into the FedEx sign, therefore eliminating the need for two signs.
2. Application of John Manos, Acropolis Restaurant, 3240 Chili Avenue, Rochester, New York 14624 (property owner: Chili Plaza Properties, LLC; for variance to erect a second wall sign to be 4' x 8' at property located at 3240 Chili Avenue in G.B. zone.

John Manos was present to represent the application.

MR. MANOS: Good evening. I'm John Manos from 3240 Chili Avenue, Acropolis Restaurant. Ever since the Microtel opened, my father and I were looking at opening up another sign, as you can see up there, facing the Microtel to get some more patrons into the restaurant.

So I worked with the landlord. She has suggested instead of some of the other original signs that we wanted to do, that we do a Dibond aluminum board on there.

So we went through a couple different vendors. Modern Signs is the company that we're going to use to install this and create it. It's not going to be lit. It is just going to be wall-mounted and also not having much exposure on Chili Avenue, kind of tucked away behind the bank, trying to get some of the traffic also from the Microtel but also from the cars that pass through behind the plaza. There is a lot of cut-through there. So I would just like to add a second simple sign on that side of the plaza.

PAUL BLOSER: So you did say this is not going to be lit?

MR. MANOS: Correct.

PAUL BLOSER: Correct.

I did -- for the record, I had spoke to the owner of Microtel, and they have got their final

approvals with the owners of the plaza also, so the sidewalk that was proposed and -- on the site plan, they are going to proceed with that to get that done, so it is going to define a walk area between basically your restaurant front door and the hotel. Something that was in planning from day one to direct traffic into the plaza instead of having people leave.

The owner I talked to about the sign also, and he was very much in favor of it because the majority of his guests ask, "Where can we go and how close is it?"

So he can point to the sign and say, "There it is."

This sign is not visible from Chili Avenue at all. It is -- for the general public going up and down Chili, it is completely hidden.

Between the bank, the quick lube and -- both banks actually you can't see it.

FRED TROTT: I would imagine you can't even see it -- the little --

PAUL BLOSER: No. It's -- it's pretty straightforward.

JAMES WIESNER: In the picture you're showing on the sign, is that exactly how you -- how you would have the sign developed?

MR. MANOS: It's not built yet. It was recommended we match the font that we have for the front sign.

JAMES WIESNER: That is what I was approaching, having something that was more in character with what is on the front of the building, I guess.

MR. MANOS: Right. So we're matching the font and that is kind of the design the Modern Signs came up with.

ROBERT SPRINGER: Just one question. In reference to the telephone number included on the sign, does your establishment open up at the same time every day?

MR. MANOS: 6 a.m., and it's Monday through Saturday. Then 7 a.m. on Sunday.

ROBERT SPRINGER: Okay. You answered my question then.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: How many square feet are in the sign on the front of the restaurant?

PAUL BLOSER: It's not in any of the property detail sheets.

ROBERT MULCAHY: 4 by 8 is what he wants.

PAUL BLOSER: No. The existing sign. Big letters out front.

ADAM CUMMINGS: The new sign will be 4 by 8. The existing was -- I think it is bigger.

PAUL BLOSER: Ed (Shero), are you aware of any record on that?

ED SHERO: Well, we have a record of when it was issued. We don't know the size of it, but...

PAUL BLOSER: It's not in the --

DOROTHY BORGUS: I guess my next question would be was there a permit for that sign, the original sign on the front?

ED SHERO: The original sign was permitted. It has since expired and another permit is required.

DOROTHY BORGUS: Oh.

ED SHERO: As we're doing all our signs, we're requiring them to be re-permitted so they don't expire. The plaza, the landlord who owns the plaza hasn't applied for any of the permits on those signs.

DOROTHY BORGUS: Oh, good. That's a sarcastic "good."

Has the Architectural Review -- the Architectural Advisory Committee looked at the sign and approved it?

PAUL BLOSER: I believe we did have --

KEITH O'TOOLE: I don't believe so.

JAMES WIESNER: Do they review every sign or is there some sort of guidelines?

PAUL BLOSER: Did you go before Architectural on this?

MR. MANOS: No. When I applied for permit, they just said to apply for the variance permit.

KEITH O'TOOLE: Mr. Chairman, the Architectural Review Board looks at monument signs. They don't look at all signs.

PAUL BLOSER: Okay.

DOROTHY BORGUS: Upon request, can you ask them to look at this one?

FRED TROTT: I don't see the need.

PAUL BLOSER: I guess I'm going to take a stand in that if this was more in public view from where the main roads are and from a public road, I would say yes. Because we're not facing any public roads on this, um, the exposure is very -- very minimal.

DOROTHY BORGUS: You make my point. Our code reads that you can have a sign on a corner of a building if it faces a public street. And as you just said, this does not. The reason I asked about the size of the sign in the front, our code also says that the side -- the sign on the side, should it be approved, cannot exceed half of the size of the one on the front.

PAUL BLOSER: We don't know what the front is.

DOROTHY BORGUS: We don't know.

PAUL BLOSER: Okay.

DOROTHY BORGUS: Now, the sign on the front, whether it is expired or not, is a very

attractive print, very attractive sign. This is not. That's why I asked about the Architectural Advisory Committee.

The sign on the front is just -- it is just red on the white face of the building, which is attractive. This is a red sign. This is not the same as the one on the front of the building, and I agree with Mr. -- with where Mr. Wiesner was coming from, it is not the same. And I also -- I obviously feel Mr. Springer has some reservations about the phone number. Why do we need a phone number on the side of that building? We don't. Everybody else doesn't get a telephone number even on the front, so why would we allow them to have a telephone number on the side?

And I'm wondering, they want more business. I'm wondering if they have thought about putting their menus in the lobby of the hotel? That is what most restaurants do. I mean, I was in Toronto this weekend and there is menus all over the place. That -- that is how you advertise when you're next door. You don't need a sign to do it.

It bothers me somewhat in that out of the seven applications on tonight's agenda, four are signs. That is a very telling thing. It means we're getting sign happy in this Town. Nobody is happy with our sign ordinance, and we have it that way we do for a reason. We don't want sign clutter. I don't think this fits anywhere in the code. Since it -- it doesn't face a public street. We don't know the size of the one on the front. It doesn't even correspond to the sign on the front in -- I can't see any -- any comparison with the print on that sign and the one on the front of the building.

If we're going to do this, let's get kind of classy about it and carry the same motif around the corner, if you're going to do it, and I don't know how you're going to get around the fact that our code says it has to face a public street if it's on the corner.

Thank you.

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

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

ADAM CUMMINGS: I think we were trying to get away from dictating what is on the signs, other than the display. But you don't like it because of the display or the content?

ROBERT MULCAHY: I just don't like the display.

MICHAEL NYHAN: That idea we were doing it, just to advertise the business, not to advertise hours or phone numbers, just to identify the location of the business. That is why we're looking for street addresses and business names.

ADAM CUMMINGS: Which would shrink down the sign.

PAUL BLOSER: It would.

ADAM CUMMINGS: Then the font would be the same as the font on the front.

JAMES WIESNER: I mean the whole placard, the whole looking of the placard is just, to me, is out of character. I would rather see the letters consistent with what is on the front of the building so that that theme is carried throughout as far as their advertising goes.

ROBERT MULCAHY: I think it takes away the character of the business, with this sign. I agree with Jim (Wiesner).

PAUL BLOSER: There is no consistency with that whole plaza.

ROBERT MULCAHY: Well, that's true. That's true.

ADAM CUMMINGS: The existing sign on the front, is that illuminated?

MR. MANOS: Yes.

ADAM CUMMINGS: So we really can't match the one on the front. Unless we make him do an illuminated sign.

JAMES WIESNER: They could do the letters, right? I understand what you're saying. They wouldn't be lit per se, but they could do the letters.

FRED TROTT: They could do just the red letters with the gray background.

And the same -- my only take on it, the only people that are seeing it is the Microtel. You can't -- Microtel is blocking it from the neighbors. You got those -- the sides block it from viewing it from the side.

ADAM CUMMINGS: The bank faces Chili Ave.

FRED TROTT: The bank blocks the front of his sign.

PAUL BLOSER: Yes. The sign -- the front one is very difficult --

FRED TROTT: I see what he is going for. And -- in my opinion it beats having him put up a sandwich board sign on the sidewalk.

ROBERT MULCAHY: True.

FRED TROTT: Would you consider switching the sign around to have red font and white background?

MR. MANOS: So there are two problems I think with that. One, is the fascia on there is already a light color, matching a white.

PAUL BLOSER: I think you would have a real clash.

MR. MANOS: It will not stick out as much. So looking at -- what others have done, um, the guy from Modern Signs says if you do that, you will not get that sticking-out factor, that calls the attention. And just kind of looking at what other franchise restaurants have done, either McDonald's or Wendy's, they have all done a red background with like a white so it really sticks out.

If that facia was like a different color, I would, because it is contrasting and it would stick out. But he warned me if you do that, it's not going to look as visibly appealing.

PAUL BLOSER: I -- I agree with that, with the white background. It would look very out of place there.

FRED TROTT: The phone number you have there, is there a reason you have the phone number on there?

MR. MANOS: Our thoughts were when folks check into Microtel, pull into the parking lot, um, for -- for all I know, they have windows there. I think they have 25 rooms on that side of the building, so if they open up the windows, easily they can call and just ask us --

FRED TROTT: For hours.

MR. MANOS: Orders to go and get it ready. We have had people walk over and just ask us for their phone number because they're going to be returning in a couple weeks on business.

Um --

PAUL BLOSER: Do you advertise in the hotel right now?

MR. MANOS: We were able to drop off a couple to-go menus.

MICHAEL NYHAN: There are a couple of things we don't know, the size of the sign. We don't know if this one needs a variance, as well, to even be half. We can eyeball it.

PAUL BLOSER: We can put that in as a condition, that the sign does not exceed 50 percent of the one in front. If you drop the phone number from it, you are probably well below that anyway.

ROBERT SPRINGER: That sign is less than half of the one in front.

PAUL BLOSER: I agree. That sign in front is probably about 22, 24 foot long.

ROBERT SPRINGER: It's big.

PAUL BLOSER: It is taller than 4 foot.

JAMES WIESNER: I just don't think it fits. I really don't. The rest of the plaza is looking pretty nice. I think all of the signs are, you know, in place and -- and in character. I just think that having this second sign, you don't -- not necessarily against the sign, but just not in favor of the character of it.

ROBERT MULCAHY: I agree with Jim (Wiesner).

PAUL BLOSER: Any other thoughts or comments? Anything you want to put for conditions of approval on it other than the sign permit must be obtained?

ROBERT MULCAHY: I would still like to see the telephone number dropped.

PAUL BLOSER: Under conditions of approval, I'm going to put sign permit must be obtained.

MICHAEL NYHAN: It would be for both signs, correct?

PAUL BLOSER: Excuse me?

MICHAEL NYHAN: It would be for both signs, correct.

PAUL BLOSER: They're not here for the other sign right now for an application. I believe the Town -- hold on.

MICHAEL NYHAN: It expired is the problem. It should be a condition of approval if you're going --

ADAM CUMMINGS: Sign permits for all signs, existing or the new one.

PAUL BLOSER: How are you handling these in the office, Ed (Shero)? For the ones that have expired. I know notices went out.

ED SHERO: Notices went out. We did an inventory of them, and basically we just haven't really had time to follow up on the ones who have not complied yet.

MICHAEL NYHAN: For this particular instance would they just have to file for the permit, pay the fee and they would get a sign permit?

ED SHERO: Yes.

MICHAEL NYHAN: So it is just a matter of completing paperwork and paying the fee?

ED SHERO: Yes.

PAUL BLOSER: So if I roll these two together on one, he would only have to do one application fee.

ED SHERO: Two sign permits, two signs.

PAUL BLOSER: That is what I am asking. One permit for two signs or two permits, two signs?

KEITH O'TOOLE: Two permits, two signs.

ED SHERO: Two permits, two signs.

MICHAEL NYHAN: So we should have it a condition to renew the existing sign and apply for the new sign permit.

PAUL BLOSER: So sign permit must be obtained for proposed sign. Existing sign permit must be reviewed.

Just for the record, Mr. Manos, these original sign permits all had times on them, so it was good until this date, which is -- which has expired. The new sign permits, when they're issued now, it's -- it goes with the property. So that is not something in five years you have to do over again.

MR. MANOS: To renew both of them now?

PAUL BLOSER: That is going to be a condition of approval on this, that you would get both of them. One for the new one, and you get the existing sign permit renewed. Okay?

MR. MANOS: Yep.

PAUL BLOSER: Third condition would be to remove phone number from artwork. And maintain font as in front sign, which you have already done anyway. So just maintaining the font



to be consistent with the Acropolis theme.

MICHAEL NYHAN: Did you address the size?

PAUL BLOSER: The size, I will put it in here, size must not exceed 50 percent of the front sign.

I think I also want to put on that this is -- what, 4 by 8? Can you drop that down to 3 by 8, not to exceed? That wipes off the phone number. It doesn't make the font...

Paul Bloser further reviewed proposed conditions of approval with the Board.

ADAM CUMMINGS: Is that approval by the Building Department?

PAUL BLOSER: Usually what happens with these is we know going into this, they will submit the artwork, final proposal and then I will review it with Kathy (Reed) and Ed (Shero) just so we're all on the same page and that it has been followed through with.

ADAM CUMMINGS: Got you.

PAUL BLOSER: He doesn't have to come back to a meeting.

ADAM CUMMINGS: Right.

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

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

DECISION: Approved by a vote of 5 yes to 2 no (James Wiesner, Adam Cummings) with the following conditions:

1. Sign permit must be obtained for proposed sign.
2. Existing sign permit must be renewed.
3. Remove telephone number from artwork and maintain font to match front sign.
4. Size of new sign must not exceed 50% of the front sign. Size of new sign must not exceed 3' high by 8' wide.
5. Final artwork to be submitted for approval with permit application.

The following finding of fact was cited:

1. The proposed variance is not significant in nature. The sign will not be visible from the road or front elevations of the building, solely from the neighboring hotel which will benefit patrons of the hotel and help promote this business without any negative impact on other neighboring properties, neighbors or businesses.
3. Application of Aaron Spyra, owner; 2 Ardsley Circle, Churchville, New York 14428 for variance to erect a 10' x 16' utility shed to be 25' from rear lot line (55' req. abutting a street and not to be in front setback area) at property located at 2 Ardsley Circle (property also fronts on Chili Avenue) in R-1-15 zone.

Debbie Spyra was present to represent the application.

MS. SPYRA: Hi. I'm here representing Aaron (Spyra). Debbie Spyra.

PAUL BLOSER: Okay. So there is no shed there right now?

MS. SPYRA: No.

PAUL BLOSER: So the system does work once in a while.

On the shed, what are you constructing it of or how is it -- is it a premanufactured you're getting, or is it something you're building?

MS. SPYRA: I believe it is pre-manufactured.

PAUL BLOSER: Do you know what it has for siding?

MS. SPYRA: The T stuff. I'm sorry. T-13 I believe it is what it is called. I believe that is what it is.

ROBERT MULCAHY: T-11?

MS. SPYRA: Yes. Thank you. T-11.

PAUL BLOSER: I'm looking where you are putting this in the back.

MS. SPYRA: It's by a berm. It's really not visible from Chili Avenue.

PAUL BLOSER: Because of the berm and the trees that are up there?

MS. SPYRA: Yes.

FRED TROTT: Is this to match the -- the color to match the house and stuff?

MS. SPYRA: Yes. It will be white just like the house.  
PAUL BLOSER: Do you know what the roofing material will be?  
MS. SPYRA: Asphalt just like on the house.  
PAUL BLOSER: Same color?  
MS. SPYRA: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: This is right in my neighborhood, so. Is that 25 feet back from the right-of-way, that plan, as it exists? It -- is there any way you can clarify that print? It is very hard to read from here.

FRED TROTT: I only know how to put it on there.

ADAM CUMMINGS: 25 to the side and 30 to the back.

DOROTHY BORGUS: 30 to the back. So that is from the lot line to the back of the shed.

ADAM CUMMINGS: Yeah.

PAUL BLOSER: From the right-of-way line, yes.

DOROTHY BORGUS: Okay. All right. Thank you.

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

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

Paul Bloser reviewed the proposed conditions of approval with the Board.

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 Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

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

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

1. Permit must be obtained from the Town Building Department.
2. Siding color and roofing type to be consistent with main structure.

The following finding of fact was cited:

1. The proposed variance is not significant in nature and will not have any adverse physical or environmental effects on neighboring properties. This shed backs up to a berm and then to a main road. The shed will hardly be visible from the road. The varied elevations of the lot also make this the best location without major excavation.
4. Application of Higbie Farm Supplies, owner; 3440 Union Street, North Chili, New York 14514 for variance to allow 4 wall signs totaling 94 sq. ft. (1 sign allowed to a maximum 100 sq. ft.) at property located at 3440 Union Street in L.I. zone.

Robert Harris was present to represent the application.

MR. HARRIS: Good evening, Robert Harris 3440 Union Street.

We're really just -- these are preexisting signs which were -- which we're really just looking for proper permitting. As you know, we're down in a hole and our location isn't real dynamic, and we consistently on a weekly basis have people drive past our entrance and call us and say, "How do we get down to you? Where are you?"

So that -- that sign out front, we have changed. It use to be "Higbie Farm Supplies" and it kind of pigeon-holed us because we really don't sell too many farm supplies any more, so we changed it to "Higbie" to simplify it.

PAUL BLOSER: Some of these signs are just banners; is that correct?

MR. HARRIS: That's correct.

PAUL BLOSER: Why are they banners as opposed to a hard sign?

MR. HARRIS: One sign is a banner.

PAUL BLOSER: Turf Line.

MR. HARRIS: That should be taken down. That is just a spring, temporary sign.

PAUL BLOSER: So there are only three signs that we're really looking at here?

MR. HARRIS: Yes: The K-Life, Higbie and a Blue Seal.

JAMES WIESNER: Hours of operation are considered a sign? I thought that was the

fourth one.

PAUL BLOSER: I'm sorry, Jim (Wiesner), I couldn't hear you.

JAMES WIESNER: The hours of operation, is that considered a sign? Isn't that what the fourth one is?

PAUL BLOSER: That is one of the --

MR. HARRIS: It's a banner, but yeah.

PAUL BLOSER: That's one of the ones.

There are four signs then?

MR. HARRIS: Uh-huh.

PAUL BLOSER: Banner is coming down.

MR. HARRIS: Yes. The Turf Line banner is coming down.

PAUL BLOSER: At one time did you look at doing a street sign up at like the entrance, it was going to be a joint sign or something with --

MR. HARRIS: With Gates Albert.

PAUL BLOSER: Status of that?

MR. HARRIS: Um, we decided against it because I think it's -- where we want to put it is on State property, and -- they told us that would be a real challenge.

PAUL BLOSER: Yeah.

These have been up there for how long now?

MR. HARRIS: As I say, they're preexisting, so they have been there, um -- the one in the front there, we just changed I believe two years ago, but originally that sign has been up there for 30 some on years.

PAUL BLOSER: Okay.

MICHAEL NYHAN: These signs were painted on the building; is that correct?

MR. HARRIS: Yes.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Again, my neighborhood.

I would like to see the other signs, please. I see -- is the Higbie sign one of the ones we're counting?

MICHAEL NYHAN: Yes.

FRED TROTT: Okay. How do you want me to do this, rotate?

DOROTHY BORGUS: Put them on the board. Pins are good, I tell you.

Okay. That is fine. Thank you, Fred (Trott).

Okay. First comment, those are banners, they're not signs.

MR. HARRIS: The Turf Line sign will be coming down, the green. To the left there on the bottom, that will be coming down.

DOROTHY BORGUS: The K-Life sign, again, is that just strung on that pipe with rings or is that fastened to the building?

MR. HARRIS: It's a metal sign fastened to the building.

DOROTHY BORGUS: And the Blue Seal sign stays?

MR. HARRIS: Yes.

PAUL BLOSER: The two on the bottom, they face the north?

MR. HARRIS: Um, the -- the -- on the bottom, yes, they're facing north.

PAUL BLOSER: And the Blue Seal faces the railroad tracks?

MR. HARRIS: Yes.

PAUL BLOSER: Okay.

DOROTHY BORGUS: My next question, again, has the Architectural Advisory Committee been brought into this?

PAUL BLOSER: Not for the building sign, no. Not on this one.

DOROTHY BORGUS: Again, I will ask why? We should use these committees. They're very knowledgeable people. They're used to looking at these things. They can give you a lot of good input before you have to make a decision, and it is too bad when you have good people whose opinion and expertise you don't use.

These -- I don't have a problem with this man having his signs, but I would like them to be signs. I don't think they should be vendor ads, and that is what those are. That Blue Seal sign is a vendor ad. The K-Life sign is a vendor ad. Even if you're getting rid of the Turf Line, you know, you -- what other -- what other store in Town for retail establishment would you allow to put up signs advertising the brands they sell? This is not what we're about in Chili. This is the very thing that our sign law is supposed to prevent.

If he wants to put signs up and say he carries these things and he wants four signs and he just mentions the product and not the -- not the manufacturer of that product, I don't have a problem with that. He does need exposure where he is. I will give him that. He does.

The -- unfortunately he has ended up down below the road a long way and he needs signs, but not as for -- not vendor's ads and not banners. There is a good way to do this. It is not tacky. He can put down, I mean -- pet food, animal feeds, you know, lawn and garden supplies. You know, cover it anyway you can and stay under the square footage.

I don't have a problem with that. I do have a problem with things strung up by rings on pipes. Even though that is going this time, is next -- when next spring comes along and we're doing gardening again and lawns, is that going to go back up? Will we have another argument

about that? Get it straight now. No -- vinyl banners strung on pipes is not acceptable in this Town.

So if you want to give him four signs, I'm in favor of it. He needs them. He really, really needs them but let's get this act cleaned up.

Thank you.

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

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

MICHAEL NYHAN: Tough spot. When they put that road in, they buried the businesses down there.

PAUL BLOSER: Eminent Domain just blocked them right out. That is why I was asking about the sign out by the road, with the Gates Albert, but that is State-owned land. It would be very tough to get a sign in there.

JAMES WIESNER: This place has been here forever. That is all I can say. I mean --

MICHAEL NYHAN: I would -- when I was driving down there, you know, the pipe with the strings and the banners, we have forced a lot of folks to take those down. I don't think they should have banners strung up on the building at various times. Advertising the products he has in there so people know what he is selling is something that is probably necessary just due to his location as a result of that highway being changed.

FRED TROTT: I don't have any problem. I agree with the -- the one on the pipe being gone. I mean these signs, I think, are classic and -- I don't know. They have been there when was a little kid, so it brings back good memories.

PAUL BLOSER: Any conditions of approval?

MICHAEL NYHAN: The hanging banners be removed. The hanging banners be removed.

PAUL BLOSER: Hanging banner signs to be removed.

ADAM CUMMINGS: You want a time frame on that or leave it alone?

PAUL BLOSER: I would think those can be down by the end of the month. I will put the end of October to finish out the season.

Paul Bloser reviewed the proposed conditions of approval with the Board.

PAUL BLOSER: Ed (Shero), did these ever have sign permits? Are they expired ones also?

ED SHERO: I don't think these ever had sign permits.

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

Adam Cummings made a motion to approve the application with the following conditions, and Michael Nyhan 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. Hanging banners to be removed by October 31, 2011.
2. Sign permit must be obtained for each sign.

The following finding of fact was cited:

1. Signs have been up for many years. Based on the building of the bridge over the railroad tracks many years ago, there is little visibility of the building from the road. The signs are vital to business recognition and have no negative impact on neighboring properties.
5. Application of Rikesh Kotak, 7 Colonial Parkway, Apt. 4, Pittsford, New York 14534 for variance to convert single-family dwelling to a two-family dwelling with the first floor having 1000 sq. ft. (1,150 sq. ft. required for a three-bedroom home), at property located at 78 Names Road in RAO-20 & FPO zone.

Rikesh Kotak was present to represent the application.

MR. KOTAK: I'm Rikesh Kotak. Good evening.

Just what it says basically, just a single-family home to a two-family dwelling, occupy it and then the first floor is 150 square feet too small.

PAUL BLOSER: I was here for the Planning Board meeting the other night, and they

tabled this pending the outcome of this variance.

MR. KOTAK: Correct.

PAUL BLOSER: Just wanted to let the Board know.

You're converting -- I'm looking at the garage and starting there. You're showing this being converted to tenant lockers?

MR. KOTAK: Yes. Well, I'm a soccer coach, so I have a lot of -- a lot of soccer equipment. It would be about -- he has put five, but there will be like two or three for my equipment to go into, and then obviously the family that live on the other side, they will have a locker.

PAUL BLOSER: So on the lower level -- this is the basement. You have two bedrooms down there?

MR. KOTAK: That's correct.

PAUL BLOSER: And the upper level you are having one bedroom?

MR. KOTAK: He -- yes. He has made a mistake. He has put -- he has put two closets. They should be bedroom one and bedroom two.

PAUL BLOSER: Three-bedrooms on the upper level.

MR. KOTAK: Three-bedrooms on the upper.

PAUL BLOSER: Where he has a closet -- it looks like it is a bathroom, but he has "closet" written. Is that the bathroom?

MR. KOTAK: That's the bathroom. The one that is 44 square feet is the bathroom. 117 square feet, Bedroom 1. 127 square feet, that is Bedroom 2. Sorry about that.

PAUL BLOSER: So the entrance to the lower level is from the back of the garage?

MR. KOTAK: Correct.

PAUL BLOSER: Are any of the windows on that lower level egress?

MR. KOTAK: Um, I think maybe one of them. One of the bedrooms, I think. I'm not too sure on that.

PAUL BLOSER: You have two baths down there, correct?

MR. KOTAK: Yes. It will be two.

PAUL BLOSER: So are those individual rooms then with a common kitchen?

MR. KOTAK: Those -- those -- they're pretty much individual rooms, but the only reason I am going to do them is because one bathroom is very small, and then there is already pipe work for the other bedrooms, so next to the other -- next to the other bedroom. So it makes sense to put a bathroom there.

JAMES WIESNER: I have to admit, I don't quite understand what the variance is for. Because of the house size?

PAUL BLOSER: The house size, the square footage. To have it as a double, it has to have the 1150 square feet, and he is asking for variance relief so that -- because the house is 1000.

JAMES WIESNER: If you look at the code section referenced, it says, "dwelling single-family," and that is where it says 1150 square feet.

PAUL BLOSER: For a two-family.

JAMES WIESNER: But that says it -- for a single-family.

KEITH O'TOOLE: If I may?

PAUL BLOSER: Yes.

KEITH O'TOOLE: The code requires that a two-bedroom unit have 1000 square feet and a three-bedroom unit have 1150 square feet. So I believe it's the three-bedroom that is non-compliant; is that correct?

ED SHERO: That would be correct.

JAMES WIESNER: It's not existing as a three-bedroom.

ED SHERO: Right now it is a three-bedroom home, but you combine the square footage from the upper level and the lower level and we have a 2000 square foot home, so it is a compliant house, but by breaking to two separate units, it is no longer compliant.

JAMES WIESNER: The two resulting house halves, per se, don't meet the code?

ED SHERO: Right. You're creating an undersized unit.

MICHAEL NYHAN: By 150 square feet.

PAUL BLOSER: Which for a three-bedroom is small.

MICHAEL NYHAN: I do. Where is the driveway? There are no location maps with this. What are the driveway dimensions and where would the parking be, in that area? Because you're going to be having three tenants; is that correct?

MR. KOTAK: It would be me and then a family on the other side, pretty much. Um, so -- so yeah, I got that through with the Planning Board. With the Planning Board, gave the recommendation and that is something I have to discuss with the architect for the Planning Board meeting on October 11, but there is enough room for six cars and there is a garage, but obviously it is going to be hard to turn around in that driveway. This -- there is enough room for six cars to fit in there. It is a pretty big driveway and there is a garage, as well.

It says it needs -- on the -- on the application -- on the requirements it says it needs three per unit, three parking spaces per unit which it pretty much has. It is just going to be difficult for people to coordinate.

I only have one car. So if a family moves in, it just depends how many cars they have.

PAUL BLOSER: The driveway is just a single wide driveway, correct?

MR. KOTAK: Correct.

PAUL BLOSER: Do you have plans to expand the driveway?

MR. KOTAK: Not at the moment, no. But again, it is something I have to discuss with

the architect before the Planning Board meeting on October the 11th.

PAUL BLOSER: Is any of this handicapped accessible?

MR. KOTAK: No.

MICHAEL NYHAN: Is the means of egress from the basement part of the Planning Board, as well?

PAUL BLOSER: Yes. That would be. It is not within ours. I'm just questioning once you start converting things, a lot of the codes change.

But it is an existing property. We have had discussions with the Fire Marshal. There is no -- other than alarms, there is no firewall rating that they have to increase or change.

MICHAEL NYHAN: Okay.

FRED TROTT: The tenant lockers, it shows five. You're saying there is only going to be how many?

MR. KOTAK: Two or three. I have a lot of equipment.

FRED TROTT: Is there going to be any use of a garage there?

MR. KOTAK: To be determined, again. It depends how big the lockers are. Maybe not. Maybe -- I will just have tenant lockers in there and just not use the garage and then there will still be six parking spaces, but then again, I'm not too sure.

I will figure that out before October 11th, for sure.

FRED TROTT: Three bedrooms on the upper level and the basement there are two bedrooms?

MR. KOTAK: Correct.

FRED TROTT: You plan on residing in the upper level?

MR. KOTAK: I'm not sure. Um, yep. Maybe on the lower level actually. I might be on the lower level because if I have a family that moves in, it will be a three-bedroom.

PAUL BLOSER: It says you may live in one unit and have a family living in the other.

Did you close on this last week?

MR. KOTAK: Closing got moved to this Friday, so it -- I was meant to close on the 21st. And then my lawyer was out of Town. Attorney was out of Town, so it is closing on Friday.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

PAUL BLOSER: Before I start, I'm going to ask first the applicant to step aside. Anybody wishing to speak, I will ask you to stand, announce your name and address and you address your comments to the Board, not to the applicant. This isn't cross fire between you and the applicant. I appreciate your understanding of that.

HANS BORS, 79 Names Road

MR. BORS: Good evening. My name is Hans Bors (phonetic). I live across the street, 79 Names Road. Oh, where do we want to begin?

Basically I'm going to give a short story out of this. I grew up in this neighbor and on that street my whole entire life.

Noticing that -- what has been going on in this neighborhood, we did a search through all of the neighborhood and we found at least 26 houses -- there is at least four or five on that street alone that are rented out by RIT students. When we see this here, all these tenant lockers here mounted up in the garages -- he doesn't -- it looks like they don't know what floor he is going to live on and stuff, and they got all these bedrooms in there. They have all these houses down through this neighborhood that are just full of kids.

They got cars all over the street, garbage all over, beer bottles everywhere, all night long and you will not put this across from our street like that, they will be pulling out. We have little kids that live next to us on either side and stuff like this. There is no parking in there at all.

Even your own code states that, you know, this is -- you know it is a single-family home. It's a single-family neighborhood. It states right here in your own code here under 500-13 single-family resident district.

We're finding more and more of these guys moving in here, renting these houses out. It is getting out of control. They go through stop signs. I mean, they're -- just everything, and everybody here would agree that is sitting in this whole aisle over here, over there, too, that live on the street, we're not going to put up with this stuff any longer. This is just way, way, way too far.

I can give you a list of all of the ones. We went around last night and found in that little neighborhood of Ballantyne how many of those places out there are rented out by RIT students and we found one main character of -- over here that lives on Whittier Road and he owns at least six of them that we looked out of the 16 of the 26 that we could find that were RIT rentals in that neighborhood.

The School District there is just diminished. They want to merge with another School District now because the School District has just dropped down. The amount of kids in the neighborhood is just gone because these guys just buy these houses and -- and they're just taking over the neighborhood.

I mean RIT is across the river right there. They have been building all these other buildings and communities for them to stay over there. They're totally destroying our neighborhood over there. The houses you go around through that neighborhood, they don't take care of nothing.

Half of these guys, if you look on there, they live in Florida, the owners of the house.

The -- the siding is all ripped off of them. The windows are broke. Trashy curtains. They have sheets hanging up everywhere in there.

And I will be darned if there is another five tenants -- you can see right on this garage standing thing there, that you will have another five tenants. That will turn into a giant frat house.

These kids are all over the road. I will tell you the cops will be there every five minutes. God for sake one of the kids get hit. What will happen then and who will be at fault for letting this go through?

I believe every one of us here agree on just about everything I said.

HEATHER TUMIA, 75 Names Road

MS. TUMIA: Heather Tumia. I'm one of the neighbors. I live right across from Hans (Bors). I grew up in that neighborhood also. My kids are third generation going to Wheatland-Chili. They started, um, meetings and information nights about three years ago to talk about the diminishing population of the School District. Um, at -- as it is right now, no, they're not looking to close, but they can't guarantee it. They may have to merge with Rush Henrietta, Churchville-Chili. They don't know at this point.

If you keep letting people rent this out to the college kids, the Wheatland-Chili School District will end. Period. I mean, my son's and daughter's graduation -- their graduating class is like less than 50 now.

You know, I don't -- I don't need to worry about my children being hit my cars. I have called Tracy Logel in the past and said we need speed bumps or something because they blow through all of the stop signs. I got no where with that.

Last week or the week before I called on one of the houses and told them that literally the entire front yard was trashed. Not garbage bags. Trash. They did come out and make them clean it up and it was clean within a day, but this is ridiculous.

These kids come and go. We live here. This is our neighborhood. And it is getting destroyed. I -- I don't know. I mean, no one seems to be listening and we're kind of getting sick of it.

MR. BORS: We even had the cops sit out at the corner and watch the guys blowing through the stop sign there. You can see orange RIT stickers within those cars. You drive-thru that neighborhood tomorrow in the afternoon when they all get out of college, you will see four or five cars in each one of these driveways. I'll give you a list and you can check on each one of those houses. They're just plugged up and -- they plug up in the street. You can't even drive down the road. You can't get in between because they're on both sides of the road.

MS. TUMIA: I don't let my kids right their bikes. My son is eight and just learning to ride a bike. Why? I don't trust the roads in our neighborhood. People don't stop, period.

MR. BORS: Like yours -- right -- stand up and tell him. He just moved in next door. He has two beautiful kids that, you know, what are they -- hold are they?

MR. JOSEPHE (phonetic): Seven and five.

MR. BORS: They're pedaling their bikes right there and that driveway will be right across from there. They will be right there, backing around.

RAY JOSEPHE (phonetic), 77 Names Road

MR. JOSEPHE: I live across from the house. I would have never bought the house if I knew it was going to turn into a RIT house. I don't want to live across the street from that at all.

TERRY BONTER, 89 Names Road

MR. BONTER: Terry Bonner, 89 Names Road. I echo the same concerns as my neighbors. You have seen the same thing in this neighborhood with the garbage, the furniture all over the yard, cars parked in the yard, tearing up the yards and just messing the whole neighborhood up and making it terrible. These renters have no respect for the neighborhood, the house they're in or their surroundings. And I don't want to see another one like that.

JACK KNAPP

MR. KNAPP: My name is Jack Knapp, and I want to reinforce everything these people said here with a couple of exceptions. They're driving our property values down to nothing because nobody wants to move in next to these pigsties.

As far as traffic is concerned, they block up the roads. The snowplows here in the Town have to go around them because nobody will tow them. I don't know why. They have been called several times for the deputies to come down and tow them out. They won't do that. It took us seven months last year to get rid of trash that these pigs threw out from their living rooms and their basements. When they left, there was everything. There was dressers, mattresses, couches. Seven months it took the Town to finally get down there and get these guys out. I don't want to see that any more. We don't want this stuff down there.

MARIA BORSZAK (phonetic), 94 Names Road

MS. BORS: Maria Borszak (phonetic), 94 Names Road. And I -- I mean, I know that house because we're friends with -- with the ones that used to own it before for 30 some years, and I mean they had -- it was considered a one-family house, because they built out that one little apartment and they were turned in because they tried to rent it out, and they -- the Town turned them down and said it is a one-family home. It's not an apartment. You cannot have an

apartment.

She ended up having their granddaughter live in it. That is the only person she could have to live in it.

MR. KNAPP: One more additional comment on that. The house that we own and the one next door to us, were fabricated on the property, under size. They had to put on some additional square footage. They could not get a variance. They couldn't get a zoning reprieve on it. That shouldn't happen here either.

If they don't meet code, no variance, unless you want to put up an addition.

ROBERT WISCHMEYER, 53 Names Road

MR. WISCHMEYER: Robert Wischmeyer, 53 Names Road. I agree with everybody here. And then also I can take into consideration how can you turn a basement into rental property when we live in a flood zone? There -- you know, everything that these people have said today I agree with. And we just don't need any more.

MS. BORSZAK: The RIT student last year drove into my ditch and tore up my ditch because they were so drunk and tore my bushes down. I think that is the kind of neighborhood -- it was a good family neighborhood and it is turning into trash.

MS. TUMIA: I'm sorry. I didn't give you my address. It's -- I'm Heather Tumia, 75 Ballantyne Road.

I live, um -- our -- our driveway is on Ballantyne but our yard goes all of the way back to Names and basically my backyard is right next to this place. It does not hold six cars. I don't care what he says. I have been in the house. I knew Mrs. Stein. Like he said, we live in a flood district. There is no way that you should be able to convert the bottom into an apartment.

I don't know. I don't know what you guys can do, but we are struggling as a neighborhood. And I mean it might not mean a lot to you guys, but like I said, I grew up with him. My children go to the same school that my father went to, and now, I don't even know if they will be able to graduate from it, because of all these college houses. I don't know.

You guys got to think about it, because I don't think you would want it in your neighborhood.

MR. JOSEPHE: Five rooms, five lockers, seems like five tenants to me.

MR. BORS: The other thing is, too, you guys just raised our taxes again. They just did an assessment and yet you're saying our property values are going down, but yet you keep raising our taxes on there and it is turning into this.

PAUL BLOSER: This Board has no control over taxes. Sorry.

MR. BORS: I will give you that one.

SUSAN SHERRY

MS. SHERRY: Susan Sherry, and my husband and I live next door to that house, that -- that he wants to do the variance. I agree with everything they say. It is just getting so out of control and there is just -- we don't -- we don't seem to have any rights left when it comes to the neighborhood and I really hope that you guys take a look at the neighborhood and see what we see because it's -- it's wrong.

MS. TUMIA: Not only that, it is not safe for you and the kids.

MR. BORS: That's exactly what it comes to. Unsafe for the kids and the environment around there. More traffic, small corner.

MS. JUDGE: Does this set a precedent for future purchases of properties in that neighborhood?

PAUL BLOSER: Your name?

PEGGY JUDGE, 49 Names Road

MS. JUDGE: Peggy Judge. I'm sorry. 49 Names Road.

PAUL BLOSER: Sorry to interrupt you.

MS. JUDGE: That's okay. I'm sorry.

Is this going to set a precedent? If somebody else comes in and they want to buy property, can they convert theirs into a two-family, as well? Or -- or --

MR. BORS: Frat house.

MS. JUDGE: There are more frat houses in that neighborhood than you know about. I did the research. We looked up 26 houses randomly and of that 26, 16 of those properties, the billing address was not that of the property --

MR. BORS: The property owner --

MS. JUDGE: The billing address was different than the property address. Of those 16 houses, 6 of them belong to Greenway Properties and John Hills or Mark Hills or something like that. Two of those houses are directly across the street from me and I got to tell you, I don't like it.

MS. TUMIA: One of the major owners of these houses lives in Florida.

MS. JUDGE: That's the one I'm talking about.

MS. TUMIA: He doesn't even live here.

MS. JUDGE: He lives in Florida.

MS. SHERRY: Someone should go in these houses that are in the neighborhood and -- to really see how many people actually are living there.

MS. TUMIA: And what --

MS. SHERRY: Because there is just over what is allowed.



MS. TUMIA: What is the ratio for a rental on how many people can be in it?

MS. BORSZAK: Isn't it four unrelated people in the house?

PAUL BLOSER: No more than three unrelated.

MS. JUDGE: Three unrelated.

PAUL BLOSER: Single family --

MS. TUMIA: I can tell you right now, the house on the other side of me, there is two sex offenders, one gentleman that works at RIT and another gentleman that lives there. That is four people. If you're saying three, then they're out of compliance right there.

MS. BORSZAK: Why are there six cars there every night, eight cars?

MR. WISCHMEYER: Do we have inspectors that go out, like the City, each year annually, quarterly or whatever it is? I have a friend that owns rental property in the city. The City goes through and inspects these rental properties. They visually go in, they test for lead, lead poisoning from the paint and everything else.

Does our Town have people that go out and inspect these rental properties at all?

PAUL BLOSER: As far as doing rental inspections, Ed (Shero), can you give me a "yes" or "no" on that?

ED SHERO: It's no, because what the City does, is they require a C of O on the rental properties every maybe three years, or every time there is a different owner. The Town of Chili does not require that.

MR. WISCHMEYER: Why don't -- why doesn't the Town of Chili require it?

ED SHERO: That would be a question for your Town Board. If they pass the law, then that would make me do it, but there is no law on the books that requires that.

MR. WISCHMEYER: Okay.

MR. BORS: Thank you.

PAUL BLOSER: The Town Board is there to answer those questions. As a group you can put together a -- draft a letter and send it to the Supervisor or have it presented at the meeting. Every Town Board meeting there is an open forum. You have three minutes to get up and state your case, and you can present a letter at that time with copies to the Board members. So I -- you know, I would recommend that.

This Board, we don't get involved in those issues. We're strictly for zoning purposes. We're not judicial by any means. We cannot dictate who can buy property and who cannot buy property.

We have had properties -- I will give you an example -- that were industrial properties, commercial properties. They were sold to -- churches bought them. They're off the tax rolls where we might have been getting 10, \$15,000 a year in taxes. Churches are tax exempt. We can not dictate who buys a property.

Logan's Party House, sold off as a parking lot. We have no control over that. If -- if it falls within the zoning, you know, multiple dwellings are accepted in residential neighborhoods. If it goes by, you know, the permit or special applications -- but that is what we're here for, for zoning, to see if it is allowed. And specifically tonight, this application is for the square footage per the units. And we look at the overall size of the house and what is being proposed at that point. And is it -- does it fit. We do not set precedence here. You know, that question was said -- in the past, "Are you setting a precedent?"

We do not set precedence. We look at each application individually, stand alone, and let it stand on its own merits. So -- so while -- I may sympathize with you; I may not. I can't make that judgment.

What we look at is does this fit, um, size wise. That's -- that's all we're looking at tonight, this Board. Okay?

MS. TUMIA: When is the next Town meeting?

PAUL BLOSER: I'm not sure when the Town Board -- I think they are the second -- first and third Wednesday of every month. There are a couple of exceptions, like Thanksgiving, I don't believe they will have one that Wednesday night. But if you go to the Town website, it will list all of the dates for the Town Board meetings. There are five members on the Board and you have your side table, so, you know, if you were going to bring something in and you wanted -- make sure you have copies for everybody. Again, you have three minutes to speak.

DOROTHY BORGUS: Five.

PAUL BLOSER: Five minutes.

MR. BORS: She would know.

PAUL BLOSER: Five minutes. I don't go to too many of those.

But, you know, you exercise your right to be heard. The Supervisor's door, he maintains his door is open to the Town citizens. As a group, if you want to have a meeting with them, call the secretary and see if you can set that up. That is what he is there for.

MR. BORS: Thank you for that part of it. I will clarify that. But we're frustrated. Obviously, you can see that.

PAUL BLOSER: I understand.

MR. BORS: But like I said, when we were looking into your residential things, going back to that, it says single-home family. It does not have enough room for that.

It also says in there, you know, about is it really safe, environmentally around there with children around in the area, having more cars piling in and out of these driveways, which is not big enough -- so we can still validate this is the point we're saying also then it doesn't fit the code. You know, it is not big enough for whatever. Driveways are not there. You know, kids endangering more traffic in the area. So then we'll have to say that then.

PAUL BLOSER: Thank you.

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: You have explained to these people what you aren't responsible for and what you can't do. But you can vote no. These people don't deserve this. Enough.

That area -- the last I was through it, when I was running for office, it had improved greatly. That is a few years ago. And they -- that -- that neighborhood was so much improved over time. Now the way they explain it, I think they probably have gone backwards and they have got a sorry situation already.

This Board can vote no. I would like to hear seven "no"s up there, because it is what these people deserve.

Thank you.

PAUL BLOSER: Thank you.

Any other public comment?

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

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

PAUL BLOSER: I have two concerns. The size of the house and the dividing of the square footage, um, we're trying to pack a lot in there.

I'm kind of in favor of holding code on the required square footage. My only other concern on this is, it is in a flood plain and to be putting living space below grade, worse-case scenario is people in that lower level will be flooded up.

Those are my two concerns.

JAMES WIESNER: I mean it is also a self-created hardship. I mean -- he is choosing to do this, but he doesn't have to. He doesn't -- it's not required to be done. Which is another part of the balancing test, too.

PAUL BLOSER: Well, to meet the square footage he could put on -- apply for a building permit and put on additional square footage to meet that. So that is an option that is there.

JAMES WIESNER: Then he wouldn't need us as a Board to address that?

PAUL BLOSER: For an expansion, yes. But again, we have to follow the guidelines of being in a flood plain, also, for any addition. So those would have to be conformed to. That's part of the permit process.

Any other discussion?

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

PAUL BLOSER: On conditions of approval, I would put all necessary permits to be obtained.

Two, if this does pass, it would be subject to Planning Board approval on change of single dwelling status to multi-family.

Do you understand what that means?

MR. KOTAK: Yes. I -- I spoke to -- I think it was Ed (Shero) about it before I came in. They said that a flood plain permit can be granted, so...

PAUL BLOSER: If we were to approve this tonight, you would still have to go to Planning Board and if they vote no, that would --

MR. KOTAK: That's fine.

PAUL BLOSER: That would negate any approval we have here.

MR. KOTAK: I understand everybody's concern. This is my property. I will take pride in living in this property. It is part of my mortgage commitment that I have to occupy it and when I bought a property, I have put money down on it, I'm not going to be messy. I'm not going to put students in it. I understand your concern with all these different -- different other people, but I'm -- but like it's not me.

I understand exactly where you guys are coming from. I don't want to live with students, myself. And I'm a soccer coach. So I want to focus on my career, and obviously I don't want to have parties every Friday and Saturday. We have games on Saturdays. We have games on Sundays. I hear what you're saying. I understand your concern, but converting this is simply for me to live on one side and for a family to live on the other side.

Michael Nyhan made a motion to approve the application with conditions, and James Wiesner seconded the motion. All Board members were opposed to the motion.

PAUL BLOSER: On findings of fact, I'm going to put based on location of property in flood zone --

KEITH O'TOOLE: Mr. Chairman.

PAUL BLOSER: Counsel, yes?

KEITH O'TOOLE: I don't think we should be going there.

PAUL BLOSER: Okay.

Variance for requested size of square foot relief -- how should I word this? While not significant, the area --

KEITH O'TOOLE: May I offer a couple of findings?

PAUL BLOSER: I'm trying to think of how to properly word this for the size.

KEITH O'TOOLE: Based on your comments, I think I can phrase a couple of findings that will get us there.

PAUL BLOSER: Very good.

KEITH O'TOOLE: The first would be that the -- as the home's buyer, who hasn't closed as yet, the hardship is self-created.

Property is currently single-family and the conversion proposed is two-family.

An alternative to the relief requested is to add an addition. And I would leave it at that.

PAUL BLOSER: Thank you, sir.

We will have this typed out and sent out to you. Within two weeks you will have it.

MR. KOTAK: So it is declined?

PAUL BLOSER: That's correct. It is not approved.

MR. KOTAK: I have a quick question. So now I'm going to be living there because I close in two days. So now I feel like I'm forced to rent out rooms so I can have two other people living with me? Because it is three unrelated? So I'm forced to now rent out rooms, and who is most likely to rent out rooms is students, so I'm forced to live with students when I would have simply had a family living on one side.

So I can -- so you're telling me I can have two other people living in the rooms; is that okay?

PAUL BLOSER: I'm telling you that if you are within the code --

MR. KOTAK: That's within the code. Okay.

KEITH O'TOOLE: Mr. Chairman, I think if the gentleman wants an interpretation of the code, he should contact the Building Department and describe his concerns there. This Board cannot just give off-the-cuff interpretations.

MR. KOTAK: Three unrelated people. Okay. That makes sense. Thank you for your time. I appreciate it.

DECISION: At their September 20, 2011 meeting of the Chili Planning Board, this application was tabled pending a hearing by the Zoning Board of Appeals for a required variance for the three-bedroom level of the proposed two-family dwelling to be undersized by 150 square feet. The Zoning Board of Appeals denied the variance which effectively denied approval of this application. The application was denied without prejudice at the Planning Board's October 10, 2011 meeting.

6. Application of Dimitrios Karabinas, owner; 37 Willowbend Drive, Rochester, New York 14624 for variance to allow the total square footage of two utility sheds to be 500 sq. ft. (192 sq. ft. allowed), variance to allow a trailer home to remain on property (trailer homes permitted only in trailer parks) at property located at 37 Willowbend Drive in R-1-15 & FW zone.

Dimitrios Karabinas was present to represent the application.

MR. KARABINAS: Good evening, everyone. My name is Dimitrios Karabinas. I live at 37 Willowbend Drive, Rochester, New York, Town of Chili.

I'm here for a variance in regards to a trailer that I have, and a -- sheds that were preexisting when I bought the home. I'm in a floodway. Anyways, I -- I am here -- I am here to hear your comments. I'm here to abide by Town Code.

KEITH O'TOOLE: Mr. Chairman, may I interject early on on this one?

PAUL BLOSER: Yes.

KEITH O'TOOLE: The code is quite clear. You cannot build a structure in a floodway. Period. So it is basically my take that you really can't grant an area variance because this is not a permitted use to begin with.

To the extent that you have a preexisting house there that predates the code, that is one thing. But to actually add new structures since the floodway law was adopted, I believe the answer has to be no. That the -- the remedy would be to apply for a use variance.

Unfortunately, one of the tests for a use variance is that the hardship can't be self-created and if you're adding a new structure after the law has changed, I think that you can't beat that test.

So I think at least in terms of what I believe we have got in front of us, anything that is located in the floodway itself, I don't think you can approve. That is my take.

The flood plain is a different issue. You can have construction in the flood plain, so long as it meets the flood plain standards, so long as you're above the base flood elevation and you meet the other requirements of the code.

Thank you.

JAMES WIESNER: What is the difference between a floodway and a flood plain? You're using terms. I have heard "flood plain" before. What is a floodway?

KEITH O'TOOLE: A flood -- well -- the one quick answer is a floodway is Thou Shalt not build there, period.

It is -- I think a floodway is anticipated that you're likely to have water; whereas, with a flood plain, you're possibly going to have water. I guess it is a -- it's a range of frequency. I -- I think that ultimately it comes from federal standards which were incorporated at the local level and we're not unique in that regard.

In order to keep our flood certification for flood insurance, you have to go by the federal rules and that is what we do and that is what all of the other towns do.

JAMES WIESNER: Okay. Thank you.

PAUL BLOSER: Okay. We have a lot going on here. I'm also looking at the comments letter from the DEC on this. With some fill that was brought in.

MR. KARABINAS: Actually, there was an existing berm when I purchased the property and I added to that, and I have -- had the Town deliver some mulch in order to -- but that wasn't the purpose. The purpose was -- I live on, I think it is a 3 1/4 acres property which is in a floodway. My understanding speaking to different individuals with the County, there were some boundaries that were changed in 2008, I believe 2009, I wasn't aware of until recently.

So my understanding when I purchased the property, I was in a floodway. House was in a floodway, but there was also a flood plain. I remember coming to the Town and getting information in regards to building something in the flood plain at the time, which I had never, you know, went forward with. Um, I didn't know what to expect. I knew that this was brought upon me, yes. There is -- there is two other individuals, I'm sorry -- there are two other individuals in this floodway, neighbors of mine.

Um, I'm trying to protect a home. I -- I have been living there since 1999. I purchased the property in 1999. There is -- there is, you know, building. They -- they put up a new plaza. They have got the senior facility -- the senior living community across the way. Ever since those things have been put um, the flooding has gotten worse.

So I have never complained to the Town. I knew what I got myself into. And I have been there, like I said, since 1999 and been dealing with it on my own, not bothering anybody. You know, the flood insurance, and just dealing with it, and just trying to, you know -- to deal with it, when it -- when -- it is just getting worse and worse.

Last year we had a -- we had a pretty -- pretty good winter, and there were a couple of weeks that -- that we had some really nice weather, so there was -- there was melting, and I had flooding, so in the winter season, for the first time, I had flooding, and also in the spring. Um, the water table is -- is an issue. There is no living quarters under the house. It's on -- it's on a slab, and that -- that always floods and the reason for the -- I don't want to say that I -- I -- that there was an existing berm there and I -- and I, you know -- I kind of built on that just to make sure that, you know, the water, when it comes in, it doesn't come in right away. It -- it takes time. So I mean I -- I -- I -- I have been, you know, learning from the creek these years that I have been there, so with -- with the berm, um, and -- that is not the issue at this point. I think the issue is the trailer that I have and the sheds that were -- that were there when I bought it, I reinforced the -- the -- the -- the roof on -- on the sheds that -- that are on this cement slab that I believe at one point were in the flood plain, but now I'm told that I am -- my whole property is in a floodway. So the reason for the trailer, and the reason for the sheds, and the reason for the berm is to protect my home. That's it. To keep the water away. And the trailer, and -- and the sheds are there for -- for personal belongings that I store in there to keep from, you know, getting ruined.

I -- I have -- I have put in -- I have lost like three, four insurance companies already while living there, putting in claims. I have had, you know -- lots of claims, so they're going to say we don't want you in any more. So I mean I have been through -- through this.

I mean, I'm not asking for anybody's sympathy. I'm dealing with it the best I can, and -- and I just feel like, you know, it's -- I'm not looking to create any business. It's -- the trailer is there. I mean, I had Ed (Shero) come over with -- with Dave Lindsay -- Lindsay, I think, and, you know, they came in to verify that nobody was living in there, that I wasn't running a business out of there. And I mean it's a small house, so I -- so I don't have storage. I mean it's -- you know, so it's for personal use. And -- and I -- I hope that, you know, you don't take that away from me. I understand the flood -- the floodway, but these things were there when I bought the property. And -- and I -- I -- I don't know. I --

PAUL BLOSER: Okay. Board questions? Jim (Wiesner)?

JAMES WIESNER: I mean, where do we go with this? I mean, do we have to have some sort of survey maps that says what is in the flood plain and what is in the floodway? I'm really confused here.

MICHAEL NYHAN: Or is the whole property a floodway, which is what it is zoned?

PAUL BLOSER: The whole property is.

MICHAEL NYHAN: The entire piece of property is a floodway.

ADAM CUMMINGS: We can't really tell with the map we have.

MICHAEL NYHAN: The zoning map is from the Building Department. Is the entire piece of property in the floodway?

ED SHERO: On the zoning map?

ADAM CUMMINGS: I don't really trust zoning maps for that kind of accuracy. You want the --

ED SHERO: I don't know the answer to your question, if the entire property is in the floodway on the zoning map.

MR. KARABINAS: Can I say something on that?

MICHAEL NYHAN: Sure.

MR. KARABINAS: When I purchased the property back in 1999, I think it was about a couple years after, you know, living there and seeing what was happening, um, I actually called the Town and I have got -- I have got maps that I was given by the seller, and it showed that some of the property was in the floodway and some of the property was in the flood plain. I was told by the Town when I called, where the sheds are right now, where that -- where the slab is, I wanted to actually put up a pole barn. I came in and I talked to someone in Building and they said in a flood plain you can, but there is going to be some challenges.

I got more information, and at that point I kind of said, "We're just going to kind of hold off and use what we have," and you -- you know.

And then -- then about a month ago, I got a letter that said you know, you're bringing in fill and -- and the only -- the only thing that -- that was brought in was I added to -- as you're coming into the property, as you're coming into the property on the left-hand side, I added, um -- I don't want to call it fill, because fill has this negative interpretation with -- you know, with it.

I just wanted to continue the berm that pre-existed, got it, um -- um, high so that when my neighbors flood, um -- because there is a lagoon, and the lagoon was put in there, I guess, to kind of help, you know, the creek runoff. So, you know, that would start coming in. So I kind of figured, you know, let me -- let me put, you know -- create a little berm there just to keep the water off, and I actually talked to my neighbor, and she -- you know, there wasn't -- she didn't have a problem with it.

That's when, you know, the Town said that, um -- I didn't get a straight answer as to, you know, was it the neighbor complaining about, you know, what I have done alongside of her property, or was it, you know, an inspector that actually came out and saw this. I don't know.

But it doesn't really matter, but I just thought I would kind of give you that information.

So the only thing that I -- that I did recently was -- was -- was add on the left -- on the left side of the property, to protect from her coming in -- you know, from the lagoon side.

Then when Ed (Shero) came over to the property with David (Lindsay), they kind of looked around and they said, "Well, what is going on over there?"

And -- and that is kind of how we kind of went over to the other side of the creek, and now I -- now I'm talking to a young lady from DEC and trying to figure out a way to keep the berm, because if I take the berm away, um, then I know that I will have flooding. I mean, I have flooding now, but it -- but it is not coming into the house. If that berm is taken away, the water will definitely come into the home. And it's very hard for me to understand, you know -- I mean, rules and regulations are man made. I think -- I think this is something that -- that -- I mean, it is frustrating for me.

At some point, with David (Lindsay), the second time, he came over. I just -- I had a heart attack the week before Christmas last, and I -- I have got, you know, some health issues that I'm trying to work out, but, um, it's not a good feeling, you know, trying to logically say, okay, I got to -- I got to remove this and have, you know, this water come in.

You know, I'm trying to understand it. But I -- but I just can't seem to -- to be able to.

PAUL BLOSER: All right.

MICHAEL NYHAN: These two other structures on the property that aren't listed on this map, they both have gray covers over them. The structures that are along the driveway. They have gray covers over the top of them.

PAUL BLOSER: Those are the sheds.

MR. KARABINAS: Tarp sheds. Yes, one of them -- one of them -- what happened was a limb had fallen and took out the one shed, and I temporarily kind of fixed it, but what I wanted to do, was I put up another one so that I could take that one down so that -- so that is what that is.

MICHAEL NYHAN: There are personal belongings in those sheds?

MR. KARABINAS: 1966 Corvair in one of them and a motorcycle and -- and a -- yeah, yeah, pretty much lawn, garden kind of -- yeah.

MICHAEL NYHAN: Then in the trailer you have personal belongings?

MR. KARABINAS: Absolutely, yes.

MICHAEL NYHAN: In the 7 by 50 foot shed you have personal belongings?

MR. KARABINAS: Yes, sir. My son's toys, cribs. Old tools. I mean, you're more than welcome to come down and take a look at them.

MICHAEL NYHAN: So these structures flood, as well, then?

MR. KARABINAS: There is water, that actually, yeah, but because they're up high, things that are in there are not affected.

And may I add this? I -- I bought it from Joe Benson. He was going to get rid of the trailer, and I said, "Man, this would be pretty good, you know, storage for me," so that's -- so that's the reason why I got it. Dry storage.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: Again, this is a mile from me. I -- I can't imagine the previous owner having a trailer. He is a businessman, and he knows better than that, too.

In 1999, we still had the same rules we have now, no trailers. I don't want trailers. I don't want illegal sheds.

I grew up very, very close to this area, and at one time, I would imagine those sheds were part of the rentals they had down there. They would have people come on the weekends. I don't believe they stayed all week. And they would rent sheds -- they didn't call them sheds. I think

they called them cottages at the time so people that would come up from the city, and they would pay to use these buildings on the weekends. They would just come out on the Friday, leave on Sunday, and they paid -- I don't know if they paid by the week or the month, but this has been going on a long time. I think if you go back far enough, you will find out that is what these sheds are.

Um, I don't know what shape they're in now, but the way that floods down there, and it is -- always been so, maybe it is worse now, but it has always been so that that is -- floods, um, I frankly can't imagine anybody buying that property. I mean, you know what you are getting into here. You -- you're flooded out -- not just once a year, many times. You know, many years. It's more than once. Many times more than once.

So my own yard is in the flood plain, and I believe it was two years ago we were flooded eight times. So you're looking at a lot of water a lot of times here.

I have don't want trailers in the neighborhood. My -- I live on the family farm that has been in the family for six generations. I don't want that kind of thing in my neighborhood and I think it is time to call a halt to all of this.

No trailers and no illegal sheds, and I'm shocked to hear that the Town hauled in the mulch that he used to extend the berm that they now don't like. That's really horrible. Just because somebody on a truck wants to get rid of the load doesn't make it right that they take their mulch and put it in somebody else's property illegally and cause a problem not only for the neighbors but for the owner. Get it straight where you're dumping this stuff because you don't help people. You hinder then.

I -- so I hope you straighten this out, because it needs straightening.

MR. KARABINAS: Can I answer the -- this?

PAUL BLOSER: You can ask the Board a question.

MR. KARABINAS: Yes. In regards to the trailer, it's not a liveable trailer. There is no -- there is no bathroom. There is no electricity. There is -- there is nothing. I actually painted it. It's well maintained aesthetically. I did what I can do to -- you know, so it is not an eyesore. It sits in the back so it is not very visible from the road, and the sheds that -- I mean, there are no locks on them. They're -- I mean, they're warped. The doors are warped. I mean, from a distance you would probably think, you know -- but when you go up close, you know, there is no locks on them. There -- anyway.

PAUL BLOSER: Okay.

ERIC PAPPERT, 47 Constitution Circle

MR. PAPPERT: Eric Pappert, 47 Constitution Circle. I just wanted to answer Mr. Wiesner's question regarding the difference between a flood plain and a floodway. I just looked it up. According to the DEC, I -- I think what the Counsel was referring to is a flood plain. According to the DEC it just says, "An area adjoining a river or a stream that has been or is likely to be covered at some point by flood water."

And then it says, "A floodway, the difference is that it is a channel or a river or stream and parts of its flood plain adjoining the channel that are required to efficiently carry away and discharge flood waters and flood flow from a river or a stream. Encroachments in the floodway cause increased flood elevation upstream and downstream and are prohibited."

So just to answer the difference between the two, I hadn't heard of that either. That's from the DEC website.

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

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

ADAM CUMMINGS: I would like to reiterate what Mike (Nyhan) said. I would like to see a more accurate map, an actually surveyed map referencing flood plain elevations from FEMA, with their latest update, because they did just update them to find out where the floodway and flood plain delineations actually are.

JAMES WIESNER: I can agree with that, because if -- if you get clarification it is in the floodway, from what I am hearing, he can't have it either way.

ADAM CUMMINGS: Right.

JAMES WIESNER: It is a no. And if it is in the flood plain, then -- then it is in our jurisdiction to actually make a decision.

ADAM CUMMINGS: To vote on it.

JAMES WIESNER: We don't have that.

ADAM CUMMINGS: I guess I --

PAUL BLOSER: My question is the location of the trailer --

ADAM CUMMINGS: Well, that would also be depicted on that map, all of the sheds and trailers.

MR. KARABINAS: The trailer -- I'm sorry.

ADAM CUMMINGS: I know they're hand drawn here. Not just really comfortable with that.

MR. KARABINAS: I could move -- I could move the trailer. It's on wheels.

ADAM CUMMINGS: But if the floodway ends up being your entire property --

MR. KARABINAS: That is what was told, just recently. Like I said, back in '99 or 2000, they said that, um, half of the property is in the floodway and the other half is in the flood plain.

KEITH O'TOOLE: Here is the problem. The Building Department has made a code interpretation which is referenced on the Public Hearing notice that it is in the floodway. So unless he can sort out the Building Department that it is somewhere -- there is some portion in the FPO, then there is nowhere to go unless he wants to appeal the determination of the Building Inspector and he would appeal it to this Board.

In order to appeal it to this Board, he would have to provide some sort of mapping which is what you requested over laying, I guess, the berm mapping on top of the survey map.

And it may be -- before he goes and spends that kind of money, you might want to give him some direction if -- if it were in the FPO, if it would make a difference or not. For example, the trailer, I don't know that the Town has ever approved a trailer of this variety anywhere in Town outside of a trailer park. So if that -- that may be a deal breaker for him right there.

PAUL BLOSER: The trailer is my big concern. Just because we have just never allowed them in any place other than a trailer park. And while we're not setting a precedent with it, it is just one of those we don't do it. The length of it also is an issue, because we have had anything over -- for motor homes and trailers.

We have people store them off site because of -- the length of them has been an issue before. People have been looking for variances on the lengths.

ROBERT MULCAHY: Can't give permission on a 38 foot trailer. You can't do it. We would have people down our necks.

MICHAEL NYHAN: In addition to the trailer, there are four sheds on the property that I counted right now, so there is five outside structures outside the home itself.

PAUL BLOSER: The -- the -- you called -- not a shed but the tarp thing, are they considered a structure, Ed (Shero), in our code?

ED SHERO: Can you say it again?

PAUL BLOSER: The --

MR. KARABINAS: The garage-in-a-boxes they're called.

PAUL BLOSER: The temporary tarps over the metal frames, are they classified as a structure or a shed in our code?

ED SHERO: Temporary structure.

You mean like I -- they're not reflected on the map?

MICHAEL NYHAN: No, they're not. If you went down, they have a gray tarp over them.

ED SHERO: Yes. They're a temporary structure. They're allowed for a six-month period -- six-month terminating 12-month period.

PAUL BLOSER: So it is a temporary structure. So we're looking at the sheds --

MICHAEL NYHAN: I didn't know if it was a shed or not. I couldn't see what was under the tarp.

MR. KARABINAS: One is wide open. If you pull into the driveway.

PAUL BLOSER: I'm sorry, I wasn't --

MR. KARABINAS: I'm sorry. Nothing.

PAUL BLOSER: I didn't hear the start of your question.

MR. KARABINAS: I -- I take it back.

PAUL BLOSER: Okay.

Multiple side conversations were had by the Committee members.

ADAM CUMMINGS: So should there be a variance for setback off the side lot line?

PAUL BLOSER: We, or --

ADAM CUMMINGS: On this property?

PAUL BLOSER: The shed has to be --

ADAM CUMMINGS: Has to be relocated.

PAUL BLOSER: Brought back into -- within the property. And probably, it has got to be -- whatever the code is for a setback on a septic tank, too.

I don't have the trailer on this one. This is the one that was on file at the County. It just shows it is a shuffle board court. It does not show it as any sheds there. It is on file with the County. That is what I looked at.

MICHAEL NYHAN: I don't have that map.

PAUL BLOSER: You're right. This is -- this is the one that is on file with the County. And it just shows when the property transfer happens and it is filed, there are deeds and titles and abstracts. This is what was filed on that last sale.

MICHAEL NYHAN: 1999 it was filed.

PAUL BLOSER: It showed it as a shuffle board court. Sheds were not shown at that time.

ADAM CUMMINGS: If we approve it, I would like to put a condition to relocate that one to within the setback requirements also.

PAUL BLOSER: All setback --

ADAM CUMMINGS: All setback requirements.

MR. KARABINAS: When you say "setbacks" --

ADAM CUMMINGS: You have to be so far distance wise --

PAUL BLOSER: The shed behind the house --

MR. KARABINAS: The shed --

ADAM CUMMINGS: At --

PAUL BLOSER: You have the frame shed here (indicating).

MR. KARABINAS: Yeah.

PAUL BLOSER: This is the property line (indicating). That is shown as being over the property line. That -- that would have to be pulled back in so it is not on somebody else's property. Because right now it is across the property.

MR. KARABINAS: That is my property.

PAUL BLOSER: That is your property there?

MR. KARABINAS: That is my property. This is all my property here (indicating).

PAUL BLOSER: Okay.

ADAM CUMMINGS: I was going off the line.

MR. KARABINAS: That is my property actually.

ADAM CUMMINGS: Once again, I would like an updated map.

MR. KARABINAS: And actually, the -- the lot line, at some point, I guess when they were considering selling off lots, but it wasn't approved. That's my understanding. So I mean there is 3 1/4 acres there. So --

PAUL BLOSER: So it is really not a property line then?

MR. KARABINAS: That is what I was told.

ADAM CUMMINGS: Maps galore. None of them are readable. None of them are real.

ROBERT MULCAHY: I think we need a real one.

What are we voting on?

PAUL BLOSER: The whole thing is just all one package.

Multiple side conversations were had by the Committee members.

ADAM CUMMINGS: Do you want to split off the trailer from the two sheds? As two different --

PAUL BLOSER: If that is what the Board wants to do, yes.

MICHAEL NYHAN: It's not part of this application.

ROBERT SPRINGER: I know that.

PAUL BLOSER: I guess the question was asked at this end, do you want to split the trailer from the sheds that we're voting on two different, or the whole thing, keep it as a whole?

MICHAEL NYHAN: Can we even vote until we know what is where? We don't even know what is where.

PAUL BLOSER: Well --

MICHAEL NYHAN: We're not sure of the property lines, when the shed was built. This map shows the shed wasn't there in 1999.

PAUL BLOSER: Right.

MICHAEL NYHAN: This map shows that it is. I don't know what the date of the map is.

JAMES WIESNER: Actually, this map shows shuffle board court. The shed is definitely in the floodway in --

PAUL BLOSER: Well -- well, that --

ADAM CUMMINGS: The floodway is set. We know it is there.

PAUL BLOSER: We know it is in. That is a determination that the Building Office has made. So.

JAMES WIESNER: So the shed is in. The trailer is kind of close. Maybe half in, half out. Hard to tell. In that case, if he is not allowed to have it there, is there really a ruling?

PAUL BLOSER: That's what the vote is here, for those items, because they were all put in without permits. They're in the flood area.

JAMES WIESNER: So he is prohibited from having them.

PAUL BLOSER: That is why he is here, looking at a variance for, besides the size of the sheds.

MICHAEL NYHAN: It is in a floodway.

JAMES WIESNER: We don't give the permit on being a floodway, though.

MICHAEL NYHAN: This is a floodway. We can't even vote on this.

KEITH O'TOOLE: Well, we can vote, but the vote should be no if it is in a floodway.

ADAM CUMMINGS: So the trailer is not in the floodway. Then that is why I was saying we could put it as its own application or split it off, because that one you could make the decision on. The two sheds are in the floodway, and according to that map, the trailer is not. That's in the flood plain.

MR. KARABINAS: I'm confused. When you say that the trailer is not in the floodway, it is in the flood plain; is that what you're saying? That is what I heard, that the trailer is in the flood plain and not in the floodway?

ADAM CUMMINGS: Correct.

MR. KARABINAS: How can the trailer be in the flood plain and the shed is not?

ROBERT MULCAHY: We don't -- we don't have a map.

ADAM CUMMINGS: I don't know. I don't have a map. Otherwise we can assume that all three structures are in the floodway and none of them are allowed.

MR. KARABINAS: I bought the home with the sheds, the two sheds. The only thing that I put in were the two gray garage-in-the-box sheds and the trailer. That's the only thing that I moved in.

KEITH O'TOOLE: If I may, this Board cannot make a determination as to the location of the flood plain or the floodway; only the Flood Plain Administrator can do that. We have a



gentleman in the Building Department who can do that, and he will look at the current flood insurance rate maps issued by the federal government, which may be different than the ones that were in effect when you bought the property. And then he can determine where the line is for the floodway and for the flood plain.

If you are in the floodway, you may not build there.

MR. KARABINAS: I didn't build. I'm not asking to build.

KEITH O'TOOLE: You're asking to permit something that has been built there.

MR. KARABINAS: My house has been there.

KEITH O'TOOLE: We're not talking about your house, sir. We're talking about the trailer and the sheds. If you want to have anything in the flood plain, then you would still have to prove -- even if you got variances from this Board, you would still have to prove to the Flood Plain Administrator first you got your building permits, and you wouldn't get building permits unless you had a flood elevation certificate to show that you can build the sheds, to locate the sheds or locate the trailers at the base flood elevation.

MR. KARABINAS: I didn't build anything.

KEITH O'TOOLE: The base flood elevation is the elevation where you have to be above flood hazard, which may be higher than the land sits right now. So it may be -- it may cost you a fair buck, even if this Board were to give a variance to hire people to get you an elevation certificate to change the contours of the land, do whatever foundations would be required to make these things legal. But it all starts with the Flood Plain Administrator in the Building Department.

MR. KARABINAS: I just want it clear, the -- these structures were there when I bought the property. The only things that I added were the -- the trailer and the two gray garage-in-the-box. I mean everything else was there.

KEITH O'TOOLE: We're not talking about the house. We're talking about the trailers and the sheds. And those things lack permits, and in the absence of permits, that is why you're here today is to get one of the permits.

MR. KARABINAS: The sheds were there when I bought the home.

KEITH O'TOOLE: Doesn't matter. If they were illegal then, they're illegal now. The purpose of this is to get the permits to make them legal, if that can be done. If the seller sold you something that was illegal, then whatever claims you have against the seller you will have to take up with the seller.

MR. KARABINAS: The home has to be addressed in that way, too.

KEITH O'TOOLE: No, it doesn't actually. If the home predates the code, if it predates the law, then it doesn't require a variance from this Board. The sheds on the other hand, and certainly the trail -- we know the trailer is brand new.

MR. KARABINAS: No, the trailer is not brand new.

KEITH O'TOOLE: It is new to this site. That is what we're referring to.

I believe we have a map from '99 that doesn't show these improvements. So we know that as of 1999, these things weren't there. The law was passed that regulates the floodway and the flood plain prior to 1999.

MR. KARABINAS: So you're saying that the sheds were not there in 1999?

KEITH O'TOOLE: Correct. We have -- excuse me. We have --

ED SHERO: 12 by 12 ones.

KEITH O'TOOLE: The 12 by 12 shed was there. Now I'm not saying that that is legal. But at least we know it was there.

Now I'm not sure when that shed arrived. I think the house is old enough. I believe all those places down there in that hollow go back quite some time. I believe they all predate the code. I don't know about that shed.

MR. KARABINAS: I think it is '39.

But like I said, they were there when I bought the property. The only thing I added was the trailer, again, for storage and the -- and the garage-in-the-box, the two. The one -- the limb fell on it. I put up the one. I will leave the other one until next spring and take that down. It's damaged.

MICHAEL NYHAN: It seems before we move forward with anything, we need an interpretation on what is where.

JAMES WIESNER: Or you condition it that -- that if it is so approved, it would be a condition of approval.

MICHAEL NYHAN: Or we separate them.

PAUL BLOSER: We could literally split this in two. The sheds are one thing. Trailer is a different issue.

The square footage of the sheds and their location is, you know, really coming down to are they setting in the right place. If they are, then we can look at the square footage. If they're not in the right place because of the flood lines, then they would have to be removed, period.

The trailer home, you know, is a separate issue because trailer homes just aren't permitted -- even though it is being used for storage, it is not a legal storage unit. It's a trailer. It's -- it's a trailer. So that's one of the things we're looking at. I mean, I would be willing to split it between the sheds and the trailer and the shed is tabled until we have an actual -- until Dave Lindsay looks at it and makes the determination.

JAMES WIESNER: We're saying that we know that the shed is in the floodway. The trailer we don't know. It's very near.

ADAM CUMMINGS: No, we don't know anything. We don't know -- right now, we'll --

we'll have to assume all of them are in the floodway.

JAMES WIESNER: But we know what the law says about trailers.

PAUL BLOSER: Yes. That is why I said, if you split the two out, we can wait for the determination for Dave (Lindsay) to look at for the sheds.

MICHAEL NYHAN: I see what you're saying. Got it.

PAUL BLOSER: If he says it is in the --

JAMES WIESNER: By the map that you showed me down there, it's in.

ADAM CUMMINGS: Some of those lines on there aren't actually lot lines.

JAMES WIESNER: It says floodway and points to the floodway line.

PAUL BLOSER: But that was updated with FEMA. That is where we want to see the overlay. I say if we break that out, let Dave (Lindsay) make that determination where the line is, then address the sheds and that is just a vote. That's not -- we have already opened and closed general comment. That is just -- that is -- just tabled that portion?

JAMES WIESNER: That's fine.

PAUL BLOSER: And the shed, proceed with, because that is an issue all by itself.

ADAM CUMMINGS: The trailer.

PAUL BLOSER: Or trailer, excuse me. That is what we're looking at. No matter where it is on the lot, it's a trailer, and is it approved. So that's -- that's what I am looking for.

Do I have a motion to split these two to two different --

ADAM CUMMINGS: So moved.

ROBERT MULCAHY: I will second it.

The Board was in favor of the motion.

PAUL BLOSER: I will divide this to 6A and 6B. 6A for the sheds and 6B for the trailer. On 6A, do I have a motion to table that pending Dave Lindsay investigating?

ROBERT MULCAHY: So moved.

ROBERT SPRINGER: Second.

PAUL BLOSER: All in favor of the motion?

The Board was unanimously in favor of the motion.

PAUL BLOSER: This is tabled pending clarification by Dave Lindsay, okay?

6B, variance to allow a trailer that's not even a -- not even a permitted building permit. It's a trailer. So this is a straightforward vote on this one. Did we allow it in the area or not? On the property, basically. The trailer on the property.

So on 6B, on the trailer, I will declare the Zoning Board lead agency.

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 Robert Springer seconded the motion. The Board all voted yes on the motion.

Robert Mulcahy made a motion to approve the application with conditions, and Adam seconded the motion. All Board members were opposed to the motion.

DECISION ON 6B PORTION OF THE APPLICATION: Unanimously denied by a vote of 7 no.

PAUL BLOSER: That is a no vote on the trailer.

Then on 6A, we tabled that. I did not do SEQR on that one. Tabled pending FEMA maps determining floodway versus flood plain.

Multiple side conversations were had by the Committee members.

PAUL BLOSER: All right. Did you catch that?

MR. KARABINAS: Uh-huh.

PAUL BLOSER: We will wait for Dave Lindsay to get back -- he will contact you and let you know where that is and put you on that following agenda. Okay, for the sheds.

MR. KARABINAS: All right. Thank you.

DECISION ON 6A PORTION OF THE APPLICATION: Unanimously tabled by a vote of 7 yes to table for the following reason:

1. Tabled until floodway determination by the Floodplain Administrator, David Lindsay.

The meeting ended at 9:46 p.m.