

CHILI ZONING BOARD OF APPEALS
February 24, 2015

A meeting of the Chili Zoning Board was held on February 24, 2015 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 Adam Cummings.

PRESENT: Mark Merry, Ron Richmond, Fred Trott, James Wiesner and Chairperson Adam Cummings.

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

Chairperson Adam Cummings 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.

ADAM CUMMINGS: I would like to get the notification signs out of the way. Anyone have any issues with those? I know myself personally, it could just be the snow drifts. These signs kind of blend in with the white stuff, but I did not see one for application --

JAMES WIESNER: Dunkin' Donuts.

ADAM CUMMINGS: Application of JFJ Holdings. I didn't see one for them, but --

JAMES WIESNER: Looked like it was in the middle of a snow pile. I could see it from the back side, but I don't know why they didn't put it in the right way.

ADAM CUMMINGS: It might have been -- or the sidewalk plow or the driveway plow. I just wanted to point that one out. Hopefully everyone from the public is here tonight to speak if they so choose.

OLD BUSINESS:

1. Application of Andrew Huey, owner, 3302 Union Street, North Chili, New York 14514 for variance to allow the total square footage of garage area, including a new 26' x 36' one story detached garage to be 1,671 sq. ft. (revised from 28' x 44' two-story with garage space totaling 2,583 sq. ft.) where 1,412 sq. ft. was previously approved, variance for detached garage to be 35' from side lot line (revised from 28') where 60' is required abutting a street at property located at 3302 Union Street in R-1-15 zone.

Andrew Huey was present to represent the application.

ADAM CUMMINGS: Welcome back. It looks like you got your information pretty quick from what we requested last month.

MR. HUEY: Yep.

ADAM CUMMINGS: So it looks like you were willing to shrink the building size down and minimize a lot of these various requests.

MR. HUEY: Yes.

ADAM CUMMINGS: Which is good.

MR. HUEY: I shrunk it and moved it so I got rid of the rear lot line variance. And I also -- by moving it more towards the west, I also gained more of a distance from the side lot line, which is also considered a front lot line on Parkway. So -- then I also decreased the square footage by not having a second level. So that is just out of the equation now. So I think I decreased the total by over 900 square feet.

ADAM CUMMINGS: Yes. And you also provided a couple of elevation views?

MR. HUEY: Yes.

ADAM CUMMINGS: A couple different roof types.

Is that what you were showing there?

MR. HUEY: The overall roof of the house is approximately 20 -- between 26 and 27 feet from the driveway elevation. And if I keep the same pitched roof on the garage, which would probably look best --

ADAM CUMMINGS: I agree.

MR. HUEY: -- it's still going to be less than the house, because I know that was a concern.

ADAM CUMMINGS: Yes.

MR. HUEY: I think that was maybe Jim's concern, the overall height the last time.

ADAM CUMMINGS: Okay. Just trying to see what we had from last month. I think that covers it and it also helps our math trying to figure out the square footage where the other ones came from, the second story.

JAMES WIESNER: I do have a question on the drawings you show the elevations on. There is three different elevations on it. I guess if you could just explain those, what the elevation views are, which ones are applicable there.

MR. HUEY: You mean the --

JAMES WIESNER: Says 25 foot and the bottom one, 18 1/2 feet.

MR. HUEY: Oh. Yeah. That was just showing -- I didn't know if you guys would suggest, that was just showing three different roof types. So the bottom one is what I would prefer, because it matches the pitch of the house, which is a 12/12 pitch. The middle one is -- I don't know if it is 6/12 or 12/6, whatever they -- that goes by. And then the others is the gambrel or a barn roof.

So those are just three, you know -- I'm open for suggestions or limitations that you guys would put on that, but I just wanted to point out that I do prefer the 12/12 pitch, the bottom one.

ADAM CUMMINGS: Which is what you were alluding to earlier is the height of your current house. From the driveway up to the peak of your current roof at that 12/12 pitch is 26 or 27 feet.

MR. HUEY: Yes.

ADAM CUMMINGS: So this 25 feet would be lower than that.

MR. HUEY: Yes.

JAMES WIESNER: All I have.

FRED TROTT: Um, I just had a question about -- in the last -- the last time you were here, the question was did you -- would you be working on other cars other than your own, and you responded friends and family. Probably not as much to you, because obviously we put it on no repairs.

ADAM CUMMINGS: No commercial businesses.

FRED TROTT: No commercial businesses. I just kind of wanted to make a statement, that includes trying to make a business out of it.

MR. HUEY: Yes. I have no intention of making a business.

FRED TROTT: Um, I don't have anything else.

ADAM CUMMINGS: Nothing else?

FRED TROTT: Oh, I'm sorry. How high were the walls going to be? Still 12 feet high?

MR. HUEY: Yes.

FRED TROTT: I don't have anything else.

RON RICHMOND: I'm at an option for the elevation you're looking at which I'm putting as number 1, you have a man door off to the side there.

Where is that going to be?

MR. HUEY: That will be -- so if you look at the drawing just to the left of that, it says, "Top view."

RON RICHMOND: Front left corner.

MR. HUEY: Yes.

ADAM CUMMINGS: So front left corner, just to point it out on this drawing up here, north is at the top. That man door is --

MR. HUEY: Top left.

ADAM CUMMINGS: (Indicating).

MR. HUEY: Yes.

ADAM CUMMINGS: Thank you.

I believe we closed public comment last month, and these are minimizing what we discussed before, so unless someone at the Board would like to make a motion to open Public Hearing, I don't see a need.

FRED TROTT: No.

RON RICHMOND: No.

ADAM CUMMINGS: Once again, the condition of approval we mentioned once, no commercial business shall be operated out of this, so it will be prohibited. And that's all I have for conditions.

Do we want to add in the component about building materials matching the house?

FRED TROTT: I would think so because they're so close.

MR. HUEY: I was planning on having matching siding and trim and roofing and all that.

ADAM CUMMINGS: So all your building materials should match the -- the main structure, your main house structure.

FRED TROTT: So should we put in there not to exceed the roof -- the height line of the house?

ADAM CUMMINGS: Well, that goes without saying. If he goes above it, he will have to come in for another variance, so. The code holds for that.

Adam Cummings 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 Ron Richmond 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 Mark Merry seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. No commercial business shall be allowed to operate in this detached structure.
2. Building materials shall match those present on the main house structure.

3. Building permit must be obtained from the Building Department.

The following findings of fact was cited:

1. The applicant has shifted his original layout further into his property thus minimizing the requested front setback variance and has been able to eliminate a second setback variance request. The height of the proposed building will be lower than the existing main house structure and will not adversely impact the view sheds of neighboring properties. By eliminating the 2nd story storage space, the applicant further minimized the requested variance.

PUBLIC HEARINGS:

1. Application of Ronald DiChario, owner; 90 Air Park Drive, Rochester, New York 14624 for variance to allow 131 parking spaces for proposed office building (164 spaces required), variance to allow front parking for four spaces per plan submitted at property located at 50 Air Park Drive in G.B. zone.

Glen Thornton and Chris DiChario were present to represent the application.

MR. THORNTON: Good evening. I'm Glen Thornton, Thornton Engineering, Mendon, New York. I'm the engineer for the applicant, Ronald DiChario, and I apologize. I didn't see the signs on the door and I brought Tim Horton coffee in here. I didn't know. I got rid of it. The doors were closed when I came up, so I couldn't see the signs. So I apologize.

Yes, we're here for a parking variance for a new office building that Ron DiChario hopes to build on a vacant 3.5 acre parcel at 50 Air Park Drive. The building adjacent to it on the northeast is 90 Air Park Drive.

That's the four-story office building, and so the south on the -- the other boundary is the massive RG&E yard parking lot storage facility. It is about five acres of storage out there next to him.

Um, as you can see, we have proposed placing the building on the southwest side of the parcel to allow for parking on the northeast side in close proximity to the building.

We have also added some perpendicular parking that extends to the east on the rear portion of this L-shaped lot. Um, what Ron (DiChario) would like to do, he wants to preserve the -- the portion of the lot to the -- to the south which borders the -- the Greenway in the back, the trail, because he wants to turn that into more like a park-like setting with some walking trails, some berms, some landscape trees and that area would be open for, you know, the -- the tenants in the building and the neighbors, as well. And he's -- he is very intent on creating that park-like setting.

That is one of the reasons why we're in here for a variance, because obviously when you look at the size of the building, the amount of building coverage we have, which is far less than what code requires, we have more than enough room on this parcel to provide the -- the code-required number of parking spaces.

The reason we're in here for a variance is we flat out don't need that number of parking spaces. We're not even close to it. Ron (DiChario) has developed a number of properties on Air Park Drive with -- with similar uses in the building. In fact, the -- the four-story office building at 90 Air Park Drive is going to be a very similar use with flex space and office space. The flex space could be used for tenants for -- for storage of materials that they use and -- in their business, whatever that business might be. It's not -- it is really not traditional office space where you have a number of employees in there working at desks and things like that.

So with -- with his experience out here, he is -- he is convinced we need 60 parking spaces for this building. What we're proposing to construct is 96 asphalt surface parking spaces at this time, and then on the east, southeast corner of the parcel, we're proposing an area for land banking an additional 35 spaces. If the -- if the use of the building might change in the future and we found a need for those spaces, which we do not anticipate, um, the reason we have kind of tucked it over there is because Ron (DiChario) -- Ron (DiChario) plans to spend quite a bit of money developing this -- this park in the back with the amount of earth to be moved, the trails, the landscaping.

So it -- if it is needed in the future, we could give up that portion of the park. But again, we -- we never foresee a need for -- for any use of the land bank parking area.

Now, the -- the parking in the front of the building, which is the other portion of this requested variance, we -- we do have four spaces that if -- if you take the front line of the building -- probably easier if I pointed it out on here. The front line of the building, and just extend that across, we do have these four spaces that I guess, technically, might be considered in the front yard. It -- it is kind of difficult to tell.

The building setback from the cul-de-sac, the circular cul-de-sac is about 75 feet. So I guess anything that is located within 75 feet of the cul-de-sac might be considered in the front yard. So there is probably two spaces within that area. All of the spaces we have shown to the front of the building, those four spaces are all outside the -- the required setback line for the building. So again, I think with those spaces there, we want to preserve those spaces, because

they're close to the building.

A lot of the other spaces -- and if we were to create four additional spaces, it would be remote from the building. We think the front of the building is going to have the most activity up there. You know, people, tenants that are going to have customers in and out or a lot of traffic probably want to be towards the front. So we're trying to create as much parking towards the front as possible. But again, all of the parking is outside the front setback line. That gives us 60 feet for landscaping in that area if we need to do any screening.

The -- the building we have set back a little bit further than the required setback just to maintain sight lines to -- to 90 Air Park Drive. We didn't want to restrict the sight lines from the public street to that building.

Thank you for the summary.

ADAM CUMMINGS: I do not have any questions. It is a pretty clear cut. The four -- the four front lots, that one I did have a question earlier. I actually missed the entire building, to be honest. Even on cul-de-sacs, it is tough to know where to measure it, the front comes from, the building, is it perpendicular. I think you did a good job explaining how you came about adding four to the variance. And I, for one, am okay with variances on the parking side of things. A little bit greener of a design, less pavement obviously, and if you dealt with the parking spaces, generic rules are also tough to do with office spaces such as this.

JAMES WIESNER: So at this point, the building is up. Is the parking lot in yet?

MR. THORNTON: Nothing has been built yet.

JAMES WIESNER: So the building you see there is not the same -- there is a building that is on site currently right there. That's -- I thought that was the building that you were talking about. This --

MR. THORNTON: This -- this is the four story-office building on the adjacent parcel.

JAMES WIESNER: That is not the building you're talking about.

MR. THORNTON: Our building is right here (indicating). This is the proposed building right here (indicating).

JAMES WIESNER: I see.

MR. THORNTON: Proposed parking and the proposed park area in the back here (indicating).

JAMES WIESNER: So it's a little strip like the other.

MR. THORNTON: Yes. It is kind of a challenging lot to get the building in place and the parking and not create a lot of additional unnecessary pavement.

JAMES WIESNER: Okay. For some reason I missed that. That's all I have.

MARK MERRY: You mentioned neighbors.

What neighbors are you targeting?

MR. THORNTON: Um, I mentioned neighbors. What neighbors are we --

MARK MERRY: Right. Will this be beneficial to the neighbors? Where are the neighbors in the area that will come up to utilize it?

MR. THORNTON: The neighbors, we have 90 Air Park Drive, the office building and then we have RG&E and then down to the northeast, there is -- oh, what it is, the 300 and 200 and 100 Air Park Drive all predominantly are office buildings. And I think I mentioned that, you know, the park would be open to use by the -- by the neighborhood in the back, and this is the neighborhood we're talking about.

Did that answer?

MARK MERRY: If that is what you want to define as neighborhood. I guess that is your perspective on it. I'm just worried about the maintenance of that area. It is a nice thought, but if it is not well maintained, it loses its, I think, objectivity very quickly.

MR. THORNTON: True.

MARK MERRY: So what are your thoughts on that?

MR. THORNTON: Well, my thought is that the owner has taken a lot of pride in this building. This is -- this is his last lot that he has to develop on Air Park Drive, and he has learned a lot through the years.

What he really -- I mean, it seems that. He tells me. And Chris (DiChario), his daughter is here. They're very intent on doing this right and creating something that is very nice on this -- this last parcel. And they feel that the -- the green space in the back is -- is a big selling point. I mean, it is going to be -- it is going to be great for everybody. Right now it is just kind of a vacant, graded-off area, and it's just this -- with the trees and everything, it is just going to green everything up.

MARK MERRY: So at no point in time do you think this park will be developed and maintained, well used and then there is a client that comes in that needs additional parking, rather than wanting to destroy this created park, those cars are diverted somewhere else and infringes upon somebody else's use of that area? That's not a concern?

MR. THORNTON: It really isn't. I mean, we're -- we're -- we're fairly confident -- we will not even need the number of spaces that we're building with the project. The -- the 90 -- what was it, 96 spaces. I mean, we -- we feel that far exceeds what we need at this point and in the future.

So we don't envision the need to create the additional paved areas out there, and our goal is to create a park, get a lot of trees planted. We have an extensive landscape plan with many large diameter trees being planted, evergreens, deciduous on berms through that area, and I mean for the amount of money that is going to be spent on that park area, it -- it sure better be maintained.

I mean, there is just -- just -- just too much money being sunk into it not to take care of it.

Assurances? I -- I don't know. I think the only assurances, when you look at how much money somebody is spending on something, you just assume that they're going to, you know, protect their investment by maintaining it.

ADAM CUMMINGS: You bring up an interesting point, Mark (Merry). Would you -- would you recommend then getting rid of the 35 land bank spaces, because if we then impose a -- a larger variance, instead of 131 spaces from the required 164, if we then require only the 96, then that ties to the property and this property can only have 96 spaces? Is that kind of where you're going with this?

MARK MERRY: I wasn't, but that is a very good point. I think that would make sense. If it is something you're willing to consider.

MR. THORNTON: I'm sure we would be all for that.

ADAM CUMMINGS: It is an interesting proposal.

MR. THORNTON: We didn't dare come forward with that proposal, though.

MARK MERRY: I mean, that's really what you're --

ADAM CUMMINGS: That is --

MARK MERRY: Desire is --

MR. THORNTON: Absolutely.

MARK MERRY: -- is to put it -- and I'm just concerned. I mean, I --

ADAM CUMMINGS: No. I agree.

MARK MERRY: Outside of this community, I work for an employer that is very high density, so we come in and we want the space. Next thing you know, we're putting two people into a little box.

ADAM CUMMINGS: You're stacking people in cars.

MARK MERRY: Instead of the 3,000, we're up to 9,000. Usually you don't get turned away from developers.

ADAM CUMMINGS: This developer, driving through this park, it really is an industrial park around the airport, so this would be a nice beautification, almost like the first neighbor to start greening up the other ones, so maybe the rest would follow suit. But you're absolutely right, having the land bank spaces still opens it up for a future person to abandon the green space and have them -- and add in those --

MARK MERRY: Potentially you lose the mark you're trying to leave on the park, to a point.

ADAM CUMMINGS: Well, I think we'll continue on with the Board, but I like the -- to keep that proposal open.

First, do you have any questions beyond the land bank?

FRED TROTT: No, I don't.

RON RICHMOND: How many tenants will be in this building, do you know? What is the potential?

MR. THORNTON: Boy, I should know that. I have been told that number. I can't remember.

Chris (DiChario), do you remember how many individual offices were being created?

ADAM CUMMINGS: Chris (DiChario), before you answer, could you just identify yourself for the record?

MR. THORNTON: Thank you.

MS. DICHARIO: Good evening. My name is Chris DiChario. Ron DiChario is my father and the developer.

The building is actually two story in the front, one story in back, so we have 66 by 130, um, for two-story offices. There will be -- at this point, with the leases that we have in place, there are -- is room for two additional tenants on the first floor -- on the second floor.

On the -- the -- the first floor, each, um -- because it will be (indiscernible) construction, we'll have 66 by 30, so those would be approximately 2,000 square feet. Um, so that would have an -- an ability for six -- six to eight different tenants, depending on how that division is done, and the number of -- the amount of space that they need.

RON RICHMOND: So assuming eight and then the two for the second story, there is a potential of ten. As -- as far as you see right now.

MS. DICHARIO: Correct.

RON RICHMOND: Do you foresee any of them having customers that will be potentially coming in, occupying parking stalls?

MS. DICHARIO: No.

RON RICHMOND: Trying to look at the total potential.

MS. DICHARIO: Of traffic coming in and egress and ingress for cars for customers. No. Actually, the companies that we're talking to are high-tech companies, so really, it's only their employees that are there.

Um, if we follow in line with the 90 Air Park Drive building -- and just to address one of the concerns with the parking, there were two tenants in that building that had fleet vehicles. One is General Security and one is Tel Datacom. Even with those fleet vehicles occupying the parking spaces on a continuous basis, we never had a problem with the amount of parking in that building, with the number that we had for that building. And that building was 41,000 -- almost 42,000 square feet. This building is a little bit less, at 33,000 square feet.

RON RICHMOND: So then --

MS. DICHARIO: Your flex office distribution, what we found, in our operation, is -- relatively about 60 percent is office. 40 percent is flex and a lot of the flex that we had was

finished area, um, that had storage of, you know -- again, things that were applicable to the business. And, um, a lot of companies did like -- you know, computers -- computer stuff that is technology based. So it was just clear span. They didn't really even have employees back there. They just had their equipment back there.

RON RICHMOND: Then to Mark (Merry) and Adams (Cummings)'s point, if we're looking at ten potential tenants, and you're thinking about saying if we're going to do this, we can limit it to 96 stalls, so that still allows 9 1/2 stalls on average per tenant, and if it was really 8, that would even increase that. So that -- that actually probably justifies that even more so. So I guess -- so I guess that is what I was getting at.

ADAM CUMMINGS: Thank you.

RON RICHMOND: There is a -- there is -- the parcel is the L-shaped parcel?

MS. DICHARIO: Correct.

RON RICHMOND: The building will be rectangular coming from the little access road, and then the park area, the future potential stalls that we have on the map running northeast kind of is what we're talking about limiting then, which is basically the L stalls?

ADAM CUMMINGS: No. Right now, no. All of the stalls shown are the 96. They aren't showing the 35 land banked ones.

Correct?

MR. THORNTON: Let's start with -- the land banked ones are in this area back here (indicating).

ADAM CUMMINGS: Okay. Right. Okay. There is a dashed line. I didn't see the dashed line.

MS. DICHARIO: You can call us crazy with the park, but something -- if you know where the 1250 building is, and behind Air Park Drive, right in the middle of that is a three-acre park, pond, picnic area. That was utilized by all of the tenants that are back there. Um, we found it very successful and it was actually a leasing attraction for people. Um, right behind that is the -- is the old railroad bed and then the Greenway Trail so people can actually access that trail right from, you know -- down the street by the building.

ADAM CUMMINGS: We're in an interesting spot up here, because we're supposed to be evaluating based on the code, not what our personal preferences are. That is why I was trying to balance the whole thing.

RON RICHMOND: Will there be potential for the tenants to have the need for any loading dock or whatever for box vans?

MS. DICHARIO: No. They couldn't do that just because of the way the building is situated. That road that borders the RG&E storage facility, that is actually the quote, "back of the building." Um, there will be overhead doors there, but it will be just a one-way so if somebody pulls up with a truck, they off load there and then continue around the front of the building. So we don't have the room to have the back docks.

ADAM CUMMINGS: I would like to keep going with the flow of things and then we may have to come back.

MICHAEL JONES: The only thing I would add, I agree with -- the variance for the setback is not, from my point of view, required, because it -- because it is not within the 6 feet. I know there has been a lot of discussion here, so I have no problem with the Board considering that and voting on that. I just wanted to point that out.

ADAM CUMMINGS: Well, for setback -- I didn't know we were looking at a variance for setback.

MICHAEL JONES: It's in the application.

ADAM CUMMINGS: Oh, I didn't even notice that. I was going off the agenda.

JAMES WIESNER: Not on the agenda.

ADAM CUMMINGS: I don't have it in my application. I have one for off-street parking, changing it to --

RON RICHMOND: Rear yard setback.

ADAM CUMMINGS: There it is. No. That is the "see example below."

Isn't that just an example? I don't think that is really a --

MS. DICHARIO: That is for --

RON RICHMOND: Request to change from 50 to --

ADAM CUMMINGS: You see, I saw the star and I thought that was "see example below," so I didn't see it as being a rear yard setback. I thought that was an example setback.

RON RICHMOND: I think they're looking for a 2 foot variance? Am I reading that right, or no?

JAMES WIESNER: I don't see it.

RON RICHMOND: Page 2, halfway down.

MS. DICHARIO: That is just an example.

MICHAEL JONES: All right.

ADAM CUMMINGS: So to clear the air here.

MS. DICHARIO: Just an example.

ADAM CUMMINGS: Our on forms from the Town of Chili, in Section 3 for area variances, there is an asterisk for each of the columns and they give an example of variance requests. And this one -- this example happens to be for a rear yard setback with a variance of 2 feet where they're changing from 60 feet to 58 feet.

RON RICHMOND: We are only entertaining --

ADAM CUMMINGS: We're only entertaining the two at the top. We're going to have to

get rid of the example.

MICHAEL JONES: Sorry about that.

JAMES WIESNER: How did we get on this?

ADAM CUMMINGS: Thanks, Mike (Jones). I actually never noticed that before.

MICHAEL JONES: I caused the confusion.

ADAM CUMMINGS: I was more confused than ever.

MICHAEL JONES: Nothing else.

ED SHERO: I won't say anything.

ADAM CUMMINGS: You don't want to say anything really?

ED SHERO: I'm good.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and Ron Richmond 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: So I would like to go back to just a brief discussion about the land bank areas, this green space and the magnitude of this variance request. So right now, um, for the 100 and -- changing it from 164 to 131, um, is one variance request. As we were discussing there, and the applicant seems willing to accommodate, if we reduce that down to 96 spaces, that actually increases the percentage of the variance request.

And I don't know if we want to do that, because we -- we really have to -- we have our criteria that we have to make our decisions here, so is it really a good practice for us to impose a larger variance on it? We have the code as it stands. I just want to have a discussion on it.

RON RICHMOND: Do we impose it or offer the applicant the opportunity to modify the variance request?

MARK MERRY: I know with what Ron (Richmond) just said --

ADAM CUMMINGS: That would be a good compromise.

FRED TROTT: You are looking at a variance, but the benefit of the variance is the green space.

ADAM CUMMINGS: Yes.

Would you like to modify your variance request to 96 spaces?

MR. THORNTON: Would we need to come back if we do?

FRED TROTT: You don't like us? (Laughter.)

ADAM CUMMINGS: I will defer to the side table on this.

Mike (Jones), if you could help out. Would that warrant a substantial enough change to have to come back?

MICHAEL JONES: No, I don't believe it would. And I think Fred (Trott) is correct. It's a balancing of the factors. You look at the other factor to justify it, so I don't think the Board would be setting any precedent by doing that.

ADAM CUMMINGS: Excellent. Thank you. So with that, I would like to move forward with removing the land bank spaces and this development request for variance would be 96 spaces. You would still have the four spaces in the front area, and I agree, that is closest to the building, so that makes sense.

Um, I just want to check one thing. There is paperwork, and I knew there was going to be one from Monroe County, Department of Planning and Development. Because you are very close to the airport. They did submit that they did not refer it to the Development Review Committee. And they provided a comment that this site is located within the one mile boundary of the Greater Rochester International Airport but outside the approach departure corridor of any instrument equipped runway; therefore, airport approval has been granted for this application. I just wanted to read this for the record.

And I did want to bring up some code enforcement clean-up. Um, it looks like you have a violation -- let me make sure I'm not reading the wrong property. In relation to this property regarding the storage of containers.

Are you aware of that from the Building Department?

MS. DICHARIO: Yes, and those contain -- we used to have the facility in the 90 Air Park Drive building as a storage area. Um, we were asked to vacate that. Those house our tools necessary for this building. So once we get started and in the ground with this building, the storage trailers will be gone.

ADAM CUMMINGS: Okay. We're trying to clean up -- clean up the code compliance with this property at the same time.

Ed (Shero), is that -- is that a -- sufficient for you to clean it up, if it is part of the construction, or -- or instead of imposing this when a building permit is issued, do you want it before the C of O?

ED SHERO: My question is, it looks like you added containers there.

MS. DICHARIO: No.

ED SHERO: I mean, there is a pod or something that wasn't there very long ago.

MS. DICHARIO: Right. That has some of our office equipment because we downsized as well for that. That is all going over to the new building as soon as we get that done.

ED SHERO: Those aren't tools. That stuff should have never been there in the first place. It's not outdoor storage. That is what I told you two years ago.

MS. DICHARIO: Okay.

ED SHERO: I will leave it up to the Board, but it's a violation.

ADAM CUMMINGS: So I would like to impose a -- a condition for this approval, because it would be a good opportunity to bring this into code compliance.

RON RICHMOND: It looks like a white pods container? Is that what the storage is?

ED SHERO: There are four tractor-trailers?

MS. DICHARIO: Um, no, I believe there is only three.

ED SHERO: I thought four tractor trailers and one pod.

ADAM CUMMINGS: Hmm. That's a lot of storage.

Do you have alternative storage sites? I know this is equipment that is going to be moved into this new building when it is there.

MS. DICHARIO: Right.

ADAM CUMMINGS: But do you have alternate sites that you could store this?

MS. DICHARIO: Don't really. I mean, you're talking power trowels and construction equipment that we need for the building in those.

ADAM CUMMINGS: So this is not office equipment in here. This is --

MS. DICHARIO: The pod does have some office equipment and building equipment in it, so it is mixture. But the actual storage trailers have power trowels and all kind of things we need in order to build the building. We had to vacate quickly so we had no where to go and no option to move all this stuff, because all that was back behind the -- in the back part of the 90 Air Park building. We actually owned that at one time. That got sold to someone else.

ADAM CUMMINGS: So you have moved these storage containers from one parcel --

MS. DICHARIO: To our parcel.

ADAM CUMMINGS: That was probably not code compliant to the next parcel.

The construction equipment makes sense, especially if you do get site plan approval, then you can start construction on it.

Now, the office equipment in the pod --

FRED TROTT: I'm fine with making it so it is contingent on C of O.

ADAM CUMMINGS: Okay. Let's do that.

FRED TROTT: They can get --

ADAM CUMMINGS: You can't actually start leasing out your space until you get code compliant. Okay. That is fair.

So a condition of approval will be the relocation or the removal of those storage containers must occur before a C of O could be issued.

We would always be happier if it could happen earlier.

MS. DICHARIO: If we can make it earlier, we will. Probably for the most part of it, a lot of that will be out of there earlier, because we'll be using a lot of the materials and fixtures that are in there as we're building.

Adam Cummings 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.

Fred Trott made a motion to approve the application with the following condition, and Mark Merry seconded the motion.

ADAM CUMMINGS: Just wanted to make one more note on this. That they are scheduled to appear before the Planning Board for the site plan in March, March 10th for final site plan approval. So I just wanted to point that out.

RON RICHMOND: Just to clarify, we are changing the 131 spaces to 96?

ADAM CUMMINGS: Correct. Correct.

All Board members were in favor of the motion.

MS. DICHARIO: For that change do we have to submit any more paperwork? Anything else that we have to do?

ADAM CUMMINGS: It will be in our minutes and I will mark it on my findings sheet here so the Building Department, it will show up in the findings.

MS. DICHARIO: As far as our part there is nothing further we have to do.

MICHAEL JONES: Just to confirm, that vote was for both variances?

ADAM CUMMINGS: Yes. That vote was for both variances. We did not split them up.

DECISION: Unanimously approved by a vote of 5 yes with the following condition:

1. Relocation of storage trailer must occur before a Certificate of Occupancy shall be issued.

The following finding of fact was cited:

1. The applicant agreed to promote and ensure the park-like, green space in the rear of the property by reducing the amount of parking spaces contained in the site plan to 96 spaces by eliminating the land banked parking spaces. While this measure increased the magnitude of the variance, the added benefits of providing a more natural, green space and active transportation walking area for the tenants at the new building offset the increase in the degree of the variance requested. The parking spaces located in the front area of the lot were deemed appropriate and necessary for tenants occupying the end space of the proposed building. These spaces will not present a traffic hazard and due to buildings occupying the lands to the north along Scottsville Road, these front parking spaces will not be viewable to people traveling along Scottsville Road.
2. Application of Shane Fisher, owner; 56 Wheatland Center Road, Clifton, New York 14428 for variance to erect an 8' x 16' addition to garage (lean to) to be 21' from side lot line (30' req.) at property located at 56 Wheatland Center Road in RA-1 zone.

Shane Fisher was present to represent the application.

MR. FISHER: Hello. I'm Shane Fisher. I live at 56 Wheatland Center Road, Clifton, New York. I'm looking for permission or the variance to build this lean-to.

ADAM CUMMINGS: This lean-to is up.

MR. FISHER: Yes. The lean-to is up. When I was asked to stop, I stopped. There it is. It only took a half a day to put that up. It took longer to dig the hole for the post than it did really for the rest of the stuff.

ADAM CUMMINGS: Okay. So it is looking like -- the dimensions were stated there and it looks like you have an engineer by the name of Dennis Cook helping you --

MR. FISHER: Yes.

ADAM CUMMINGS: -- with the design of that.

And I just asked, he has in his letter that it is his opinion that it will meet the New York State Building Code. I would like to remind you that -- for his opinion to really state for the record that it is in compliance with it, he would have to see the actual construction and what are called as-built drawings of it afterwards to make sure it is constructed with how he designed it.

MR. FISHER: Absolutely.

ADAM CUMMINGS: So I would remind you of that and to continue to work with the Building Department to make sure it is inspected and certified and things like that. So keep talking to Ed (Shero) on a continual basis. But it is looking like you have a lean-to and you're going to maintain it as a lean-to or enclose the sides.

MR. FISHER: No. I just will maintain it as a lean-to. On the sides, at least the west side, that little short side there, um, put some lattice up on it. I will wrap the columns with some rough-sawn lumber to dress it up. It is a country house. Some aluminum for the header. Paint it. It will have a county look to it. But what you see is basically what is going to be there.

ADAM CUMMINGS: And I do have a letter from Kevin Klemann stating he has no objection to allow Shane Fisher to continue with the lean-to on the north side of his barn, facing my property. He is at 46 Wheatland Center Road, so that is the parcel adjacent to it on the side of the lean-to.

MR. FISHER: Yes. My house and his house are both owned by the McCreedy family. They're side by side. A couple acres in between the two of us, but that's all.

FRED TROTT: Um, none really other than he has to show the footers and stuff like that, right?

ADAM CUMMINGS: One condition we will have on here, and I say it to every applicant that comes in here, it will be -- with the exception of a few that I forget, a building permit. You can continue working with the Building Department. It is great to do that. Make sure you get a building permit. You will open it. You will have to do inspections and then make sure you close it after -- after you're done with construction, after all of the inspections are done. So just follow up with them to make sure the whole process is complete.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: In looking at that map, what are all of the other buildings there? I can't read it from here.

ADAM CUMMINGS: He has a shed, a detached garage. Which the detached garage is what he is connecting this lean-to to. He has a shed to the west. Um, and a dog kennel is one of the other rectangles. I'm not sure of the sizes of all these structures or if they require permits. The sheds look like they are smaller than what would necessitate a building permit. But I don't know what their cumulative square foot would be.

MS. BORGUS: Are they old so they predate zoning?

ADAM CUMMINGS: I do not know the answer to that. I will ask him.

MR. FISHER: The -- your questions here; what are your questions on?

ADAM CUMMINGS: So you have a shed, um, just to -- adjacent to your detached garage where you're putting your lean-to. It looks like there is -- the wood fence and then a shed right --

the stone drive going to your garage, it shows that there is a shed in there.

Is that shed still there?

MR. FISHER: That is in front of the barn or the garage?

ADAM CUMMINGS: Yes.

MR. FISHER: Yes. That is there. That is -- it is just sitting there. It is not attached.

Well, that's just backed up to the --

ADAM CUMMINGS: How big is that?

MR. FISHER: I'm not sure. That's maybe 8 feet by 10 feet maybe. I'm taking a shot in the dark on that one.

ADAM CUMMINGS: Okay. All right. Then you have the dog kennel. I will keep moving over your property. Then you have the dog kennel.

MR. FISHER: Actually the dog kennel is no longer there.

ADAM CUMMINGS: Then you keep going over, you have another shed on the other side of the property; is that correct?

MR. FISHER: On the -- well, not in this picture. I'm --

ADAM CUMMINGS: Not in the picture. On this map up here -- so you have --

MR. FISHER: Yes. There is a --

ADAM CUMMINGS: -- a shed here (indicating).

MR. FISHER: Yes. One on the far left with my lawn mower in it.

ADAM CUMMINGS: Once again, about 8 by 10 or 10 by 10 shed.

MR. FISHER: Yes. That is all it is. Rototiller, lawn mower and some shovels. That matches my house.

ADAM CUMMINGS: On this picture, we have a picture of -- now I can see the shed is not part of -- not part of that detached garage. The lean-to is shown.

What is in front of the tree? So if we have lean-to, detached garage, shed, what is this?

MR. FISHER: Trailer. Just a trailer.

ADAM CUMMINGS: Okay. Thank you. And a whole lot of snow.

MR. FISHER: There is firewood underneath that, but, you know.

MS. BORGUS: It's not apropos, I guess, to what you're trying to do, but instead of all these little buildings, he'd be better to build a decent sized building and take the -- take them all out of there. I realize that is not the question tonight, but...

ADAM CUMMINGS: It would be nice.

MS. BORGUS: It would be nice. Yes.

Adam Cummings made a motion to close the Public Hearing portion of this application and Fred Trott 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: One condition I have is the building permit must be obtained. And once again, make sure you work with them to get the inspections. Because you already constructed your building or your lean-to, um, you -- you have it sitting on footers and things like that. They need to be inspected so you may have to do -- an effort to expose those. You may have to dig down so they can be inspected. Work with the Building Department to do that.

MR. FISHER: Absolutely. Hopefully the ground softens up.

ADAM CUMMINGS: You may want to wait for that to happen.

Then I don't have any others.

Adam Cummings 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 Mark Merry seconded the motion. The Board all voted yes on the motion.

Ron Richmond made a motion to approve the application with the following condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained from the Building Department.

The following finding of fact was cited:

1. The proposed variance is minimal in nature and will not impact the neighboring properties. As evidenced by the letter from the neighbor owning the property immediately adjacent to the north, there were no objections to this proposed structure.
3. Application of Hi-Style Development Corp., owner; 51 Stablegate Drive, Webster, New York 14580 for variance to create an undersized lot to be 2.21 acres (10 acres req.) 107.69' lot width (500' req.) at property located at 165 Burben Way in RA-10 zone.

Erik Alling was present to represent the application.

MR. ALLING: I'm Erik Alling. I work for TY Lin International Engineering. Our office is at 255 East Avenue in Rochester. I'm here on behalf of our client, Hi-Style Development Corp. seeking a variance to allow an existing pre -- preexisting, nonconforming vacant, currently vacant lot to be subdivided into two parts to create a 0.33 acre section to be dedicated to the Town of Chili for use for the construction of a cul-de-sac or properly owned municipal turnaround for Burben Way. Burben Way currently dead-ends abruptly at the site. Burben Way is in the Town of Gates. The current parcel is nonconforming, 2.54 acres where 10 acres is required by the code. The lot was created when a section of land was taken for use for a future expressway, Rochester expressway, which is shown on the map.

So the purpose of the subdivision is to create the 0.33 acre parcel to be used for municipal turnaround, so it really will provide a benefit to the community to have that proper turnaround. So that is really -- that is really it.

JAMES WIESNER: So what exactly will be built on this property?

MR. ALLING: My understanding is the Town of Gates intends to build a cul-de-sac and then have an intermunicipal agreement with the Town of Chili to maintain the cul-de-sac on this parcel.

JAMES WIESNER: So why are we actually looking at this?

ADAM CUMMINGS: We are looking at the fact that they are subdividing, and by subdividing they're in for a variance because they're making lots that are below what the zoning that this one falls under. They have to have 10 acres.

JAMES WIESNER: This 2.2 acre parcel is in the Town of Chili?

MR. ALLING: That's correct.

ADAM CUMMINGS: The one that will be formed, yes.

JAMES WIESNER: There will actually be houses built back there?

MR. ALLING: Currently there is not a pending application, but the Planning Board granted a Special Use Permit to allow a single duplex to be constructed on the site last year.

JAMES WIESNER: Then the access would be through the cul-de-sac, into that.

MR. ALLING: Yep.

MARK MERRY: I guess I'm more confused than I usually am.

ADAM CUMMINGS: This is really confusing to see you were in the Town of Gates for the most of it.

MARK MERRY: Well, no, I mean this existing condition has been there for decades.

ADAM CUMMINGS: Yes.

MARK MERRY: There doesn't seem to be a why we would change that. I don't know how it benefits the neighborhood. If it was a benefit for the neighborhood, why didn't it happen 40 years ago?

ADAM CUMMINGS: I don't know that answer.

ED SHERO: There is no cul-de-sac there now.

MARK MERRY: Right.

ADAM CUMMINGS: The improvement here is there is no way for school buses, fire trucks or snowplows to turn around. They get to Burben Way. They hit an abrupt dead-end.

MARK MERRY: Right. They have done that for 40 years.

ADAM CUMMINGS: We're going to fix the problem.

MARK MERRY: It has taken the municipalities 40 years?

ADAM CUMMINGS: We're quick.

MARK MERRY: So that is my question. Why is it an issue now? Hasn't been an issue for 40 years.

ADAM CUMMINGS: Part is because Gates didn't have enough space to create the cul-de-sac. Well, I can't speak for the two towns.

ED SHERO: Trying to really -- don't get too off center on this.

Let's say if he didn't want to give the triangle to the Town of Chili, he would still be here for a variance for the property. Just because he is giving -- just making it smaller, it would still be a substandard lot. Instead, they are trying to fix a problem now, give the triangle to the Town of Chili. They would have the intermunicipal agreement to build the cul-de-sac. But I mean, irregardless, he would be coming here for a variance. I don't know what -- I think we are getting a little off base.

ADAM CUMMINGS: Well, I would like -- one question I have is, with the point you're making here, it is actually a 14 acre site, so it is actually not -- how is it --

ED SHERO: No.

ADAM CUMMINGS: Oh, .3 acres. I'm reading 14.3 acres as 3 acres.

How much is the total acreage of this site, two acres?

MR. ALLING: Existing 2.45 acres, so it will become 2.21 acres.

ADAM CUMMINGS: Okay.

ED SHERO: It is in an area that is zoned really -- all the others in the area on the airport expressway front Beahan Road. Because of the airport -- proposed airport property, this got cut off.

ADAM CUMMINGS: And we never changed the zoning map.

ED SHERO: Correct. You can see by looking at all of the lots, all those lots are in the Town of Gates, not in the Town of Chili. This is the biggest lot.

ADAM CUMMINGS: Which is actually a small lot with our zoning map or our zoning code we put it in. The two acres is a small lot by Chili standards.

MR. ALLING: I'm not sure there are any other lots in the zone. Are there any other lots in the zone?

ADAM CUMMINGS: Probably not. Another 40-year mistake.

ED SHERO: The others in the zone all front on Beahan Road.

ADAM CUMMINGS: So we have a unique one here. So -- so with that, we still have the lot width, as well, correct? That's the 107 feet and some change?

ED SHERO: Correct.

MARK MERRY: So the question is, is the developer's ability to utilize this for two -- a two-person dwelling dependent upon this cul-de-sac being in place?

MR. ALLING: Don't believe it is. The purpose of this action is to create the land for the proper turnaround.

ADAM CUMMINGS: The --

ED SHERO: I don't think it was.

ADAM CUMMINGS: The --

RON RICHMOND: Just a matter of seeing if the -- the variance is just to make the parcel as small as it is.

ADAM CUMMINGS: Yes.

RON RICHMOND: So the cul-de-sac really would be a benefit of the smaller parcel but really not relevant to what we're doing.

ADAM CUMMINGS: I agree.

Does that make sense now?

MARK MERRY: No. Go ahead.

ADAM CUMMINGS: It doesn't matter if we put in a Q, cul-de-sac, hammerhead.

MARK MERRY: I just don't know why it is relevant now.

ADAM CUMMINGS: We just have an undersized lot that has been there forever. The only other way, which isn't a thing we would do here, would be a zoning change by the Town Board. We're doing it this way to do a variance.

JAMES WIESNER: So only one aspect of the site plan is to straighten out the turnaround.

FRED TROTT: You're talking a 40-year plan. Been like this for 40 years. If I am correct, I think they just released this property not that long ago. They decided the expressway wasn't a viable option and they released property, right?

MR. ALLING: My understanding is the owner has stated there, Rochester expressway, municipal ownership entity.

ADAM CUMMINGS: Can you say that a little lower to the microphone?

MR. ALLING: I'm not aware that that property is -- is not under the control of the airport expressway. That -- that is my understanding of the current ownership of that property.

FRED TROTT: But they just -- in the last few years they said they wouldn't be putting that expressway in there.

MR. ALLING: But they still own it.

FRED TROTT: But they still own it. You see, I think that was always in the back burner, they would put that expressway in.

ADAM CUMMINGS: But they didn't own -- or they didn't control this parcel. They have the lands.

MR. ALLING: Correct. When the parcel was taken by the State for the proposed expressway, this piece was left over, 2.45 acres.

ED SHERO: Gates will now -- and Gates will have an intermunicipal agreement with DOT. But that's really both sides of the situation.

ADAM CUMMINGS: Correct. So one thing, I have been notified by our Commissioner of Public -- our -- our Highway -- I don't know his exact title -- Commissioner of Highways and DPW, um, because of the dedication of these lands for the cul-de-sac, one of the conditions of approval he would like or I would like to impose is the dedication of the lands to the Town of Chili for the public right-of-way shall be completed. Therefore, whether it's a hammerhead or a roundabout, at least we're holding the applicant to do something for -- of the public right-of-way extension instead of just a private driveway coming off Burben Way, so that we're helping out our Highway Departments.

That came from the Highway Department.

JAMES WIESNER: Basically if something happens in this, is what you're saying?

ADAM CUMMINGS: Something.

JAMES WIESNER: If we convey the property, something is going to happen.

ADAM CUMMINGS: No. We're -- we're not conveying property. This property just exists.

ED SHERO: What we don't want is a Town creating a substandard lot. Town can't violate its own zoning. By putting that, that gives us the protection from the zoning.

ADAM CUMMINGS: So the applicant is changing --

MARK MERRY: That just answered my question. It is what I thought was happening, but it took a while to get there.

ADAM CUMMINGS: I'm still not --

MR. ALLING: That is not a problem. If the condition is the .33 acres is to be conveyed to the Town of Chili, that is fine with us. That is the intent of this action.

ADAM CUMMINGS: Then good.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Okay. Gates needs a place to turn their trucks around, right?

ADAM CUMMINGS: Yes.

MS. BORGUS: Chili owns -- the land is in Chili. Now I'm hearing that the right-of-way for this turnaround, this cul-de-sac should remain in the hands of Chili?

ADAM CUMMINGS: Yeah. Through an intermunicipal agreement with the Town of Gates.

MS. BORGUS: I was here when that plan was approved for this duplex house and I couldn't believe it, but that's another issue.

Whose going to maintain all this?

MR. ALLING: Town of Gates.

ADAM CUMMINGS: Town of Gates.

MS. BORGUS: They will cut the whole parcel. They will clean it up and keep it nice?

ADAM CUMMINGS: They will do the .3 acres. The .33 acres dedicated to the Town of Chili. The rest of it will still be a private lot.

MS. BORGUS: Okay.

ADAM CUMMINGS: And the intermunicipal agreement will be so that Gates maintains that through our agreement between the two Towns, to my understanding. I'm not privy to the entire agreement.

MS. BORGUS: So the land that is going to be taken up with this turnaround, this cul-de-sac is .3 acres?

ADAM CUMMINGS: Correct.

MS. BORGUS: That isn't very much for a turnaround for those big town trucks.

ADAM CUMMINGS: It's 14,000 square feet.

MS. BORGUS: Even then you turn -- that doesn't seem like it is even big enough.

ED SHERO: It's -- if you can see it there, you can't really see where the circle is. The turnaround will also go into the airport expressway. This is only maybe like a third or possibly a half of it at most. So that's why it is actually three different agencies are involved in this.

ADAM CUMMINGS: But we're not hearing the agreement tonight.

MS. BORGUS: I see that. Now that Ed (Shero) mentions it, I can see a very faint circle. That faint circle is not obvious on the map.

ED SHERO: There is like a gravel circle there now.

MS. BORGUS: There is?

ED SHERO: Yes.

ADAM CUMMINGS: That is why I thought it was a paved --

JAMES WIESNER: It says, "Existing gravel."

ADAM CUMMINGS: There is actually a cul-de-sac out there that they turn in.

ED SHERO: Then on private property they're doing it.

MS. BORGUS: The .3 acres involving Chili is just a piece of the circle?

ADAM CUMMINGS: Correct.

MS. BORGUS: Got you.

ADAM CUMMINGS: I can't say it has been 40 years, but it's been at least a week, because the snow was cleared when I drove down there and I was able to turn around on the cul-de-sac which was gravel. I thought it was pavement, but it is gravel. So it is being used, but it has -- as Ed (Shero) said, it is public resources going on private property.

MS. BORGUS: This may be a moot point to this Board, but with the whole circle that big and cul-de-sac as it exists, where in the world will you put a house down there? That's not your problem. I know that. I understand that, but where in the world is there room for the house.

RON RICHMOND: That is part of the remaining. 2.54 shrinks to 2.2, but -- and that is where the house goes on the 2.21.

MS. BORGUS: Oh. Thank you.

ADAM CUMMINGS: Mr. Alling, you have a very interesting application to bring forth.

MR. ALLING: Taken a while to get here, but we have it figured out.

DON SCHALL, Beahan Road

MR. SCHALL: Don Schall, and I live on Beahan Road, which is -- my property backs up to that area. So my question is, I know where Burben Way is, where that little turnaround is.

So you would build two houses?

MR. ALLING: One house.

ADAM CUMMINGS: One house with two tenants.

MR. SCHALL: Like a rental property. All that area is all single -- 90 percent is probably single-family homes.

ADAM CUMMINGS: Yes.

MR. SCHALL: I don't know how the neighbors would feel about that.

ADAM CUMMINGS: I don't know either.

MR. SCHALL: But actually, so -- I don't really see -- I didn't quite understand what they were talking about the circle there.

ADAM CUMMINGS: There is a faint line. I will stand up and point out that comes around here and then it probably comes back up to here (indicating).

MR. SCHALL: I know the area. I know what you mean. I see that triangle lot. I was trying to figure out how you would build a house there.

ADAM CUMMINGS: No. This is the triangle being separated out. This is where the duplex is going to go. That is the remaining two acres. The remaining 2.21 acres.

MR. SCHALL: Do they have -- any that backs up to my property is what I'm getting at. Because I live at 636 Beahan Road.

JAMES WIESNER: You can see -- your name is right over here (indicating). You're welcome to walk up if you want. Your name is right here (indicating). This is the whole picture.

ADAM CUMMINGS: If you're at -- yes. You do. You and Mr. Russell.

JAMES WIESNER: This is your property here (indicating). This is the parcel that is being subdivided (indicating).

MR. SCHALL: They will go here?

JAMES WIESNER: That's what I'm hearing.

MR. SCHALL: You don't have the actual plans?

JAMES WIESNER: That is not what we're hearing tonight.

MR. SCHALL: So -- all right. I couldn't see the circle. I see it here. So actually the property would be in here (indicating).

JAMES WIESNER: Yes. That is being developed.

ADAM CUMMINGS: Could be. We're only here for a subdivision.

MR. SCHALL: I didn't quite understand, so that is what I'm trying to figure out is all.

ADAM CUMMINGS: So really that whole triangle parcel as it stands in one, actually abuts your property currently?

MR. SCHALL: Yes.

ADAM CUMMINGS: So what this is doing is actually creating a -- two parcels either way. How do I say this? I don't know, we have no site plan or anything, but the duplex really could be put on here regardless of the subdivision.

MR. SCHALL: I just like my parklike setting in my backyard, I guess.

ADAM CUMMINGS: And you will want to --

MR. SCHALL: When you said the ten acres back there, you have deer. I mean it is just, you know.

ADAM CUMMINGS: Well, they only have control of two acres. You still have the expressway land that is there. So. Hopefully that clears up the questions.

MR. SCHALL: For the time being, I guess.

Adam Cummings made a motion to close the Public Hearing portion of this application and Fred Trott 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: Round-about way, but I think -- we do have two variances. We'll be voting on the lot width reduction down to 107 -- or linear feet. I don't see a way to reduce that the way this parcel is.

Then 2.21 acres.

Adam Cummings 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.

ADAM CUMMINGS: Once again, we do have the one condition of approval to dedicate the lands, the .33 acres, to the Town of Chili for the public right-of-way. That will need to be completed by the applicant. And any other conditions anyone can think of?

Fred Trott made a motion to approve the application with the following condition, and Ron Richmond seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following condition:

1. Dedication of lands to the Town of Chili for public right-of-way shall be completed.

The following finding of fact was cited:

1. The proposed variance is minimal in nature and is a direct result of this very unique parcel that was uncharacteristically formed by the creation of the Rochester Airport Expressway and taking of lands, which created a parcel that is pre-existing, non-conforming. Even though this application creates a parcel that requires a variance, the creation of this parcel will provide the Town of Gates and Town of Chili a safer, more reliable means of ingress and egress for highway maintenance and emergency equipment traveling on Burben Way.

4. Application of JFJ Holdings, 280 Merrimack Street, Methuen, MA 08144; property owner: CRT LXXIX, LLC; for variance to erect a second freestanding sign (menu board) to be 47 sq. ft, variance for freestanding sign to be 7' high (5' allowed), variance to erect two additional directional signs to be on crash bars to be 9'5" high (42" high allowed), variance to erect a second wall sign to be 36 sq. ft. at property located at 3249 Union Street in G.B. zone.

Brian Bouchard was present to represent the application.

MR. BOUCHARD: Brian Bouchard with CHA Consulting, the engineer working on behalf of the applicant for this project.

Point of clarification, the sign was posted a day prior to the day it was supposed to be posted. I was told it was hard getting into the ground, so I think they did probably try and use the snow bank to keep it up. So it may have fallen over. I apologize about that.

The specific application is for signage. Many of the requests are completely associated with the use which is a drive-thru restaurant.

Then the second request for a second wall sign. So I will go through them -- sort of groups, and you should have cut sheets of the individual signs in your package.

Um, explanation is each property within the zoning district is allowed one ground sign. This ground sign is typically used to identify the business. We do have a monument sign at the road that is code compliant.

There is no provision within the code for a menu board. The menu board is located behind the dumpster enclosure, within the drive-thru lane. By strict interpretation of the code, this menu board is considered a second ground sign for the site and needs a variance. The menu board is 47 square feet, so it exceeds the area. There is only going to be one menu board as opposed to other similar uses in the plaza which have like a preorder board prior to the menu board. This is only a menu board of 47 square feet and it's also 7 feet tall, which exceeds the allowable height of 5 feet for a typical ground-mounted sign.

The other two directional signs have to do with the crash bars. These are to protect the canopy within the drive lane itself. There is one crash bar that identifies a clearance of 9 foot. This is a restriction of the vehicle height going through the drive-thru lane. Also has on top "drive-thru," the lettering. The size of the lettering is code compliant, but the location on top of the crash bar itself is above the height that would be otherwise allowed by a directional sign.

At the menu board there is a small canopy to protect you from the rain when you're ordering from the pedestal. If you're familiar with, you know, the pedestal, when you order, there is a small speaker. On top there is a small canopy. This also reads, "Clearance, 9 foot tall." Sort of a secondary crash bar, and on top of it, it has lettering, "Order here," which is also considered a directional sign. The size of the lettering is code compliant, but once again, being on top of the crash bar it itself is above the allowable height. That's the reason for the request.

For the wall signs, um, the site is allowed one wall sign with total square footage 1 1/2 times the building frontage. The building frontage is -- this particular use, so I mean going back just briefly, this was an old bank being renovated into a Dunkin' Donuts. The variance request for like the directional signs and menu board, we went through the whole Planning Board process and submitted drawings and actually got approved. We went to the Building Department for a building permit. At that point somebody finally said, "It's a drive-thru restaurant. You need a variance for the menu board."

Then we started working with the Building Department on the particulars that were submitted with the package, which is the directional signs and the crash bars and the like. Um, also at that time when the building permit was submitted, the applicant was reviewing the site signage in relation to where it is on Union Street. A separate parcel that fronts on Union Street, but also has a facade that faces Buffalo Road, and more interestingly, sort of part of the plaza. It actually faces the plaza there.

So the monument sign at the front is code compliant. The -- the Dunkin' Donuts portion of this building has 58 feet of road frontage which would allow 87 feet of wall sign on one wall sign. So on the side that faces Union Street, they're proposing a 60 square foot sign. The side that faces the plaza and the rest of the development, it was the applicant's suggestion to request a second sign so it could be visible from the most busiest part of a dead intersection, Buffalo and Union, and also people traveling amongst the plaza don't see a blank facade. And we made that sign 36 square feet. Smaller, still fits in context with the store and the -- the front sign was limited to 60 square feet for the same reason, although an 87 square foot sign could be allowed.

So the primary purpose is for the second sign. Similar again to comparable use within the plaza that currently has three wall signs, was to request a second wall sign just for visibility from the intersection of the plaza as a whole.

ADAM CUMMINGS: Is there going to be signage for the ATM kiosk that you have?

MR. BOUCHARD: That's a good question.

ADAM CUMMINGS: Because I'm sure it is not a Dunkin' Donuts ATM.

MR. BOUCHARD: No. It is the -- it is a Five Star Bank ATM. It is an existing bank. They like the location still. Um, the teller and, you know, the business done within the building is not needed, but they wanted the availability to provide customers with an ATM.

My understanding is building elevations and signage were being handled directly through them and not necessarily us, but that was reviewed by our Architectural Review Board prior to

site plan approval last year.

ADAM CUMMINGS: Speaking of Architectural Review, I do have a letter from the Architectural Advisory Committee. I won't read the whole letter because they did review a few things, but specifically they did review the propose signage for this Dunkin' Donuts drive-thru menu board located at 3249 Union Street and the Committee approved the design for the submitted signs for the drive-thru menu board, crash bar and speaker tower without modifications. However, the request to change the down-lit signs over the entrances to internally lit signs were rejected.

So it sounds like you're doing -- that is what is being depicted on the picture up there. For the Dunkin' Donuts, you're proposing the down-lit signs with the picture on the wall, correct?

MR. BOUCHARD: Correct. Um, it was -- it was a battle between us and the consultant as the sign vendor, submitting what they wanted to build. They suggested basically at 5 o'clock before the Architectural Review Committee that we present an internally illuminated sign. There are existing internally illuminated signs. The real comparison here is trying to compete with competitors and other people in the plaza. They said everybody else has internally illuminated signs. But the question was very clear from -- the Chairman of the Architectural Review Board said that Committee was not formed when other similar uses were built. So it is their obligation to review the applications and the precedent hadn't been set yet.

So I am aware of that comment and that's why the gooseneck lighting is shown. So this is an externally illuminated sign, both of them are.

ADAM CUMMINGS: Right. I just wanted to read it for the whole Board's benefit.

MR. BOUCHARD: Sure.

ADAM CUMMINGS: As it is depicted on the wall sign pictures, on the Union Street side of this building, you will have the -- whatever the future tenant is going to be, and it is called "tenant." Is that sign included in this package? I just want to make sure that that is clear. This isn't just Dunkin' Donuts, but this is the entire building.

MR. BOUCHARD: There is the front elevation from Union Street, facing, um, the larger portion of the building and that's the tenant sign you're referring to. So the code allows for one wall sign per business, not to exceed 1 1/2 times the linear footage of the road frontage. The Dunkin' Donuts portion of the building, once again, is -- is 58 feet allowing an 87 square foot sign, single sign. Our request is for a second wall sign for that particular use. But the tenant has road frontage of 42 square feet allowing a 63 square foot sign.

So that tenant sign is code compliant, but not part of the variance we're asking for a second wall sign for Dunkin' Donuts.

ADAM CUMMINGS: That is all -- thank you for explaining all that very perfectly for me so everyone is clear on everything.

RON RICHMOND: Where is the ATM? Used to be on the east side.

MR. BOUCHARD: Canopy is being ripped down.

ADAM CUMMINGS: Separate drive through. Don't even get into the site plan.

MR. BOUCHARD: This is actually the existing building. The four walls. There are extraneous foundations that are being installed for -- you know, are the architectural accents like the vestibule is not there. The existing canopy was here and that has been ripped down for the new store and vestibule. This is the ATM drive-thru lane and this is the ATM kiosk (indicating).

RON RICHMOND: Separate island going up?

ADAM CUMMINGS: Yes.

MR. BOUCHARD: Yes. So traffic would circulate one way to the ATM and then come back through.

RON RICHMOND: So Adam (Cummings), I don't know if you asked it or who asked it, but is there a sign for the ATM and is that part of the variance?

MR. BOUCHARD: Not part of this variance, no. My understanding was we did submit architectural elevations when we had -- prior to having site plan approval. Anything on that ATM and the logos, the colors of it was reviewed by the Architectural Review Board at that time.

ADAM CUMMINGS: Right. But --

MR. BOUCHARD: They would need to come back.

ADAM CUMMINGS: They will still be coming back for more variances and --

RON RICHMOND: Not part of the same property. That is why I'm wondering why not part of it then.

ADAM CUMMINGS: I wholeheartedly agree with you. That is why I brought it up. I'm not sure of the answer. Same with the ATM kiosk not technically a business. So are they even allowed signage on the --

RON RICHMOND: Just a free-standing stand-alone kiosk at the north end of that island.

ADAM CUMMINGS: Yes. I think it's going to be a question answered at a future date but not tonight.

MR. BOUCHARD: I would imagine you're right in leaning toward that -- when it is built or they would have to come in for -- if they wanted to put a sign on. Like I said, the elevations for the kiosk were submitted. I don't know if they get a separate building permit to put up a kiosk. They would probably have to with the foundation.

ED SHERO: They need something.

MR. BOUCHARD: At that point in time, they would have to figure out -- once again, our client is Dunkin' Donuts. As the developer and owner, they have an agreement with Five Star Bank that Five Star Bank is going to build an ATM. It impacts the site plan, what the developer

is going to build, but the developer will not put that ATM on that island for Five Star Bank, so they would be responsible for their own building per politics and whatever extraneous approvals are required of them.

RON RICHMOND: Separate application all together for a building permit.

ADAM CUMMINGS: So if you want to take anything home tonight with Five Star Bank, let them know they're not allowed any signs at this point.

MR. BOUCHARD: And hopefully they will hire me to come back for them.

ADAM CUMMINGS: You got it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Why does a menu board have to be 7 foot tall?

ADAM CUMMINGS: A lot of coffee flavors.

MS. BORGUS: 7 feet?

ADAM CUMMINGS: I really don't know the answer.

MS. BORGUS: Is that -- is that the norm?

ADAM CUMMINGS: It is the norm.

MS. BORGUS: It is the norm.

ADAM CUMMINGS: It is the norm.

MS. BORGUS: Like --

ADAM CUMMINGS: McDonald's, Wendy's --

MS. BORGUS: They're 7 feet?

MR. BOUCHARD: Yes. The bottom 2 feet is basically worthless because of the fact that you're elevated in a car. So really it's 5 feet of signage and if you notice, at this -- this is not a custom sign for the Chili location that was meant to be larger. This is the Dunkin' franchise sign that would you notice at any other location. Sometimes it is even hard to read the print. So the menu options -- once again, they don't have two signs. Like Tim Horton has a preorder sign and a second sign. This is one sign with all of the menu offerings on it.

ADAM CUMMINGS: To answer your question, yes, for menu -- for fast food establishments, not to put Dunkin' Donuts in fast food, but they are --

MS. BORGUS: Yes, they are.

ADAM CUMMINGS: -- that typical because we're measuring them by height. And as he said, you can't read the bottom of it and you will have snow accumulation and things like that. They're technically pedestal signs, so you have the first 2, 2 1/2 feet is just the stand that it sits on and then the sign goes from there. So that drives the height up.

MS. BORGUS: As long as it is the norm. I just don't want to set precedence here.

ADAM CUMMINGS: It is the norm.

MS. BORGUS: I do have -- I agree with your concern about the signage on that kiosk because that is how we get more signs than we want in the end because things get piece-mealed in and everybody is just pleading their own case here. And when we get through and we look at what we have got left, it is too many signs usually. So I don't know who slipped up on that, but that is another --

MR. BOUCHARD: I do know that the Architectural Review Board was looking at different colors in terms of Five Star Bank's conditions, ATM kiosks. They have the same kiosk in other locations. We gave them pictures. Blues, whites, silvers. They were deliberating it, but in all fairness, maybe they would revise the color. But at some point it needs to say it's a Five Star Bank ATM for purpose of the customer. Not a giant structure so the sign would probably be visible, but it's like a basically 5 by 5. So you couldn't really have much bigger of an ATM.

ADAM CUMMINGS: It will definitely be something for the future, not today.

FRED TROTT: A sign on Union Street, a sign on Buffalo Road.

MS. BORGUS: You're right.

FRED TROTT: Right?

ADAM CUMMINGS: We'll address Five Star Bank when they come up later.

MS. BORGUS: The other thing, the sign that is going to be on the Buffalo Road side is a smaller version of the sign that is going to face Union Street?

MR. BOUCHARD: Generally, yes. One is a three-piece sign. One is a one-piece sign but smaller, just over half the size.

RON RICHMOND: The frontage is a third of what the Union Street size is.

MS. BORGUS: Just want to make sure it is the same sign, smaller version.

ADAM CUMMINGS: It's very close.

MS. BORGUS: As long as it is close. The other thing I would like to point out at Planning Board, and I was here when they were in, the Board made a big thing, and I hope you read the minutes, a big, big thing about those gooseneck lights over those signs. That had to be. So make sure that what you approve is not an internally lit sign. They wanted what is on the plan.

ADAM CUMMINGS: We are looking at sign -- sign dimensions tonight, so we will leave the goosenecks alone.

MS. BORGUS: Okay. Who, if anybody, makes a change and goes to an internally lit sign? That would have to be the Planning Board? Because that was not on the plan. The plan was gooseneck lights, externally lit signs.

ADAM CUMMINGS: That would be Planning Board and the Advisory Committee but -- it would go to the Architectural Advisory Committee, but it would fall on the site plan.

MR. BOUCHARD: Correct.

MS. BORGUS: I seen it happen in this Town before that the build-out didn't look like the plan.

ADAM CUMMINGS: We'll rely on our Building Department and our Planning Board.

MS. BORGUS: Ed (Shero), did you hear that? I have seen it. I have seen it.

ED SHERO: Another task put upon me here.

MS. BORGUS: I have seen it time and time again.

ADAM CUMMINGS: Zoning Board of Appeals will not be enforcing that.

MS. BORGUS: Just as long as you cross your Ts and dot your Is so you don't lead into any problems.

Adam Cummings made a motion to close the Public Hearing portion of this application and Ron Richmond 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: Only condition we'll have, this Town, you need a sign permit, so make sure you get a sign permit for all these. Who knows. We might see it in the future. I will let you in on, Five Star Bank, it was determined that their logo is actually an architectural decoration and not a sign. So just for the Board's benefit, the sides, both -- they could put the picture of the Five Star detail.

RON RICHMOND: That would be the --

ADAM CUMMINGS: That's not a sign. Not a logo. It's a decoration. Just wanted to point that out.

MR. BOUCHARD: Same with the cup and the cloud on the building?

ADAM CUMMINGS: You got the "D & D" on it, so you lose out.

MR. BOUCHARD: Point well taken, though.

Adam Cummings 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.

James Wiesner made a motion to approve the application with the following condition, and Fred Trott seconded the motion. The vote on the motion was 4 four to 1 no (Mark Merry)

DECISION: Approved by a vote of 4 yes to 1 no (Mark Merry) with the following condition:

1. Sign permit must be obtained from the Building Department.

The following finding of fact was cited:

1. The amount of signage is similar to neighboring businesses in the adjacent plaza. The height requirements are direct results of traffic safety measures that require the respective signage to provide directions and notifications to patrons and drivers at the site. The architectural standards of these signs achieve the goals and standards of the Town evidenced by the review and recommendations from the Architectural Advisory Committee.

Adam Cummings made a motion to adopt the 1/27/15 Zoning Board of Appeals minutes as submitted, and Fred Trott seconded the motion. All Board members were in favor of the motion.

The meeting ended at 8:43 p.m.