

CHILI ZONING BOARD OF APPEALS
September 27, 2016

A meeting of the Chili Zoning Board was held on September 27, 2016 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 James Wiesner.

PRESENT: Mark Merry, Fred Trott, James Valerio, James Wiesner and Chairperson James Wiesner. Adam Cummings was excused.

ALSO PRESENT: Eric Stowe, Assistant Town Counsel; Paul Wanzenried, Building Department Manager.

Chairperson James Wiesner 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.

JAMES WIESNER: Everybody good on the Board, see the signs? Any problems?

The Board indicated they had no problems with the notification signs.

1. Application of Jan Kennan, owner; 32 Wills Road, Rochester, New York 14624 for variance to repair and erect a porch to be 50' from front lot line (60' req.) At property located at 32 Wills Road in R-1-15 zone.

Jan Kennan and an unidentified male representative were present to represent the application.

MS. KENNAN: My name is Jan Kennan and I live on 32 Wills Road. I would like to have him build my deck in front of the house, so what do I need to tell you? This is my first time through this.

JAMES WIESNER: You just need to tell us a little bit about what you plan to do.

MS. KENNAN: Well, we have a concrete front step that's cracking. He was thinking of taking the top layer, but he doesn't know what is inside. He might build it over or he might rip the whole step. He doesn't know yet.

According to what he told me, he wants to build from 10 feet? Is it 10 feet?

UNIDENTIFIED MALE REPRESENTATIVE: There is concrete steps there right now in disrepair. And they want to put a wooden deck in place. It will be 2 feet wider than what the concrete steps is now.

MS. KENNAN: I have a picture. Do you have the picture?

JAMES WIESNER: Maybe you can put it right up here on the projector so everyone can see that.

MS. KENNAN: I'm not sure how that works? Put it right here?

This is the -- this is the front door, and this is the crack right here (indicating). So he was thinking of ripping this top off and maybe build the deck over or he doesn't know what is inside. This is the top -- this is the top step (indicating). This is the bottom step (indicating). You can see it is cracking on -- you can see it is cracking over here (indicating).

I just want to replace the new deck. And so when people come over, I always tell them, Watch their step, "I don't want you to fall."

The crack is getting bigger and bigger.

JAMES WIESNER: So this is -- what you're proposing is slightly bigger than what the existing concrete patio is at this point?

MS. KENNAN: Yes. It will be a little bit bigger than what we have now. How deep is --

UNIDENTIFIED MALE REPRESENTATIVE: 10 by 12. It is 12 wide on the house. If you look at the picture here, the part right here (indicating), from the house, to this sidewalk is already 12 feet. And these steps here are 10 feet. And it is already -- what is left in the cold, so we wanted to replace what is already there and it will be wider, but it go down onto the walkway, to the sidewalk, to the driveway. So it is already just going up over to the sidewalk, walking at a right angle, then turn right down onto the sidewalk.

JAMES WIESNER: So the width is not changing? But the length is changing by a couple feet?

UNIDENTIFIED MALE REPRESENTATIVE: Right. Exactly.

JAMES WIESNER: I think that's it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

FRED TROTT: Seems pretty standard.

James Wiesner 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 Valerio seconded the motion. The Board all voted yes on the motion.

JAMES WIESNER: The only condition of approval I have is building permit must be obtained from the Building Department prior to the commencement of construction.

MS. KENNAN: You want me to obtain the permit before we begin construction?

JAMES WIESNER: Yep.

Mark Merry 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 4 yes with the following condition:

1. Building permit must be obtained from the Building Department prior to the commencement of construction.

The following findings of fact were cited:

1. Deck is similar in size to existing concrete landing and steps.
 2. Deck is also consistent with other porches in the neighborhood.
2. Application of Sri Hora, owner; 2976 Chili Avenue, Rochester, New York 14624 for variance to allow an open porch to be 50' from front lot line (75' req.) At property located at 2976 Chili Avenue in R-1-12 zone.

Sri Hora was present to represent the application.

JAMES WIESNER: State your name and address, please.

MS. HORA: My name is Sri Hora. And address is 2976 Chili Avenue, Rochester, New York 14624.

JAMES WIESNER: So if you could just tell us a little bit about your project.

MS. HORA: I am supposed to be here with my husband. I make myself clear enough because I don't speak very well. My pronunciation is sometimes difficult for people to understand me.

JAMES WIESNER: You're welcome to grab that microphone and speak into it.

MS. HORA: This one?

JAMES WIESNER: Yes.

MS. HORA: My husband is in the hospital right now. He is supposed to be with me tonight to help me. The -- we build the porch bigger because my husband disabled and we tried to make it bigger so we can put the wheelchair for him and we want to make a -- what you call that?

JAMES WIESNER: Ramp?

MS. HORA: -- ramp, but we don't have enough money to do that, so we just make the step bigger and lower for him so he can step on that.

JAMES WIESNER: Okay. So what is -- what is existing there right now as far as -- it appears that -- I think some of this construction is already started, but before the construction even started, what was there previously? A stoop?

MS. HORA: It is not enough to put the wheelchair from the door, to go out. It is not enough to maneuver the wheelchair. And now is like -- I don't know how -- how much --

PAUL WANZENRIED: There was -- I will help her out. There was previously a stoop, a wood frame stoop. It was 4 or 5 feet out. Now they're making it bigger. This case is similar to the case you just heard. They have extended it to the front, so that her husband can come out there. It was intended for a wheelchair. As she stated due to financial obstacles, so they're putting steps, deeper treads, shallower rise so it is easier for him to get up and down in the interim.

JAMES WIESNER: Seems pretty straightforward.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Was there a building permit issued for this? Because it appeared when I went by there today that it's done.

MARK MERRY: It's done.

JAMES WIESNER: I would have to refer to the Building Department.

PAUL WANZENRIED: It is done, and at the time there was no building permit issued. We actually saw that it was being built or finished, stopped them, had them come in for the

variance. They have a building permit application in with us now. However, we're waiting for the variance.

MS. BORGUS: Is it finished?

PAUL WANZENRIED: It is finished. They have not pulled a building permit.

MS. BORGUS: Did -- was this built by a carpenter, a builder, the individual? Who built it?

JAMES WIESNER: Ma'am, could you answer the question?

MS. HORA: It's my -- somebody -- friends. Friends so we can get cheaper because the financial and --

JAMES WIESNER: And they weren't aware that there was a building permit required?

MS. HORA: No. He's -- he think that if it is not screwed to the ground, just float, we don't need permit. So that is what he understand, but I don't understand.

MS. BORGUS: How big is the actual floor? I suppose we're counting the steps, too, as the size? What puzzles me is how we went from 50 to 75 feet from the -- from the porch -- there is 75 feet required and it is 50 feet -- no, 50 feet --

PAUL WANZENRIED: The numbers don't work out in my mind.

Miss Borgus, the house originally is -- the house is set back 60 feet. The house is preexisting, nonconforming.

MS. BORGUS: Right.

PAUL WANZENRIED: Okay. That is how you're getting to 50.

MS. BORGUS: I see. Okay.

JAMES WIESNER: It's on -- it is actually up here.

MS. BORGUS: I'm having trouble reading it from here.

PAUL WANZENRIED: It says 60 1/2 right there (indicating).

MS. BORGUS: Well, the intent is admirable. Having somebody in our family who is disabled and has a wheelchair, I understand the problem and I understand the solution, but I find it hard to believe in a -- this day and age when every Town no matter how small and remote that have zoning laws, people don't understand you have to go by a code. I mean, I understand, truly I do understand the situation, but I -- maybe it's a question of education and maybe when the Supervisor does our next Town newsletter there ought to be an article in there that fully and emphatically states that before you build anything in Chili, that you have to find out if it is legal to do it. I come to these meetings so often and I find people in here looking for forgiveness rather than permission. In this case I feel very sorry for these people, but I think it is time people were made to understand what codes mean.

Thank you.

UNIDENTIFIED MALE REPRESENTATIVE FROM APPLICATION 1: If the new porch is already finished, it is already helping her husband to walk up the new stairs. It is better within 6 inches for to stop the current (indiscernible) the old step, like 7 inches or more?

JAMES WIESNER: I can't answer that. I don't know if anybody here knows that question. I would ask the applicant, but I don't know that she would understand the question either.

THE INTERPRETER: Right now are they currently 7 inches. He wanted to know what the rise of the step was.

PAUL WANZENRIED: Less than 7 inches.

UNIDENTIFIED MALE REPRESENTATIVE FROM APPLICATION 1: Okay. If the new step is already 6 inches, it would be easier to walk up the new porch. If it is already there and helping him, I would say, yes, I would approve the plan. But if it's not, I don't see how it would help him to walk up the stairs if it is even 6 inches.

PAUL WANZENRIED: We would work with them through the Building Department and the building permit process to help her out in that sense. Okay? I understood. I got you.

CARLA ROSATI, 27 Silverknoll

MS. ROSATI: Carla Rosati, 27 Silverknoll. I own the property directly to the east of this. These folks have done a ton of work to the house. They have cleaned it up and been ambitious with it. I agree we should have people come to the Town prior, but sometimes people make mistakes whether it's their fault or not.

And concerning the health concerns and whatnot, it doesn't seem like it really impacts anybody. Especially if it is already a non-conforming property. It already doesn't have enough room regardless what they do to it at this point. So in that case it doesn't affect me in any way. I don't have a problem with it. I don't think anybody else should.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

FRED TROTT: They will need a building permit.

JAMES WIESNER: There is -- one of the conditions of approval, is a building permit will be required. In this case, this is prior to the commencement of construction, but it has already started. But before anything further would happen, obviously. I'm sure the Building Department will review what has already been done to verify it's up to code.

James Wiesner 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 Valerio seconded the motion. The Board all voted yes on the motion.

JAMES WIESNER: We have one condition of approval which is the building permit. So I will look for a motion from the Board.

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

DECISION: Unanimously approved by a vote of 4 yes with the following condition:

1. Building permit required must be obtained from the Building Department prior to the commencement of construction.

The following findings of fact were cited:

1. House does not conform with current setback requirements so any modifications would need a variance.
2. New deck is similar in size to existing entry structure and consistent with other porches in the neighborhood.
3. Application of Mr. & Mrs. Philip Fantanza, owner; 18 Rochelle Drive, Churchville, New York 14428 for variance to erect an 18' x 40' in ground swimming pool to be 7' from rear lot line (10' req.) At property located at 18 Rochelle Drive in R-1-15 zone.

Phil Fantanza and Michelle Fantanza were present to represent the application.

MR. FANTANZA: My name is Phil Fantanza. It's spelled F, as in Frank, A-N-T-A-N-Z-A. My residence is 18 Rochelle Drive. I'm looking for 3 feet of relief from the rear property line to set the water's edge of the pool 7 feet from the rear property line. I'm looking to do that so I can have the patio of the pool on the other side, obviously closest to the house, have enough room to enjoy that space and keep things closer to the house, instead of having the larger space on the opposite side of the pool.

JAMES WIESNER: So it appears that you back up to a wooded area behind you; is that correct?

MR. FANTANZA: I do. The -- the house actually backs up -- it's a cul-de-sac, so there is a neighbor that runs the length of my backyard. He runs the length of about three houses that are on Rochelle Drive. His house is on Ambush Lane -- or Pound Ridge, I'm sorry -- Pound Ridge Circle. So in the back his property line runs across the three houses that are on Rochelle Drive.

JAMES WIESNER: So you have a neighbor in the back, but it is not developed property?

MR. FANTANZA: Correct. The expressway is there. It's my backyard, his backyard and then the expressway.

JAMES WIESNER: Do you want to state your name and address?

MR. FANTANZA: This is my family I brought in for support.

MS. FANTANZA: Michelle Fantanza, 18 Rochelle Drive. After this one neighbor's property who goes into the woods that is directly behind ours, there is more open space and other property before the expressway.

The expressway is pretty significant away from the end of our property to -- there is just a lot of distance there. There is not just one yard.

JAMES WIESNER: It looks pretty densely wooded; is that correct?

MS. FANTANZA: Ours is more of a straight shot to the expressway, but ours, the house on the left-hand side, there is woods on that. That is where the woods start. So when we look at it, we look straight out to the expressway, but our neighbor, when she looks out, she looks straight to a wooded area.

FRED TROTT: If you just help me out here with the -- I see 10, 15 and 10?

MR. FANTANZA: Correct. There is an existing patio there already. The house ends here. There is an addition that was put on --

FRED TROTT: Okay. That is an addition.

MR. FANTANZA: That's a 10 foot addition. Then there is 15 feet of existing patio that was put on a few years after the addition. So what I'm looking to do is keep my gathering area, whatever you want to call it, in this area instead of having it over here (indicating) and giving me three more feet of space here to give me enough room to have safe walking and areas like that with chairs.

FRED TROTT: So that 10 foot area is now like going to be concrete?

MR. FANTANZA: It is.

FRED TROTT: It is going to be concrete?

MR. FANTANZA: Yes. 10 feet of concrete. Water's edge. 18 feet of pool and then the 3 foot that they give you on the other end instead of -- because the way I understand the code, is -- you can concrete all of the way up to your property line, but the water's edge of a pool has to

be 10 feet away from that property line. Is that correct?

JAMES WIESNER: That would be my understanding.

MR. FANTANZA: So what I'm looking to do instead of concreting out here, I would like to move that usable space here (indicating) up closer to the house and I need 3 feet to make that workable.

FRED TROTT: Where would your fence -- with the in-ground pool you need a fence around it?

MR. FANTANZA: Correct. The perimeter of the concrete area. That still gives me obviously this space here (indicating) in this yard.

FRED TROTT: Then I'm assuming then your deck wouldn't be above the fence?

MR. FANTANZA: No, no, no. This is all level ground.

FRED TROTT: Okay.

MR. FANTANZA: It would look like a typical in-ground pool installation with the fence at the deck level. Everything would be level all of the way across.

FRED TROTT: I don't have any other questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Where is the pool, pump and the sand filter going to be located?

MR. FANTANZA: It would be closer to the house there at the corner. Right in this area (indicating). This is all house here (indicating). And then the pool pump and filter will be hidden in this corner out of sight of pretty much everybody.

MS. BORGUS: And does the applicant have room to backwash the filter and not bother the neighbors?

MR. FANTANZA: Yes.

MS. BORGUS: With that much cement?

JAMES WIESNER: I don't think -- that is a judgment call.

MS. BORGUS: Having an in-ground pool myself, I know how much water you have to use to back -- to backwash a sand filter for a pool that size. It's a considerable amount of water.

MR. FANTANZA: The house backs down to the woods pretty much. There is three -- there is other -- there is an in-ground pool, two above-ground pools in the area, as well, that all seem to function relatively adequately.

MS. BORGUS: It may back up to the woods, but nevertheless if there is a property owner behind there, you just want to be sure you're not creating a problem. Not everybody wants water running on their property regardless whether it's lawn or near a house foundation or whatever. They don't -- and you do have to backwash quite often to keep your pool in good condition.

MR. FANTANZA: At this time I would like to submit to the Board five letters of consent, one including the neighbor directly behind me that would affect the property, Anna and John Cringoli. And then another -- other ones, the immediate properties to the east and west a couple more in the same neighborhood.

JAMES WIESNER: Is this a proper spelling of your name?

MR. FANTANZA: That is the proper spelling of my name.

MS. BORGUS: Okay. I guess my comment to the Board would be that one of the conditions for use variance is -- is this has to be a -- I will quote from the card, a -- the -- the alleged hardship is unique. So I haven't -- I'm sorry, I just haven't heard a hardship.

So thank you.

JAMES WIESNER: Are any of these people that have signed the statements in support of your pool, are they next door to you or --

MR. FANTANZA: The one is directly behind me, is the property. If you look at my house here, um, Rochelle Drive is right here (indicating). As you go east on Rochelle Drive, there is a cul-de-sac that is Pound Ridge Circle that goes this way (indicating). The property at 3 Pound Ridge Circle, when there is a letter there, John and Anna Cringoli, their property runs all of the way across my backyard. It's more than an -- a one acre lot and the woods start at the end of his property. So that's how the -- that's how it is configured. He is one of those letters.

The neighbor to my east is one of those letters and the rest of the letters are neighbors from the west.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

James Wiesner 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 Valerio seconded the motion. The Board all voted yes on the motion.

JAMES WIESNER: I have one condition. The building permit to be obtained to from the Building Department prior to the commencement of construction. That's the only thing I can think of.

James Valerio made a motion to approve the application with the following condition, and Fred Trott seconded the motion. The vote on the motion was 3 yes to 1 no (Mark Merry.)

DECISION: Approved by a vote of 3 yes to 1 no (Mark Merry) with the following condition:

1. Building permit must be obtained from the Building Department prior to the commencement of construction.

The following findings of fact were cited:

1. Applicant has existing concrete patio at rear of house which conflicts with the available backyard area.
2. Variance is minimal and has no effect on the surrounding neighborhood.
4. Application of Fastrac Markets, 6500 New Venture Gear Drive, East Syracuse, New York 13057, property owner: Sumket Development LLC; for variance to erect a 2nd wall sign on west side of building to be 32 sq. ft. (2nd wall sign allowed only when abutting a street) and a 22 sq. ft. sign on fuel pump canopy for a total building signage of 133 sq. ft. (100 sq. ft. allowed), variance to erect additional freestanding signs: Two signs on each side of eight fuel pumps (1- 4'3"x 5" and 1- 2'6" x 1'3") for a total of 32 signs all as per plan submitted at property located at 1064 Scottsville Road in G.B. zone.

Brett Hughes and Matt Napierala were present to represent the application.

MR. NAPIERALA: Good evening. I'm Matt Napierala, Napierala Consulting, site engineer. With me tonight is Mr. Brett Hughes, Director of Real Estate for Fastrac Markets.

Before I begin our presentation, I do have some additional handouts we'll be going through as for our defense, so I will hand them out now and we'll work our way through this.

JAMES WIESNER: Is this new information?

MR. NAPIERALA: Just from photos and some things we're talking about with the dispensers and things as such.

JAMES WIESNER: It is always good to get these things into the Board with the application so the Board has time to read them.

MR. NAPIERALA: I understand.

Just to bring the Board up to speed, where we stand is since we last met with the Board in January of 2016, the developer of the property, Sumket and Fastrac Markets have been working diligently on finalizing some easements. Some delays occurred with regard to some drainage discharges into the City of Rochester property to the south of us and as well our access point is through a permit through New York State DOT off of Scottsville Road and 390. So we're working through all those issues and we hope to get all that wrapped up. It looks like now we're looking at potentially spring construction as we're running out of season.

As I said, we were last before the Board in the January meeting and at that hearing, um, under our final version of our packages, um, we -- we ended up with seven variances relating to the signage code. Out of those variances, to make a long story short, variances with regards to the monument sign and the menu board were granted, and variances with regard to the number of building signs and the number of freestanding signs were denied. So -- and in that case in that January application, we were asking for six building signs, two -- two signs on the building, one on the fuel canopy and then on the face of the building. We had three signs, facade lettering that occurred above the windows to total six building signs in that application.

We went back to the drawing board and there was a typical Fastrac prototype building. And the Fastrac ownership is now requesting three total building signs, essentially eliminating the -- the facade lettering signs under -- above the windows. And with regards to code, right now, we -- we are allowed two building signs in total of 100 square feet or less. Essentially, and -- and I can kind of point them out.

So essentially, the front building sign and the front canopy sign would total less than 100 square feet. What we are seeking for is a third building sign on the side entry. That third building sign is approximately 32 square feet. It is an internal sign, and that internal sign itself allows our customers that are fueling in that area to be able to see the store, and get that side door of that store. It is not facing the -- the public. It's not facing 390.

It's a -- essentially a signage for internal purposes and I will go back to my desk, and I have a real life picture from a Fastrac prototype so you can see that. I think that is one of the last pictures in the packet that I handed you. It's not a great shot. This is from a store that was constructed in 2015, Auburn, New York, and the side sign, you can see the entry door and that sign sits over the top of that entry door. In this case, the canopy is sitting out front. But in our case, the canopy, that entry door would be here (indicating) and that sign -- it helps direct our customers into the store.

With regards to the massing -- this is the same size as that sign. It is not a large or obtrusive sign. So that particular third building sign essentially covers two of the variances we are seeking today. It covers the third building sign, and it covers an additional square footage greater than 100.

And we can essentially, if we want to -- in talking to Counsel before the meeting, if we want to address this separately than the number of freestanding signs, we're -- we're agreeable to that in dealing with the case-by-case basis. I can continue the presentation to talk about the free -- the -- the freestanding signs if so desired and we can kind of break this out later.

JAMES WIESNER: So did I --

ERIC STOWE: If I can jump in before the free-standing signs, as we're sitting here looking at it, your application requests 34 freestanding signs?

MR. NAPIERALA: Correct.

ERIC STOWE: The notice published requested 32.

MR. NAPIERALA: Well, just interpretation because the 32 are equivalent to the fuel dispensers, but to our understanding, we also have the monument sign as a freestanding sign and the menu board as a freestanding sign for a total of 34 freestanding signs which have already been dimensionally approved. But we're just trying to cover all our bases. Those are two other freestanding signs.

ERIC STOWE: Okay. Let me mull that over for a minute here.

MR. NAPIERALA: Okay. Again --

ERIC STOWE: I get it. If it is really 34 and not 32, we would have a problem as far as ability to vote on that issue this evening. So that is why I want to look at that and just see what we have got here.

MR. NAPIERALA: Again, that is the purpose -- that is how we interpreted it when we filled out the application. That -- so that is why we're showing 34 on the application.

JAMES WIESNER: How come we didn't have this application in our package, Paul (Wanzenried)? I didn't have it in our package at least.

MARK MERRY: I didn't have it in mine either.

PAUL WANZENRIED: Which application?

JAMES WIESNER: The one he handed out?

PAUL WANZENRIED: Should have been in there. I don't know. I don't have an answer for you.

JAMES WIESNER: Okay.

MR. NAPIERALA: Why don't we talk about freestanding signs for a second? Um, with regard to the Chili sign code, they define a sign as essentially any documentation on a site that advertises the business. On a typical fuel dispenser, and on the Fastrac typical fuel dispenser, and where we were back in January, we had essentially Fastrac labeled above the fuel dispenser. And I will show that picture, at the base of the fuel dispenser and then a very small little label sign that says "Fastrac" and then a fourth sign which was a merchandising sign totaling four signs on each face. And we have 8 fuel dispensers each with 2 faces, so we have 16 times the 4, which got us into 64 freestanding signs.

The application before the Board tonight -- that application was denied back in January. The application before the Board tonight is reducing the freestanding sign to essentially two signs per face. What -- what we want to kind of do, and I will stand up and kind of go through a few things as we talk about this, is first recognize where the site is located. Our site is the red dot. The red dot essentially is the location of Scottsville Road at the 390 off ramp. We are essentially in the far northeast corner of the Town of Chili, essentially surrounded by the airport, not that far from University of Rochester, and certainly surrounded by the City of Rochester. So we are closer to the neighboring towns than we are to Chili Ave. and downtown Chili. We are not in the middle of Chili. We're in more of the outskirts and in the airport zone and in the Industrial area of -- still the Town, but we are on the reaches of that area.

What we have done essentially, in this process, is the numbers you see here, all of the existing gas stations, first, in Chili itself, and then the other numbers are surrounding gas stations within proximity in the City of Rochester. What we have done, is we have taken a look at each of those gas stations in Chili first and we have taken a look at their fuel dispensers and said -- what does their fuel dispensers look like and what is our competition doing in Chili today, comparatively what we are trying to do in a brand new facility, a modern facility.

So number 1 is in close proximity to Fastrac Markets itself. It's a 7 Eleven store. That 7 Eleven has an advertising sign over the top. It has a logo sign in the bottom for two signs per face. Four signs per dispenser.

Number 2 is a Mobil station that is off of Chili Ave. in the Town. Probably about 2 1/2 miles away. That Mobil station essentially has a sign on the top, a logo, which is considered a sign in Chili at the bottom, a smaller logo in the middle, so essentially three signs per face, six signs per dispenser.

Essentially the packet I sent you goes through every gas station in Chili. Number 3 and 4, further along Chili Ave., this particular Mobil station has the Mobil sign, the logo, a small logo, and then merchandising sign on top, four signs per face, similar to what our application was for in January.

Kwik Fill, which is Chili Ave., essentially only has one per face. They have a little logo. That is the only one that has one.

Another Kwik Fill a little further down the road has two per face, "Kwik Fill" on top and a logo.

The Byrne Dairy, essentially a merchandising sign across the top. As we -- so I can go on and on talking about what our competition is doing.

Essentially what we are asking for, and I'm going to show you essentially a picture of the typical Fastrac -- this is a real life picture. It is not a graphic. The typical Fastrac fuel dispenser.

It is similar to what you will see in the Henrietta store, has the logo of Fastrac on the top. It has the Fastrac logo on the bottom. You can barely see that little label right underneath the price line is a Fastrac logo, considered the sign, and a merchandising sign, four per face. That was what was denied by the Board.

We did a Photoshop because we don't have one of these, of what we're asking for now. What we're asking for now is essentially a single Fastrac moniker on the top of the face of the dispenser and a merchandising sign which is important to our food sales inside the door below. So two signs per face is what we're asking, and essentially, when you look through what our competition is doing, not only in the Town of Chili but in the surrounding area, um, we are below average. Some have four. Some have three. Most have two and only one has one sign per face.

But right now based on the denial of January we're not allowed any. We cannot put any signs on the face of the dispenser based on the denial of January.

FRED TROTT: How many signs are at the Mobil station on Scottsville Road? That is close to you.

MR. NAPIERALA: Let's go back to the location graphic. So the nearest one we have is a Kwik Fill -- or the 7 Eleven.

JAMES WIESNER: That's not a Mobil station any more.

FRED TROTT: Yes, the Mobil station.

JAMES WIESNER: They rebuilt it next to --

FRED TROTT: I don't have that has any on its gas pumps.

JAMES WIESNER: They just recently opened back up again.

MR. NAPIERALA: I apologize, because the Board knows we were running through this through different delays and these photos were taken in the June timeframe. So if it was recently within the last two months, then no, we don't have pictures of those. So that I do apologize for. I tried to be thorough and tried to look at all of the facilities in the direct area. I guess I don't have that Mobil on Scottsville Road.

ERIC STOWE: If I can jump in on the freestanding signs. I think we're good with 32. You were previously granted -- this is for 32 more. You have variances for the two signs, that being the freestanding menu and a monument sign is permitted. Your issue was size --

MATT NAPIERALA: Right.

ERIC STOWE: -- for which you received a variance so this is for 32 additional signs. So that is just to clarify.

MARK MERRY: Thanks, Eric (Stowe).

MR. NAPIERALA: Again, Brett (Hughes) can kind of talk to the fact of the industry standards and what we see. We understand the sign issues with regards to Chili. The -- the fact of putting this new store at the location that we are in, and the fact that, you know, we are -- the northeast boot of Chili, in the Industrial area, and the fact that it is not Chili Ave. downtown, historic area, and the fact that this particular -- essentially, and understanding these other stores are grandfathered in, but it is still -- our competition is still the competition that we are going to be working against as we open this store. I don't know if you have anything else to add, Brett (Hughes).

MR. HUGHES: Brett Hughes, Fastrac Markets, 6500 Venture Gear Drive. I think Matt (Napierala) did a great job illustrating the proximity of the location of this site and why I feel like it is deserves some additional consideration, because we consider it internally an off-highway site. We're not impacting, you know, historical-zoned areas or corridors in the Town of Chili, one.

Two, the industry we serve is an ultra competitive industry. We're not a major oil company. We're a local operator based out of Syracuse, New York. We like to look at ourselves as a good operator, but it is important for us in our operations as we invest in these communities to be able to compete. It may seem like on paper we're asking for an obscene amount of signs, but the reality is I don't feel like what we're asking for will negatively affect any surrounding properties or the character of any surrounding neighborhoods.

Three, this is a little out of the norm for us, meaning I just want to emphasize how important it is to us, because Matt (Napierala) and his team spent countless hours going out and researching and surveying surrounding competition and I just want to -- the Board to be aware that is not something we're accustomed to, but I think it helps illustrate how important having branding, marketing and advertising for us to be successful in this location is to us is why we took so much time and effort to gather the information to hopefully tell a good story why we need some relief from this variance and the zoning -- the code. That's it on my end.

FRED TROTT: Can I ask a question?

MR. NAPIERALA: Absolutely.

FRED TROTT: Maybe you can help me on the branding of it, because I'm not a marketing person. But to me, as a consumer, I look at gas prices and I can see from the initial sign that I'm at a Fastrac and know -- I'm not disrespectful. I don't -- all these other ones, I don't -- it seems once I'm at the pump, I really don't care. I agree with you maybe on the branding sign, maybe I would look at that. But as far as when it comes to 32 signs, I look at the overall. I apologize, and I realize it is less than what you had the 64 before, but I'm trying to understand why you need the branding so much. And maybe you could help me out on that.

MR. HUGHES: Hopefully Matt (Napierala)'s illustration as far as the recon that he did, it is not normal in our industry not to have any branding or marketing on the dispensers themselves, as evidenced by the surrounding competition. I heard one example that did not even make the

list that may or may not have any branding logo identification on the dispenser, but that is certainly not the norm.

Consumers are driven to price first and foremost, right? Is our pricing is displayed on the monument sign, which effectively has been approved. But once they're inside the site, having that brand recognition to keep them coming back as a Fastrac branded fuel location, I can't stress it enough. It is imperative for the success of our business. It might seem on paper what difference does it make, but I'm telling the Board to strongly consider it's extremely important to us internally as we compete with major oil companies. And just consider the competition around and it's an industry standard to have branding and marketing logos on the face of the dispenser.

MR. NAPIERALA: The other thing you have to recognize is when our customers are at the store, they're fueling up. We have got essentially a captured audience for that 60 seconds versus a drive-by. In that case, in the marketing sense, by having a brand sitting there, it becomes more engrained in their subconscious or whatever that -- the marketing people are telling the different oil companies. But they're sitting there pumping, looking and thinking Fastrac. Then they are looking at that pricing, this is the best pricing in Town, we'll come back here and get that repeat business and that type of thing.

If it is just a plain manila dispenser, that opportunity to capture that audience is missing and falls away.

JAMES WIESNER: You know, the first -- I will make, I guess, some of the first comments. I'm also having a little trouble understanding the sign on the -- what would be the east side, the extra sign you want. The -- I think originally you were asking for one on the expressway side and now you switched to the opposite side. May or may not even be blocked by the fuel canopies. Who are you trying to capture with that sign, I guess? Or what kind of marketing are you trying to capture with that sign?

ERIC STOWE: Can I jump in for one second? With respect to that, I think it's important also to remember that that's the current layout. The variance for the total number of signs is not where they're situated. It's the total number of signs. So that -- I guess that would be my caution, currently that is where that is. The variance is not for those number of signs in those locations. It is those number of signs.

JAMES WIESNER: I thought they were adding a sign on the side.

MR. NAPIERALA: Yes.

ERIC STOWE: But I'm saying the total number is the issue, is the driving issue, not necessarily the location.

JAMES WIESNER: Okay. I see what you're saying.

FRED TROTT: In the same respect aren't we asking why is there a need for the sign to be on that side? If you're pointing out that you moved it already --

ERIC STOWE: I get that, but just be mindful it is more the number, not necessarily the location.

JAMES WIESNER: We can't control location.

ERIC STOWE: Within reason, no. As a Board, we cannot dictate where their signage goes. It's the number of signs.

JAMES WIESNER: I'm just trying to establish the need for that third sign.

MR. HUGHES: I do appreciate the explanation and I do feel comfortable answering. So essentially if I heard you correct, wouldn't that be the west side of the building?

MR. NAPIERALA: Yes. Previously we were asking on the 390 side and now we're asking over our entry door coming off the fuel side, so that is the west side we're looking to put that.

MR. HUGHES: Did we not have it on both sides originally in January we were asking for?

MR. NAPIERALA: No. We only had it on the east side.

MR. HUGHES: Basically from an operations standpoint, I think at the time, in January, trying to play with the number of signs allowed, according to the code, there were some feedback that, you know, 390 is a huge draw for us, so having visibility from 390 warranted some consideration.

Now, after consideration, you know, fast forward, months later, customers that are at the dispensers filling up that side entrance, driving traffic into the store, um, is important to us.

MARK MERRY: Show me where your three building signs are again.

MR. NAPIERALA: We have one over the front doors. We have one at the end of the dispenser and the third one we're asking for is over the side doors. Essentially what that does is kind of identifies the entry door, as well. It identifies for the fueling customer I have a door right here, and it is underneath the logo sign. It give them a track where to go.

MARK MERRY: That is an externally lit exterior sign?

MR. NAPIERALA: Correct.

MARK MERRY: I will continue with my line of questioning without the overhead. So I will get there -- would you compare a Fastrac to a Byrne Dairy?

MR. HUGHES: I mean that's a loaded question. In our eyes we feel like we're different as far as the offerings, the service.

MARK MERRY: Comparatively speaking, the same concept.

MR. HUGHES: To the layperson, on a national scale, to some people we're a gas station. Some other people we're a convenience store. Some a blend. So we compete in the same space a lot of times, absolutely. But observation and product offerings, I will say -- we're different.

MARK MERRY: Got it. Understood.

MR. HUGHES: They're more dairy-based, long standing history of eggs, ice cream and

dairy products and we're a prototypical convenience store with fuel offerings.

MARK MERRY: Thank you, Brett (Hughes). So kudos to whomever time went in for comparative analysis, but I think it's a little flawed if we go back to our January conversation. Unfortunately Adam (Cummings) is not here. He has a steel trap for memory.

But when we started referencing your competitors, the biggest one in regards to signage, I believe -- the latest one that has fallen within our most up-to-date signage regulations is the Byrne Dairy. All of the others have been shown here preceded that -- that signage that's been created and modified since. So I don't think it is necessarily fair to compare yourself to all these competitors. Comparing yourself to Byrne Dairy is relatively fair.

Byrne Dairy has how many signs on the pump? The one marketing sign? Then they have the canopy sign, right? Anybody know on the -- is that true?

JAMES WIESNER: Number 6.

MARK MERRY: And one canopy sign. So you're proposing having that marketing sign, which I can totally understand. You want the customer to see what you offer inside the box, not just at the pump. But then you're also asking for the additional branding sign on the pump, on each side, which is actually one more than Byrne Dairy has. And although Byrne Dairy is closer to the center of Chili, itself, location wise, you can argue it's on the outskirts of the retail portion of Chili Avenue. So it is not in the meat, heart and center of where -- where there other competitors are.

So again, I give you kudos for the work, the time it took to do this and kudos for doing just that. I would go back again to an earlier statement you made this evening, Matt (Napierala) about we were granted zero. If I am recalling this correctly for those on the Board at the time, we gave the option of tabling the application because I think the Board comments at the time were an indicator that maybe it wasn't going to pass because of the volume of the signage. The sheer number of signs. If I remember the discussion correctly, not finding my old minutes -- sorry, Sandy (Hewlett) -- I would have read those minutes and others (indiscernible) chanced 64 signs, reading those minutes.

But you chose to move forward, which is business and business is risk and I get it.

So I would go kind of ease (indiscernible) it came off a little punitive, "We got" --- it's Halloween, Charlie Brown, "I got a rock." Everybody else got candy.

You kind of put yourself in that position, Matt (Napierala). We're here to work with everybody. We're glad you're coming to the Town of Chili. Right? This is good news for that location. We're asking you to work with us, too. I guess that's a comment and not a question. I think I'm done for the moment.

FRED TROTT: Coming off what Mark (Merry)'s statement is, I think because you look at some of these, they probably only have two, four pumps. So that is, I think, where we're getting into that the mass quantity of signs. And still, you look at it on paper and it's a huge amount of signs. I have a hard time wrapping my head around it. But I mean we're still at the question stage.

MR. VALERIO: I have more a comment. First of all, I appreciate you coming to Chili. Second of all, I appreciate you going back and reviewing the signage on the pumps. I understand having -- I understand that you didn't need two branding signs. I think one is fair, and I think a marketing sign also makes sense given a lot of your competitors.

In the case of Byrne Dairy, Byrne Dairy, in my mind, is a residential area. It's off the main drag with all houses around it. A few small businesses but a lot of tracts in that area.

This is -- as you guys mentioned, and this is almost in the city. This is a business area. This is off -- I think any gas station you get off of, you're on a major highway, I think this is good for Chili, and I think that what you had before was excessive, but I -- and I appreciate that these are two different signs. And I think we do have to take location into factor here. This is not, you know, where there is housing tracts behind it. This is a pretty big highway, heading into the city, towards our hospital, toward a lot of our businesses, and off of a major highway. So that is my comment for the day.

ERIC STOWE: Mine is more procedural. As this is a rehearing, that we talked about previously, the -- the two -- to obtain the rehearing, the vote had to be unanimous for all members present. The same is required to grant an approval on that rehearing. It has to be unanimous for approval. And that's under the Town law, not our code, but the Town law.

So I did talk with Matt (Napierala) previously about it and he referenced wanting to look at the variances independently. So it is just important to specify what you are considering or which variance you're voting on prior to voting on it. So let me know and we can walk through it, but procedurally, we want to make sure each one is delineated, for the 32 size, for the size variance, just so it is clear.

MARK MERRY: Thank you, Eric (Stowe).

FRED TROTT: On that, if they were denied tonight, would their one-year clock start tonight or back in January?

ERIC STOWE: For -- no rehearing, would -- okay. I didn't -- I will confess I did not look into that issue, but my assessment, my gut assessment -- you can't hold me to it -- is it would likely start today because this is a new hearing, subject to a new Public Hearing and a new vote. But I -- but I will confess I did not look that up.

PAUL WANZENRIED: Do you want to take the time to break these out now so we understand what we're talking about?

JAMES WIESNER: Yes. I'm almost wondering if the third wall sign and the square footage should be combined because I don't know at this point if you can have one without the

other. And I guess Counsel can comment. I would break it down into essentially two votes. The one would be the -- the freestanding signs on the pumps, the 32 freestanding -- the 32 freestanding signs on the pumps and the second half of that, I would do the three building signs and the total area as the second one, because they, to me, seem to go hand in hand. You can't have one without the other, to me.

MARK MERRY: That would make sense.

ERIC STOWE: Give me one second.

MR. VALERIO: If the signs on the pumps get denied, what is allowed per code?

JAMES WIESNER: They wouldn't be allowed to have anything.

MR. VALERIO: Because it's over the square footage?

JAMES WIESNER: It is over the allowed quantity.

MR. NAPIERALA: The allowed quantity is one.

MR. VALERIO: On each pump.

MR. NAPIERALA: No.

JAMES WIESNER: One period.

Should we go onto the Public Hearing?

ERIC STOWE: Well, okay. So looking at this, whether it's 2 or 3, right, there is the second wall sign to be 32 square feet, plus a 22 square foot sign on the fuel pump canopy.

However, I think they do have to go together because if the 32 square foot sign is granted, that would -- that would be 101 square feet of total signage where only 100 is allowed. Would you agree? So I believe those two are hand in hand.

JAMES WIESNER: So the third wall sign and the 133 square feet are --

ERIC STOWE: Second wall sign, right?

MR. NAPIERALA: The change from 2 to 3?

JAMES WIESNER: Change from 2 to 3.

PAUL WANZENRIED: Canopy is regarded as a structure. That is how you get the three.

ERIC STOWE: Those two would have to go together for total square footage and signage.

Matt (Napierala), is the applicant in agreement on that?

MR. NAPIERALA: Yes, we are.

ERIC STOWE: And a second vote on the 32 total freestanding signs as the other two have already been approved from the application that was 34. The legal notice only says 32 with those two prior signs were approved.

MR. NAPIERALA: Agreed.

MR. HUGHES: If I may just clarify, regarding the dispensers, I understand we'll break it out into two votes, but it -- if it is voted down, we would essentially have zero signage?

ERIC STOWE: For the dispensers. The -- if -- if the -- if you are requesting a vote on the 32, and it is denied, yes, there is no signage on the dispensers.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I feel like we have been through this before. More than once. In many ways. Did I understand correctly when the gentlemen said they have gotten seven variances already? For signage?

JAMES WIESNER: I don't know if we have a property card for this.

ERIC STOWE: So the -- there is a variance for a double-face monument sign on the square footage, a single-face freestanding menu sign and a variance to allow the signs to be internally lit. So I have three by my count.

MS. BORGUS: I don't know what the seven was he mentioned. Anyway. Moving on. I -- I'm hearing the same line that we have -- you have heard before and I have heard before. It -- is like we're just rehashing the same things that we discussed thoroughly many times before.

And I can tell you, and this is something I have commented on before. I think it is so unfair and wrong for people who have -- especially in this case have applied for a rehearing and they have had endless time to get their act together and provide this Board with whatever they need to make a decision, that they walk in here and as they're ready to begin their talk, they hand you this -- an inch worth of paper that they expect that you're going to sit there and go through and be able to figure out. That is not fair to you. It is not fair to this Town, and these companies keep doing it. And it is time the Building Department took a hard look at this and said anything you don't have in by a certain date, you don't present. I don't know why this keeps happening.

However, I was appalled to see, here, rather, what was in that package, and -- it is this homework they have been doing to further their cause where they have been going out and analyzing what everybody else in the area, in the gas business has got for signs. If they want to waste their time on that, go to it. Have at it. But it's wrong to compare apples and oranges, number one. As has been brought out, especially by Mr. Trott and Mr. Merry, these are old stations that have been there for years. We have a very different code now. Just because we let something go by 20 years ago or 15 years ago doesn't mean that it is satisfactory or desirable now.

And they keep talking about this being in such a -- what do they call it, industrial area. It is not industrial down there. Nevertheless, you can be sure that if the Board grants them all these variances for these signs they want, the next one that comes around for an appeal won't be down in quote "an Industrial area." It will be on Chili Avenue per se. And you will set a precedent. You won't be able to deny. Because then they will point to this one. It won't matter they're in a

totally different area.

If it's such an undesirable area and so competitive down there, maybe this is not the spot for Fastrac. Maybe they better go somewhere where they have more an open market they can compete in without so many fellow gas markets in the same place. I -- that is not your problem. That is not your problem, what kind of competition they have. This is a business decision they're making to go there and that's their problem.

And as far as the -- as all these signs go, especially the -- the -- the wall sign, the argument is they have to tell people one more time, you're going into a Fastrac. Well, if you looking at two other signs, you're looking at one on the canopy, you're looking at one on the front of the building when you pull in, and hopefully according to their line of reasoning, you're going to be looking at 32 more on the pumps. I hardly think you need a third wall sign to tell you you're going into the door of Fastrac.

This is sign pollution now. It was sign pollution then. This is very, very -- this is overdone. I'm hoping they realize that in order to get this passed, as the attorney has pointed out, they need, you know, a unanimous decision here. Bear that in mind.

Thank you.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

JAMES WIESNER: Do I need to do SEQR on both of them or for the entire?

ERIC STOWE: For the application.

JAMES WIESNER: The entire application. Okay.

MR. VALERIO: I have a question. Recently on Buffalo Road in North Chili, um, Hess changed to Speedway. So they have three signs on one face. Did that have to come before the Zoning Board because it changed companies or was it granted because it was the same --

MARK MERRY: Goes with the property.

MR. VALERIO: Goes with the property. Okay.

JAMES WIESNER: I'm assuming that that was all taken care of previously. Actually, the Town has been quite active in getting their sign permits straightened away.

MR. VALERIO: I was just thinking because it was a newer one even though it is old --

FRED TROTT: It goes with the property. Just like this -- this -- if this decides not to be a Fastrac any more, they have 32 signs that they can put on whatever building they want. Am I correct in saying that?

MARK MERRY: Freestanding signs.

FRED TROTT: Freestanding signs.

JAMES WIESNER: I guess we can start with any Board discussion maybe. I will -- I can -- I will start out by saying I think they have -- they have certainly presented a lot of information in regards to the fuel pumps. They have certainly put a lot of effort into that, and everything is a compromise, and, you know, it is certainly -- they have pleaded their case in that regard. So I think that the Board really -- we should consider that when we go to vote. These are all of the comments I have. I don't know if there is --

MARK MERRY: I can understand where you're coming from, and I would say the Board back in May was a big compromise. There was a vote taken. Which we could have voted no, you need to wait the one-year period. But we said okay, you're coming back with a revised signage plan. We're willing to take an official look at that. I think that was a big compromise what the Zoning Board has done for this already.

On behalf of Fastrac, I would say what you're coming back to us with is more palatable for your business, for your industry, I get it. It is nice to have your label and your branding out there. I understand branding. How much of an increase it is on business for you having that tiny sign along with the marketing sign, I -- I don't really know. You -- I guess I go to the line of what Fred (Trott) is trying to say.

But from where you started, from the fact that you did downsize your monument sign, speaks volumes in a positive light. At least to me as a Board member. So I give you credit for that. In regard to your comment on flexibility.

Again, to what James (Wiesner) said, you -- the location does matter, and I understand that, you know, it is not the same as where the Byrne Dairy is, but again, as we have heard in the Public Hearings, Byrne Dairy reflects the new signage code for such a business. So we -- so I think we have to be kind of consistent. I know it's property to property, but I think we need to keep that in mind as a Board, how consistent we're willing to be. That's all I have to say.

MR. VALERIO: If Byrne Dairy has one marketing sign on each pump, does that reflect the new signage code or is that still over?

JAMES WIESNER: I think you have to weigh it relative to the particular situation and the particular area you're in, what is around them.

MR. VALERIO: I am -- Byrne Dairy still has -- I don't know how many pumps they have. If they one sign per pump per side, that is still more than the code.

MARK MERRY: I wasn't here for that vote so maybe there is a variance.

JAMES WIESNER: Byrne Dairy, they actually put branding on the sides of their canopy that was taken down because it wasn't approved by the Board.

FRED TROTT: That is my issue. Byrne Dairy probably has at the most six pumps.

MS. BORGUS: I think maybe there is four.

FRED TROTT: I was going for six. I thought there was six. But still, it is four pumps. We're going to eight, times two, times four. You know, it just seems like -- I just have a hard time with that whole concept of it. I guess --

MARK MERRY: Back to Fred (Trott)'s point, though, James (Wiesner), the Fastrac today, whenever their lease runs out, it could be anything. Just like that was a car wash; now it's a Mobil Mart on Scottsville Road. So in that light, if we had approved 32 freestanding signs -- not that they would look to post 32 freestanding signs, but they could. They could come back and tell us, "You granted this variance with this property. I want to post signs all over," and it's going to look not good.

So it's -- you have to think big picture, too. We're all caught in the -- plans for the future.

MR. HUGHES: Point of clarification, we're going to own the property and I would assume if a new owner came along, years down the road, they would have to come back to the Board. We're not going to be a tenant. We'll own the property.

MARK MERRY: Unless you as owner of the property decided you didn't want to have a Fastrac there. You could decide you could have something else there. You have your right to put something else on that piece of land. I understand what you're saying, but then, again, once we grant that variance, it stays with that property.

FRED TROTT: Stays with the property.

MR. HUGHES: Unless there is a teardown, rebuild and then it goes back in front of the Board.

MARK MERRY: You would still have that variance. Granted. I don't want to give you any ideas, Brett (Hughes). (Laughter.)

JAMES WIESNER: Any other discussion from the Board?

MARK MERRY: I guess one last question. Are we locked into the dimension of those 32 freestanding signs, and what is that dimension?

FRED TROTT: It is a variance for the number.

JAMES WIESNER: Variance is for the number.

MARK MERRY: So what I see on that pump today, that Fastrac label could be much larger than what is represented. Not that they would -- I'm not trying to imply they would do that, but they could do that. Is that right?

FRED TROTT: What about the sign dimension?

ERIC STOWE: I believe --

MARK MERRY: If I wanted to take that top branding sign and blow it up and put it on the bottom of the pump, there is nothing to stop me from doing that; is that a correct assumption?

ERIC STOWE: Depending on where the code may be at the time potentially.

MARK MERRY: This is what you're representing. I don't know that that --

MR. NAPIERALA: I will refer to Eric (Stowe) and Counsel. We do have square footages on the plan, and if the Board would condition that based on each face or we can add that up and say that, we're okay with that.

MARK MERRY: You're willing to have that as a condition?

ERIC STOWE: So the -- what the Board can do is set reasonable conditions that pertain to the variance. So if it is to be 32 signs -- what did you say, 1 by 51 1/2?

PAUL WANZENRIED: It's 51 inches times 5 inches is 1.77 square foot per side. That's even by their own admission. It says there, if you read your packet, the Fastrac logo area equals 1.77 square feet.

MARK MERRY: I would have read it ahead of time, but I didn't have it.

ERIC STOWE: So what you can do is put a condition that the 32 signs, each sign individually, if that is what the application is --

MARK MERRY: Okay.

ERIC STOWE: Well, you can condition the size of the signs for that component because that reasonably relates to the variance that is being granted in an effort to minimize the overall variance being granted.

MARK MERRY: But you're open to that, Matt (Napierala).

MR. NAPIERALA: I just want to make sure. On the plan, we identified the table, and in the table we talk about the Fastrac logo sign at 1.77 and the merchandising sign at 3.125, and we actually give the total of the -- of the 32 signs. So that is totalled on that plan. We can even simplistic as per the plan dated in the upper table or we can say the exact square footage.

ERIC STOWE: I would be more in favor per the plan submitted and defining what it is, so it is clear when those plans are gone long down the road, we know on the property card it was 32 signs, to be X by X for a total square footage per sign, so it is clear, that each sign is limited. If that is a -- if that is the way the Board is headed, that is how I would like to -- I would recommend we structure it just so it is clear it's not total square footage. You get one sign compiling all of the square footage. It is 32 signs at a size of.

JAMES WIESNER: Let's discuss that for a minute. So essentially there are 16 and 16. 16 of one size and 16 of another.

FRED TROTT: 16 would be 3.125 square feet.

JAMES WIESNER: 2 feet, 16 -- 2 feet, 6 inches by 1 1/3?

ERIC STOWE: So is it 16 signs at 3.125 square feet per sign?

MR. NAPIERALA: Per side.

PAUL WANZENRIED: Eight pumps, 16 is two sides.

ERIC STOWE: Right. But each sign is 3.125 and 16 additional signs not to exceed 1.77 square feet per sign?

MR. NAPIERALA: Correct.

ERIC STOWE: Thank you for breaking that out.

MR. NAPIERALA: Sometimes we get lucky.

MARK MERRY: What does the Board think? I'm just throwing it out there.

FRED TROTT: I think we should have the sign size involved.

MR. VALERIO: You were talking about the dimensions, so it is a good thing you said that.

ERIC STOWE: If I could just -- that is with the applicant's consent for those restrictions on the variance to be considered by the Board for the square footage of each individual size, 16 -- I should be more specific, I'm sorry.

JAMES WIESNER: Here is what I wrote down. 16 signs not to exceed 4 foot 3 inches by 5 inches. 16 signs not to exceed 2 feet 6 inches by 1 feet 3 inches.

MARK MERRY: Matt (Napierala) is getting his steps up.

MR. NAPIERALA: That's per face, so you should really say 32.

PAUL WANZENRIED: No.

ERIC STOWE: It is 16 and 16 for a total of 32.

MR. NAPIERALA: You're right. I'm sorry.

JAMES WIESNER: So 18 times -- I'm sorry, 8 times 4.

ERIC STOWE: This is why I wanted to make sure we're all clear on what is being considered, and just so it is clear, so -- is that with the applicant's consent to be considered at that?

MR. HUGHES: We consent.

ERIC STOWE: Okay.

James Wiesner 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 an unlisted action with no significant environmental impact, and James Valerio seconded the motion. The Board all voted yes on the motion.

FRED TROTT: Are we starting the vote?

JAMES WIESNER: What I will do is -- here is what I'm going to do. I'm going to read the conditions of approval for each one of these two. I'm going to ask for a motion to adopt it and then we'll vote on it. Is that what you were --

FRED TROTT: No. I know that in the past we have asked the applicant if they want to be tabled if they feel that the Board might vote in favor, and with this being considered a unanimous decision, if they were comfortable in going forward.

JAMES WIESNER: My guess would be that they brought it to this point --

FRED TROTT: Just throwing it out there.

MR. HUGHES: That's correct.

JAMES WIESNER: We'll take these two I will describe then. We'll take these individually.

So I will call this A, and this is for the third wall sign and 133 square feet.

ERIC STOWE: I think we're doing a second wall sign and a canopy sign; is that correct? Two on the building proper, one on the canopy. So not a third wall sign. Second wall sign and one canopy sign.

MR. NAPIERALA: Correct.

ERIC STOWE: Just so it is clear what we're ---

JAMES WIESNER: Okay. So they have already -- what you're saying is they have already been approved for the sign on the canopy?

ERIC STOWE: No.

JAMES WIESNER: I guess I'm not following.

ERIC STOWE: When you say "wall sign," I want to make it clear that it is only one additional sign to be affixed to the enclosed building.

JAMES WIESNER: Okay.

ERIC STOWE: One will be attached to the canopy. Am I correct in that assessment?

MR. NAPIERALA: Yes. Just when we applied, the interpretation from Codes and Building was the wall sign was inclusive of the canopy. We are asking for two building signs and one canopy sign.

ERIC STOWE: Correct. I think we just referred to them as structures.

PAUL WANZENRIED: We view the canopy as a structure part of the building, okay? We approve it all together. Matt (Napierala) is right. Two are allowed, but he is asking for three. Okay? Their square footage is above the requirement.

So he is asking for the second wall sign at a certain square footage and he is asking for the canopy sign at a certain square footage of which both those square footages put him above what is allowed. Does that make it clear? Do you follow me?

JAMES WIESNER: I believe so. So you're calling them building signs, the three?

PAUL WANZENRIED: For clarity purposes, we want you to refer to it as a second wall sign and the canopy sign just like it is written on the agenda.

ERIC STOWE: The second wall sign is permitted, correct? It's the square footage that is not.

PAUL WANZENRIED: It's the square footage that is not.

ERIC STOWE: Then the canopy sign in addition pushes the square footage over more. So while they all may be the same -- they may be referred to as wall signs or signs on a structure, two signs are permitted on that structure. The square footage becomes the issue. Then the third sign.

JAMES WIESNER: Okay. So I would say this is the second wall sign for a total of 133 square feet. Or do you want something in there that --

ERIC STOWE: If we want -- if we read it right off the legal, for a variance to erect a second wall sign on the west side of building to be 32 square feet, and a 22 foot sign on fuel pump canopy for a total building signage of 133 square feet.

JAMES WIESNER: And -- okay. So basically you want it exactly as is stated there?

So the first one is going to be variance to erect a second wall sign on the west side of building to be 32 square feet, second wall sign allowed. Only one abutting a street. And a 22 square foot sign on fuel pump canopy for a total building signage of 133 square feet, 100 square feet allowed. So basically I take out --

ERIC STOWE: Take out the parentheses.

JAMES WIESNER: Correct.

ERIC STOWE: Correct.

You guys good with that?

MR. NAPIERALA: Yes.

JAMES WIESNER: Okay. So that's the first application. The conditions that I have on it -- do they need a sign permit? They have already...

PAUL WANZENRIED: They will need a sign permit.

JAMES WIESNER: Revised sign permit?

PAUL WANZENRIED: Did you submit one, Brett (Hughes)?

MR. HUGHES: Not yet, no. Just the building permit.

JAMES WIESNER: They still need a sign permit.

PAUL WANZENRIED: They still need a sign permit.

JAMES WIESNER: And then the other two conditions I have are specific to the wording that they will use on the fuel pumps, and I have --

ERIC STOWE: I don't think we're to the fuel pumps yet. That is the next variance.

JAMES WIESNER: Yes, you're correct. I switched.

So just the sign permit as a condition for that. Okay. So let me -- let me read through it one last time. I will go start to finish. Variance to erect a second wall sign on west side of the building to be 32 square feet and a 22 square feet sign on fuel pump canopy for a total building signage of 133 square feet with one condition of a sign permit.

Can I have a motion to adopt that application?

FRED TROTT: Motion.

MR. VALERIO: Second.

The vote on the motion was 3 yes to 1 no (James Wiesner).

DECISION: Denied by a vote of 3 yes to 1 no (James Wiesner). (Unanimous vote required due to rehearing.) The following finding of fact was cited:

1. Applicant did not express a specific business need for this sign. Since there are already two other signs on site to identify the business, this sign was deemed to be redundant.

JAMES WIESNER: So it had to be unanimous. That one was declined.

So now let's go onto the second part of the application. So this one is for a variance of 32 signs on the fuel pumps. And conditions that I have are sign permit, and then the two other conditions that are specific to the size of the signs, so we -- I have 16 4 foot by 3 inch by 5 inch sign -- I'm sorry, 16 signs not to exceed 4 feet 3 inches by 5 inches, and the other half of that is 16 signs not to exceed 2 feet 6 inches by 1 foot 3 inches.

Does that cover everything? Okay? Can I have a motion to --

MARK MERRY: Are those dimensions correct, Eric (Stowe)?

FRED TROTT: That's the way I read them on here.

JAMES WIESNER: That's the way they're on the application. I didn't look on the plans. Do you have plans there?

FRED TROTT: No.

MARK MERRY: So you're going how they're listed on the agenda?

FRED TROTT: That's how they're listed on the agenda.

JAMES WIESNER: So do we have a motion?

FRED TROTT: Motion.

MARK MERRY: Second.

JAMES WIESNER: Okay. Then I will go with the Board vote.

The vote on the motion was 3 yes to 1 no (Fred Trott).

JAMES WIESNER: Unfortunately that one didn't get approved either.

DECISION: Denied by a vote of 3 yes to 1 no (Fred Trott). Unanimous vote required due to rehearing.) The following finding of fact was cited:

1. Fuel pump signage was deemed excessive due to large quantity of pumps.

JAMES WIESNER: That's all we have on the agenda for tonight. We do have two sets of meeting minutes. We have one from August 9th and we have one from August 23rd.

Motion for approval of the minutes?

Jamie Valerio made a motion to approve the 8/9/16 and 8/23/16 Zoning Board of Appeals minutes, and Fred Trott seconded the motion. The Board was unanimously in favor of the motion.

JAMES WIESNER: Those have been approved.

The meeting ended at 8:47 p.m.