

CHILI ZONING BOARD OF APPEALS

January 28, 2003

A meeting of the Chili Zoning Board of Appeals was held on January 28, 2003 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: Dan Melville, Michael Martin, Peter Widener, Dennis Schulmerich and
Chairperson Beverly Griebel.

ALSO PRESENT: Larry Smith, Building Inspector; Keith O'Toole, Assistant Counsel for the
Town.

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

BEVERLY GRIEBEL: Before we begin, I was out on Sunday, the 19th, in the afternoon. On Application Number 2, there was no sign. And in talking with people in the Building Department, I understand that that sign for the public hearing notice was not even picked up until at least Monday, so certainly there was no intent to post it for the whole ten-day period of time.

DAN MELVILLE: I think we should table it.

MR. ROSEN: Should I speak to it before you table it?

BEVERLY GRIEBEL: Could we have your name?

MR. ROSEN: Richard Rosen from Mark IV Construction. I'm the applicant. I received a call from Mr. Kress alerting me to the fact it had to be put up. Two hours later, I posted it. Mr. Kress, if you would verify that you called me to remind me and I posted it immediately afterwards.

BEVERLY GRIEBEL: According to the regulations, the Town Code, the sign shall be posted and maintained on the property at least ten days prior to the scheduled public hearing.

MR. ROSEN: In reality, I believe it was up eight days prior to the hearing.

BEVERLY GRIEBEL: Well, eight is not ten. I think that is pretty clear.

DAN MELVILLE: Did anybody see the signs up after?

PETER WIDENER: I saw it up on the 24th.

DANIEL KRESS: Mr. Rosen is correct, that as soon as I became aware on Monday it had not been picked up, I contacted him and told him it would not be up for the full ten days.

DENNIS SCHULMERICH: It was nice of you to let him know.

BEVERLY GRIEBEL: Well, ten days is very clear, according to the --

MR. ROSEN: I'll be glad to return next month with exactly the same issue. I just thought since I am here, you might wish to hear it.

BEVERLY GRIEBEL: And do you have a motion to table? Our next meeting is February 25th. Motion to table until February 25th at 7?

DAN MELVILLE: Is that what everybody wants to do?

The Board indicated that is what they wanted to do.

DAN MELVILLE: I'll move it.

MR. ROSEN: The sign will remain up.

BEVERLY GRIEBEL: You will get a letter in the mail to this effect also.

MIKE MARTIN: Second it.

The Board all voted yes in favor of tabling the application.

BEVERLY GRIEBEL: That is Application Number 2. If anyone is here to address that item

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agenda, we will not be hearing that. That is the Parklands at Chili Apartments -- that is for the sign that was not posted for that.

I also have an issue with that sign, and I will put a note on the letter that the diagram is very unclear. It's a sketch, and it shows King Road going over 490, which is not the way it goes. Paul Road goes over 490, not King Road. But I will put a note that we need a much better diagram than that, and we need that in at least two weeks before the next meeting. Diagram, map, whatever you want to call it.

Anyone else have a problem with that map? It was very confusing to me.

Any other signs that were a problem?

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

1. Application of Frank Ferrigno, owner; 107 Golden Road, Rochester, New York 14624 for Land Use Variance to allow the sale and repair of automobiles at property located at 107 Golden Road in R-1-20 zone.

Christine Saur and Frank Ferrigno were present to represent the application.

MS. SAUR: I would like to speak for Frank.

BEVERLY GRIEBEL: You are?

MS. SAUR: Christine Saur.

BEVERLY GRIEBEL: And who are you?

MS. SAUR: I'm a friend of Frank's.

BEVERLY GRIEBEL: And this is the applicant here?

MS. SAUR: Yes, he is here.

BEVERLY GRIEBEL: How do you spell your last name?

MS. SAUR: S-a-u-r.

BEVERLY GRIEBEL: Well, we're waiting to hear what you have to say.

MS. SAUR: I'm a friend of Frank (Ferrigno)'s for three years. What he is asking for is a conditional use permit. All he will be doing is tinkering with cars and just selling a few a year. He is not going to be a used car lot where he is going to be yelling on the TV saying, "Come on down." He just wants something to pass the time.

If you have any questions, you can feel free to ask him.

BEVERLY GRIEBEL: Well, he is not applying for a conditional use. He is applying for a Land Use Variance which is a much higher level.

MS. SAUR: Oh, okay. A land use -- what is the difference?

BEVERLY GRIEBEL: Well, the Land Use Variance is something that will run with the land for ever and ever. It is an approval for doing something there that would be something allowed there for ever and ever, which is a much higher use. A conditional use has conditions on it and comes up for renewal.

MR. FERRIGNO: Well, that --

MS. SAUR: That is what he is asking.

MR. FERRIGNO: That is what we want, a conditional use.

BEVERLY GRIEBEL: Right. But because that use is not allowed in a residential area, you're asking for the Land Use Variance. It is kind of a technicality.

I think we understand from this that you want to repair cars there.

Is this something that you're suddenly going to do, or is this something you have been doing there?

MR. FERRIGNO: No. I have been doing a little bit of it. Not much, but in order to get my paperwork straight with the State, I have to have this variance.

BEVERLY GRIEBEL: How long have you been doing it there, sir?

MR. FERRIGNO: Oh, off and on, maybe four or five years. Very little of it.

BEVERLY GRIEBEL: Have you been fixing your own cars --

MR. FERRIGNO: Oh, yes.

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BEVERLY GRIEBEL: -- or other cars?

MR. FERRIGNO: No, I fix my own cars.

BEVERLY GRIEBEL: Is this other cars that you have bought and fixed up, too?

MR. FERRIGNO: No.

BEVERLY GRIEBEL: So this is a new business that you want to do there?

MR. FERRIGNO: Yes. Yes, it is.

BEVERLY GRIEBEL: The vehicles that you have been fixing up there -- the vehicles that you have been fixing up there --

MS. SAUR: Are just his.

BEVERLY GRIEBEL: They have only been your own vehicles?

MR. FERRIGNO: Right.

BEVERLY GRIEBEL: And it is noted that this is a residential area. There are some other activities going on, but there are a lot of homes on that street, so it is pretty much residential.

MR. FERRIGNO: Well, three-quarters of a mile up the road there is. And across the street we have Pikuet Paving with conditional use permit. Directly across the street.

BEVERLY GRIEBEL: But that is another issue.

In order to get to your area, you have to go through a residential area, in order to get to your house, because you're at the end of a dead-end street.

MR. FERRIGNO: Yes.

BEVERLY GRIEBEL: You have a house next-door?

MR. FERRIGNO: Yes, there is. Trott, the name is.

BEVERLY GRIEBEL: Okay. Have you talked to him at all?

MR. FERRIGNO: Oh, yeah. Yeah.

BEVERLY GRIEBEL: What does he think?

MR. FERRIGNO: Don't seem to mind it.

MR. TROTT: I'm right here. I'm here tonight.

BEVERLY GRIEBEL: Okay. Then we'll take your comment a little later.

MR. FERRIGNO: I didn't know he was in here.

BEVERLY GRIEBEL: I think he came in when you just started.

DAN MELVILLE: What do you do, buy cars at the auction?

MR. FERRIGNO: That is what I intend to do, yeah?

DAN MELVILLE: How many do you plan on buying say in a month?

MR. FERRIGNO: Maybe, one, two. At most.

DAN MELVILLE: Fixing them up. You will sell them off that property, or --

MR. FERRIGNO: Not really. Through ads.

DAN MELVILLE: Through ads?

MR. FERRIGNO: Yes.

DAN MELVILLE: In a newspaper, classified, stuff like that?

MR. FERRIGNO: Yes.

MS. SAUR: Pennysaver.

DAN MELVILLE: So you would be selling off the property? People would come to your house to look at them?

MR. FERRIGNO: Well, yeah.

DAN MELVILLE: So one or two a month?

MR. FERRIGNO: At that time.

DAN MELVILLE: Do you have dealer plates?

MR. FERRIGNO: No.

DAN MELVILLE: Will you get dealer plates?

MR. FERRIGNO: I would like to.

DAN MELVILLE: Because you technically can't have unlicensed vehicles on the property.

MR. FERRIGNO: This is what I want, to get this straightened out with the State and get the plates.

BEVERLY GRIEBEL: Regarding the dealer plates, how many of those do you plan to get?

MR. FERRIGNO: The State will allow me two.

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DAN MELVILLE: Which means you would only have two cars at one time?

MR. FERRIGNO: That is it.

MIKE MARTIN: You have a garage large enough to do your repairs in already?

MR. FERRIGNO: Yes. 30 by 40. I believe I gave the plans and dimensions and so on and so forth.

MIKE MARTIN: You're right at the end there by 490?

MR. FERRIGNO: About 200 feet from it.

MIKE MARTIN: Probably more noise from the expressway than you would create.

MR. FERRIGNO: Day and night, seven days a week.

PETER WIDENER: I have a few questions. On your brief description of the project, you stated you did not want a car lot there. In other words, if you don't sell one or two cars a month, are you still going to start depoting more and more cars if the sales are bad?

MR. FERRIGNO: No.

PETER WIDENER: So there won't be a depot of a bunch of cars there?

MR. FERRIGNO: No.

PETER WIDENER: Also it said your intentions were to repair or sell two or three cars, but it didn't give a time frame. It was just brought out time frame it would be two or three cars a month.

MR. FERRIGNO: If that at all.

PETER WIDENER: And also speaking of the advertising in the local newspapers, does the State require you to have a d/b/a to do that?

MR. FERRIGNO: Yes.

PETER WIDENER: Would you be filing for one or do you have it?

MR. FERRIGNO: I have it.

PETER WIDENER: You have that already?

MR. FERRIGNO: Yes.

PETER WIDENER: Could I ask what the d/b/a is?

MR. FERRIGNO: Golden Car Sales.

PETER WIDENER: How long have you had this?

MR. FERRIGNO: About two, three months.

PETER WIDENER: Okay. Thank you. That's all my questions.

DENNIS SCHULMERICH: Will there be any additional construction required on the property to go into business, or can you go into business with exactly what you have right now?

MR. FERRIGNO: The same thing as I have right now.

DENNIS SCHULMERICH: So you have no intention to expand the garage?

MR. FERRIGNO: No.

DENNIS SCHULMERICH: A question for the Board and side table, in granting a Land Use Variance for what we're calling a repair and sales facility for cars, are there any future limitations on the size and scope of this if we grant a Land Use Variance? Could this turn into a 20, 30, 40, 50-car a month lot?

DAN MELVILLE: You can condition it.

KEITH O'TOOLE: Yes.

MIKE MARTIN: Can it be sunsetted?

KEITH O'TOOLE: Yes.

BEVERLY GRIEBEL: Is the sunset effective?

KEITH O'TOOLE: Yes.

BEVERLY GRIEBEL: Or once there, will always be there?

KEITH O'TOOLE: Unless you impose the condition sunsetting it, yes.

BEVERLY GRIEBEL: As I stated initially, this is a much higher use and one of the conditions of applying for this, show by a dollar and cents proof that your property cannot yield a reasonable return if only used for the purposes in that zone. You're in a residential area. Show that your problem is due to unique circumstances that apply to your property, not to the general conditions in the neighborhood. Show that your proposed use will not alter the essential character of the neighborhood. I don't think that you have done this.

I have a question. It is supposed to be a dollar and cents proof. There are expenses here.

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Now, you have -- one of the expenses, operating expense. You have trash pickup, zero. That kind of concerns me, because what are you going to do with your trash?

MR. FERRIGNO: Well, what was that again?

BEVERLY GRIEBEL: Trash pickup, you don't spend anything on.

MR. FERRIGNO: What about the trash pickup?

KEITH O'TOOLE: Who picks it up?

BEVERLY GRIEBEL: Where does your trash go, because in Chili there's no municipal pickup. The Town doesn't pick up garbage, and you have to contract with a private trash hauler.

MR. FERRIGNO: Yes. I will contract with a private hauler.

BEVERLY GRIEBEL: But you don't do that now.

MR. FERRIGNO: No, not now.

BEVERLY GRIEBEL: Well, that has me very concerned that that might continue, because people that don't have a trash pickup, I am afraid I don't know what they do with their garbage.

MR. FERRIGNO: If you go on my property, you won't see a piece of paper anywhere on the grounds.

BEVERLY GRIEBEL: Well, I'm definitely concerned about that.

MR. FERRIGNO: You're welcome to take a look at it.

BEVERLY GRIEBEL: I think it is a rather high level of use for a residential area.

PETER WIDENER: I have one other question that enters my mind. Will this become an inspection station for the State of New York?

MR. FERRIGNO: I don't believe so, no.

PETER WIDENER: Just repair and sale of the cars that you obtain?

MR. FERRIGNO: Exactly.

BEVERLY GRIEBEL: So you won't be posting a sign "New York State inspection"?

MR. FERRIGNO: No.

DAN MELVILLE: You have to have an inspector's license for that.

BEVERLY GRIEBEL: You won't inspect these cars before you sell them?

MR. FERRIGNO: Well, I have to get them inspected elsewhere, yeah.

BEVERLY GRIEBEL: Okay. So you will be moving them off the property and back on, so there will be some traffic there.

DANIEL KRESS: Just a little background, if I may. When Mr. Ferrigno first contacted me regarding the feasibility of the business, I explained to him that the residential area and residential zoning really didn't permit that sort of business without a variance and also explained to him if he was intending to conduct that business entirely inside the enclosed building so it essentially would be invisible to the neighbors, that he needed to stipulate that in any application made to this Board. And on that basis, I thought that perhaps, and I wasn't trying to make any decision in advance, certainly not for this Board, that this might be something that would be approvable in a residential area.

I subsequently had a conversation with a gentleman from the DMV who talked about the necessity for exterior signage, who talked about ordinarily as a condition of permitting this sort of operation, having a space for vehicles to be parked and displayed outside, which is certainly a different character of use from what had originally been discussed, and again, as you're obviously already aware, we're talking about a residential area here. So I guess I would just suggest that if the Board were to see fit to, you know, make some sort of approval, obviously we would want to be very careful to condition it very specifically because I wouldn't want there to be any confusion between what this Board approved and what the DMV is permitting. We don't want the two to be in conflict.

BEVERLY GRIEBEL: The DMV requires an outside display?

DANIEL KRESS: This is what the gentleman from the DMV indicated to me.

DAN MELVILLE: Actually, they also probably require a sign stating you're a motor vehicle repair shop.

BEVERLY GRIEBEL: So an exterior sign and exterior display of vehicles? That does change the complexion a bit, a lot.

DAN MELVILLE: We normally don't allow any signage in a residential area for something like this.

MIKE MARTIN: Is it your intention to become a certified repairer for cars?

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MR. FERRIGNO: No.

MIKE MARTIN: Or are you buying a car that needs a little bit of work, buy it personally, fix it and list it?

DAN MELVILLE: If you buy a car and do repair on it, don't you have to a license from the motor vehicle bureau in order to make the repairs?

MR. FERRIGNO: I don't buy them so they need repairs. Something like tires or something like that I can do myself, yes.

MIKE MARTIN: What if it is your own car?

DAN MELVILLE: If it is your own car?

BEVERLY GRIEBEL: It is different working on your own cars.

DAN MELVILLE: If you're a dealer and selling cars, if you do any kind of repair, I believe you have to be licensed.

MR. FERRIGNO: Well, if it comes to that, I could always take them out and have that work done. I know plenty of people that would do it for me.

BEVERLY GRIEBEL: It is still the traffic there and the front yard looking like a used car lot. I think I would have objection to that.

MR. FERRIGNO: I'm only -- I will have a couple at a time, and I could have those inside.

BEVERLY GRIEBEL: But the DMV requires you park them outside for inspection by the people buying them.

MR. FERRIGNO: You can have an inside showroom, I believe.

BEVERLY GRIEBEL: Well, we just got an opinion from our Planning Director who talked to the DMV.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JAMES PERNA, 26 Florentine Way

MR. PERNA: Mr. Ferrigno has probably been living there about 50 years.

MR. FERRIGNO: 48 years.

MR. PERNA: 48 years. He was always in the trucking business and stuff like that, and he has always been in that neighborhood, and from my recollection, I think Frank (Ferrigno) is at the end of the street by the expressway all by himself anyway, so I mean I really don't -- and right across the street we have that other operation going. I mean these businesses really have been there for 50 years.

BEVERLY GRIEBEL: He hasn't been running used cars up and down the street for 50 years.

MR. PERNA: I know this guy for a long time. I basically think he is retired. I think he is just doing a little something for like a little hobby, to keep him busy, so I really don't think he will have a car lot and that kind of --

BEVERLY GRIEBEL: But he is supposed to display them outside.

MR. PERNA: I understand that.

BEVERLY GRIEBEL: It gets a little fuzzy.

MR. PERNA: In defense of Mr. Ferrigno and the situation, I think maybe he didn't explain himself the way he wanted to. This is the first I have heard about this, anyway. I'm just observing. I really don't think that he is going to be like a car lot on Scottsville Road or anything like that. I think he is just going to be there, keeping himself occupied, maybe buying a car or two, fixing them, getting them the way he wants them and take them somewhere and sell them. That is what I think in the back of my mind he will be doing. I don't think it will affect the neighborhood whatsoever. He is not in the trucking business any more, so at least you don't have three dump trucks up and down. You had a six-wheeler? So basically it is not going to bother anybody. You know, down at that end, there is nobody down there anyway.

BEVERLY GRIEBEL: But you have to go by all those houses on the hill.

MR. PERNA: We're talking three houses.

BEVERLY GRIEBEL: No. There are a bunch up there.

MR. PERNA: Three, four. I'm talking about new houses, there are one, two, three.

BEVERLY GRIEBEL: They're on both sides of the street.

MR. PERNA: Then the Wehle -- I mean the Graham Homestead. It is all open fields, nothing

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down there.

BEVERLY GRIEBEL: But there is a residential area.

MR. PERNA: I understand. And that other area right around him, as you know, it's the chemical dump site, waste site there, so, you know, I mean it is really -- all of the way around him.

BEVERLY GRIEBEL: But that is not the issue before the Board tonight.

MR. PERNA: I understand that. But in defense to him, I really don't think it would affect the neighborhood, because he is not going to have an operation like a big business. He is just going to do something for a hobby.

BEVERLY GRIEBEL: We have had other people that have sold cars in residential areas and it has gotten to be a mess.

MR. PERNA: I know this -- I'm just saying, I'm in favor of the application.

BEVERLY GRIEBEL: Okay. Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: We have worked long and hard in this Town on the part of the Boards, the Planning Board, the Zoning Board and citizens to make this a better place to live, and we have come a long way. This is one huge step backward. My biggest objection to this -- the first thing, at least, is that as has been pointed out, this is not a conditional use permit that if a year from now it doesn't work out, this Board can end the operation. This Land Use Variance runs with the title, so forever this will be, for all practical purposes, forever, this is going to be a used car place -- a place to sell used cars and to repair them. I don't think this is something we need right along 490. We have worked at great length to beautify 490. We have a "Welcome to Chili" sign not very far away that is beautifully landscaped and planted in the summer, and then we -- we are making a big mistake I think to even consider this in the same area.

If I were the people that lived along Golden Road, I would be right here, every one of them tonight. This is bad. When we start letting this kind of thing into residential areas, we have taken not a step backward, but a leap.

I honestly can't believe that anybody would even try to get that past this Board. It is so incredible to me.

If this man has to park cars outside, I don't know where he would put them, because he already has the tow truck he owns right in his front yard. The tow truck is right in his front yard. And I have seen it there on more than one occasion, so I don't believe that it is a temporary situation. I think this is standard. There is already a lot of vehicles and machinery parked around there that don't add anything to the Town at present, and frankly, those should be cleaned up. Not necessarily to allow this man to do more, but to get what we have there removed. It is an unsightly mess when you come down 490 to see what he has parked right along the 490 fence.

As it has been pointed out, the next thing we'll need is signs and more traffic down there. He talks about taking cars out to get them inspected. If he buys them and offers them for sale, that means he has to drive uninspected cars on the highway to get them to an inspection point and I don't know how that is done. I think that is illegal.

MR. FERRIGNO: No, it isn't.

MS. BORGUS: Well, that may be. I'm not an expert on that. I just see a lot of problems with this application, and frankly, I don't see one good reason to grant it. Thank you.

FRED TROTT, 101 Golden Road

MR. TROTT: Um, I can vouch for Frank (Ferrigno) that -- like Mr. Perna said, Frank (Ferrigno) is an honorable person. My only concern with this application is when -- excuse me, when Frank (Ferrigno) was saying it, but when Frank (Ferrigno) is not around -- my family has been at the house which is right next to his for 60 years. I presently own the house. I have no intentions in selling, and my only concern is when Frank isn't there, if there was a way that there could be a -- you know, at the end of his ownership.

BEVERLY GRIEBEL: A sunset clause that we mentioned.

MR. TROTT: That is what my next question was, what was the sunset clause?

BEVERLY GRIEBEL: That would be, I guess, according to counsel it would cease at a certain

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point. I'm not sure. I'm not sure of how enforceable that is, or if that is indeed enforceable. Once something is begun somewhere, it is awful hard to stop it.

Mr. TROTT: Yes. I guess that is my -- my only concern is that, you know, that -- you know, Frank no longer -- somebody says, "Well, I have a permit to run -- put a used car lot down there, I could put a trailer up and sell 20 cars out of there." That is the only thing -- obviously I know -- I understand what his intentions are. My only concerns are after that.

BEVERLY GRIEBEL: Okay. Thank you.

MR. FERRIGNO: I wouldn't want that for my neighbor anyway.

Mr. TROTT: I know you wouldn't.

MR. PERNA: Beverly (Griebel), can he amend the application? I understand the sunset term there, that as soon as his operation ceases, it ends, that the variance ends. He doesn't want it on the deed saying that it is -- he does not want to change the land use, basically.

BEVERLY GRIEBEL: But that is what a land use is.

MR. PERNA: I understand that.

BEVERLY GRIEBEL: It is in perpetuity.

KEITH O'TOOLE: I think what Mr. Perna is trying to say is he wants this to be a temporary Land Use Variance that will run so long as Mr. Ferrigno is operating his business.

MR. PERNA: Let's say every three years he has to come and renew it or whatever. At the discretion of the Board. That is what he meant to do anyway.

KEITH O'TOOLE: If I may, generally speaking, Land Use Variances or other zoning are not about the people that operate there. It is about the land itself. If you are going to impose a condition that this terminate at some future date, there has to be a reason that it terminates. For example, if there is a practical difficulty that is temporary, then it would be appropriate to have it terminate in the future when that difficulty goes away. Thank you.

BEVERLY GRIEBEL: Okay. Thanks.

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: I think the issue is not whether this gentleman is an honorable person. That is not the issue at all. This is an R-1 Residential Zone. Period. It's not whether he is a 48-year resident. That doesn't matter that it is at the end of the street. It doesn't matter what is he doing now, whether it is legal or illegal. That has no bearing. It is an R-1 residential use. We should be trying to clean up these areas and keep these areas residential and properly used. I think the application as we have discussed being a Land Use Variance -- we talked about possible conditions and you talk about temporary Land Use Variance, et cetera. The application, therefore, is vague and the application as initially applied for is being manipulated and changed at this hearing. Therefore, my comment is that -- not that this should be tabled. This should be a definite no vote in an R-1 area.

Thank you.

MR. FERRIGNO: You know when I first moved there, I didn't want 490 there, but I have to live with it. And I have lived with it, and brought up a family there. And that goes 24/7. What do you do about something like that?

BEVERLY GRIEBEL: Not much.

MR. FERRIGNO: I have to listen to people climbing over the fence, "Can I have 5 gallons of gas?" and stuff like that. Constantly.

BEVERLY GRIEBEL: Okay. Thank you.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR, made a determination of no significant environmental impact, and Dennis Schulmerich seconded the motion. All Board members were in favor of the motion.

The Board unanimously denied the application as cited below. After the vote to deny, Dan Melville made a motion to accept the findings of fact as cited below, and Peter Widener seconded the motion. The Board was unanimously in favor of accepting the findings of fact as cited below.

DECISION: Unanimously denied by a vote of 5 no with the following findings of fact having

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been cited:

1. Applicant failed to submit dollars and cents proof needed for a Land Use Variance.
 2. Applicant made no effort to sell the property and no appraisal was submitted.
 3. The variance would change the residential character of the adjoining neighborhood along Golden Road.
2. Application of Mark IV Construction, 301 Exchange Boulevard, Rochester, New York 14608, property owner: Robert Dugan; for variance to erect a 16' x 8' real estate development sign to be 128 sq. ft., variance for sign to advertise an apartment project on another property (3793 Chili Avenue-Parklands at Chili Apartments) at property located on Paul Road (borders expressway) in L.I. zone.

BEVERLY GRIEBEL: If anyone is present for the application of Mark IV Construction for Parklands, that is tabled until February 25th at 7 p.m.

DECISION: Unanimously tabled by a vote of 6 yes to table until 2/25/03 at 7 p.m. for the following reason:

1. Applicant failed to post the public hearing notice sign for the required time period.
2. Applicant to submit an accurate site map properly labeled on or before February 12th for distribution to the Board.

Note: Applicant to obtain new sign(s) at the Building Department to post and maintain as per Town Regulations. Applicant must be present for the public hearing.

3. Application of Irene Nedeiwodin, owner; 96 Wheatland Center Road, Churchville, New York 14428 for variance to erect a 30' x 6' second-story deck to be 43' from front lot line (100' req.) at property located at 96 Wheatland Center Road in RA-1 zone.

Irene Nedeiwodin was present to represent the application.

MS. NEDEIWODIN: I would like to have permission to build a balcony because I'm getting older and I won't be able to be going down as much as I am now, so that I can go out there and sit and, you know, enjoy the fresh air.

BEVERLY GRIEBEL: Now, that used to be the fire hall in Town?

MS. NEDEIWODIN: Yes. The old firehouse.

BEVERLY GRIEBEL: I was looking. I was driving and looking, and all of a sudden, there it is.

MS. NEDEIWODIN: There it is.

BEVERLY GRIEBEL: I didn't realize it until I got there.

MS. NEDEIWODIN: What I don't understand is the 100 feet, because there aren't any homes at all that are more than maybe 25 feet from the street.

BEVERLY GRIEBEL: Right. A lot of them are preexisting. The Town Code was put in after those homes were there, and so obviously -- if it were 100 feet, that whole building wouldn't be there.

MS. NEDEIWODIN: I know.

BEVERLY GRIEBEL: But in order to do any construction or renovation you have to have the approval on it. People do things without the approval, and then all of a sudden when they want to sell it, it becomes a great problem because they don't have the variance and it can delay a sale or even

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somebody can walk away from a sale because it can take a couple months to get a variance like this. So that is the reason. You're just making everything legal before you do it.

As you said on here, there is really no other place you can put it.

MS. NEDEIWODIN: No.

BEVERLY GRIEBEL: You're kind of limited.

MS. NEDEIWODIN: There is a window to the left, and so that is where we're going to put the door in there. It is not in anybody's way.

BEVERLY GRIEBEL: No.

MS. NEDEIWODIN: But it sure will help me.

BEVERLY GRIEBEL: You have a big front yard.

MS. NEDEIWODIN: Yes.

DENNIS SCHULMERICH: Will the addition of the balcony create any obstructions in terms of access of way, right-of-way, and will it be in the visual line of any immediate neighbors?

MS. NEDEIWODIN: No. Because the building sits quite far in the back.

BEVERLY GRIEBEL: Are you familiar with that one, Denny (Schulmerich)?

DENNIS SCHULMERICH: I know where it is, but I just wasn't sure if there was anything immediately adjacent to the property. I am not recalling anything.

MS. NEDEIWODIN: It is just a firehouse. It will beautify the neighborhood. I think I have done that so far.

PETER WIDENER: Just in talking with Dennis (Schulmerich), he just asked about the right-of-way obstructions -- the balcony will not cause any problem with the right-of-way to the graveyard?

MS. NEDEIWODIN: No.

PETER WIDENER: There are shrubs that are very close to doing that now, but that is not the balcony, and that is what we're looking at now.

MS. NEDEIWODIN: The balcony, I have 4 feet from the balcony towards the right-of-way, so there will be no problem.

PETER WIDENER: There is ample way to get to that cemetery?

MS. NEDEIWODIN: Oh, yes.

PETER WIDENER: There are plenty of burial plots still available there.

MS. NEDEIWODIN: No. There won't be no problem.

BEVERLY GRIEBEL: Will it just be built out, or will there be supports to the ground?

MS. NEDEIWODIN: There will be three supports. One on each side and one in the middle, because I have a two-car garage. The doors are separate, so I have all this space where I can put the third -- it will be nice.

BEVERLY GRIEBEL: It should be nice. I will be anxious to see it.

MS. NEDEIWODIN: You can come over any time you like.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: I just wish to ask a couple questions, not stating either in favor or against. Just to ask the applicant, have there been any issues from other neighbors with this plan?

BEVERLY GRIEBEL: What do your neighbors say?

MS. NEDEIWODIN: They think it is great. As a matter of fact, I have one neighbor here.

BEVERLY GRIEBEL: So no one is objecting to it that you have heard?

MS. NEDEIWODIN: No. I asked the boys. There are two single boys next door, men, and they said, "Gee, it's great." So I have no problem with anybody so far.

MR. RETTIG: My understanding is, and correct me if I am wrong, that per the drawing, and please through you, have the applicant respond please, as to the fact that this structure is quite a ways back from the main road, but it is off a right-of-way or a driveway; is that correct?

BEVERLY GRIEBEL: Is there a right-of-way to the --

MS. NEDEIWODIN: Cemetery.

PETER WIDENER: She is off that, and it is still very accessible. That was my concern.

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MR. RETTIG: But it is quite a ways from the main road, even though the property line may be less than 100 feet and is, in fact, 43 feet; is that correct?

BEVERLY GRIEBEL: Right. It just requires a large setback in that zoning district, but most of the houses predate the code and they're all probably closer than the regulations.

MR. RETTIG: My comment from seeing that and getting my questions answered are that I think it would be very appropriate for the area and I see no problem with it.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR, made a determination of no significant environmental impact, and Mike Martin seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following finding of fact was cited:

1. There will be insignificant impact on neighboring property.

Note: A building permit is required.

4. Application of Label World, c/o Construction Management Systems, 6264 Canadice Hill Road, Springwater, New York 14560 for variance to erect a 233' x 30' warehouse addition to be 7' from side lot line (40' req.) and 59' from front lot line (60' req.) at property located at 29 Jet View Drive in L.I. zone.

Michael Virgil was present to represent the application.

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

MR. VIRGIL: I'm Michael Virgil from Construction Management Systems and I'm acting as agent for Robert Allardice who owns Label World. I'm the President of Construction Management Systems; I'm the general contractor. I'm representing them because they had to be out of town on business and would have liked to be here, but they said to proceed in their absence.

Basically they are operating, have been on Jet View Drive for better than ten years now, and went through one expansion already and added on the back of their plant several years ago, and they are in dire need of additional warehouse space for product. They make pressure-sensitive labels. I don't know if you're familiar with what they do. It is a specialized printing business. And they can't really add on the back of the building because there is a conservation buffer in the rear.

BEVERLY GRIEBEL: There are houses beyond that.

MR. VIRGIL: I was involved years ago with Jet View Drive and the whole expansion of that Parkway. I was involved with the original building. The only logical place to add on would be to the north, abutting Saunders -- or Tiffany, now, I'm sorry, which is their parking lot. And I -- you all have a full-sized drawing. I also put in a little drawing. Basically, the side lot line is angled. It gets narrow as you go to the rear, and also that skews the front property line in relation to the front side of the building, so therefore he is in need of two variances. One, we're asking a foot for the front yard setback. The other we're asking 7-foot minimum for the side yard, at the very extreme western end.

BEVERLY GRIEBEL: It goes from 7 foot to 18 feet at the front edge?

MR. VIRGIL: Correct. That is basically it.

BEVERLY GRIEBEL: There is no other place to build, because you can't go into that buffer towards Jet View.

MR. VIRGIL: Right.

BEVERLY GRIEBEL: The other side would take your parking lot.

MR. VIRGIL: He doesn't use all of the parking he has now, but he doesn't want to lose any either.

BEVERLY GRIEBEL: Well, even if you took half, you wouldn't have much of a driveway left.

MR. VIRGIL: Right.

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BEVERLY GRIEBEL: That would be kind of silly, too.

DENNIS SCHULMERICH: I have one question regarding the distance from the lot line for the existing building without the addition. That would have been 37 feet. Would there have been a variance issued for this building to begin with, when it was initially built?

MR. VIRGIL: That goes back so far, there may have been. I really can't recall.

DANIEL KRESS: I believe that is correct.

DENNIS SCHULMERICH: This would be the second variance for the property against that same lot line?

DANIEL KRESS: That would be correct.

MR. VIRGIL: I think I can clarify it even more. The initial building was only 1033 feet deep. I don't think that required a variance. The first expansion to the rear forced them into the side lot line. That is when the variance was required. I presented that, and I do recall that now.

BEVERLY GRIEBEL: That butts up to a driveway on the most adjacent piece of property.

MR. VIRGIL: Similar to what is on the south side of the building. Tiffany's new building. They border him on the south, and the newer building borders on the south. It was Saunders, but it is now Tiffany's. Almost a mirror image what is on the south of Label World.

DENNIS SCHULMERICH: So the encroachment to the lot line is basically moving towards the parking lot?

MR. VIRGIL: Yes.

BEVERLY GRIEBEL: There is a pretty large grassy area and a driveway. I drove down there to look around in the back.

MR. VIRGIL: I talked to Steve Hess today because I know him fairly well and was involved in his, and he said he really didn't have a problem.

BEVERLY GRIEBEL: If anyone in the audience wants to go up and look at the map, please feel free to go up and look.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: I haven't seen the map, but I will ask the question. Your expansion proposal is to the south; is that correct?

MR. VIRGIL: To the north.

MR. RETTIG: To the north.

And your construction, type of construction is similar to what you presently have?

MR. VIRGIL: Yes. Basically it will mirror what he has now. He has masonry with some synthetic stucco above that wraps the corner. That is what he would want to mirror on the new expansion.

MR. RETTIG: It will blend with the existing structure?

MR. VIRGIL: Basically identical, the same materials.

BEVERLY GRIEBEL: He will probably put out an employee picnic table again somewhere. There will be enough grass left for the employees, I'm sure.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I take it that the delivery route would be through the parking lot and into the back of the building? Is that a loading dock in the back?

BEVERLY GRIEBEL: That would not change.

MR. VIRGIL: No. All his visitors, trucking, everything remains as is. He loads and unloads in the back and visitors come in the front and the side door.

MS. BORGUS: It is nice to have businesses prosper in Chili.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR, made a determination of no significant environmental impact, and Dennis Schulmerich seconded the motion. All Board members were in favor of the motion.

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DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following finding of fact was cited:

1. This is the only practical site for an addition.
5. Application of Chester Waver, owner; 27 Newport Drive, Rochester, New York 14624 for Land Use Variance to allow a convenience store with gasoline pumps at property located at 29 & 31 Paul Road in G.B. zone.

James Grossman and Chester Waver were present to represent the application.

MR. GROSSMAN: I am James Grossman, I'm the attorney for Mr. Waver, and Mr. Waver is here with me tonight. We're here seeking a use variance basically so that we can sell this property which is not achieving a reasonable return and is on its last legs in its current use as a party house.

It is helpful to look at this historically and understand how it got to this stage where we're looking for a use variance.

Back in 1974, Mr. Waver's family purchased this property. It was a restaurant. They expanded it into a party house, put in lots of money to make it a fine party house and, in fact, back in the '70s, it was the only smorgasbord in the Rochester area. It was wonderful. I remember going there.

He used to look at a facility that used to be able to produce \$900,000 in sales. It was a wonderful kind of use. It was a different era. Back then we had -- there were retirement parties as a big event that Xerox and Kodak and Bausch used to run all of the time, constantly filling these places up.

We had alcohol in a much different vision in society than it is today. People used to stay and they used to drink and that helped sales. Obviously even the party houses now encourage people not to drink when you're there. There is responsibility. Everyone is aware of that. So whereas you would have parties that would go on until the wee hours back in the '70s, even in the '80s, today it doesn't happen.

Today it is very difficult to run a party house in the Rochester area.

This property has been up for sale for over three years. It has been listed with Rund Realty, Jay Leasure Realty, Moore & Associates. I think with Moore it was run twice, if I'm correct. Also there have been efforts prior to that by the Wavers to sell this.

Frankly, one of the major problems that you have when you try to sell a property like this is that people look at it and say, "Oh, I want to go into the party house business" and you may even get some mild interest, and then they look at the same things that we're showing here to the Board and you have in front of you, which are the income and expenses that apply and they look at the financials and you find out that you can't get financing to buy this for a party house or a restaurant because you simply can't get enough income from this to operate it. And if there are questions on the income and expenses, the best individual to speak to that is going to be Mr. Waver, because he has been running this facility since the '70s, and he can explain how you can't make any money on this at this point in time.

I have a letter to hand up from Stephen Moore from Moore & Associates. It reads that "This letter is written in preparation for your meeting" -- to Chester Waver "with the Town of Chili Zoning Board and can be read to the Town Board members if you see fit. The property mentioned above has been listed for sale with Moore & Associates, Inc. since September 2002. Previously, it had been listed with several other commercial brokers over the last three years. Unfortunately, we have had little interest from any prospective buyer seriously interested in purchasing the facility and continuing its use as a party house and/or restaurant. Most inquiries we have received are for uses other than a party house/restaurant or for uses not permitted in the General Business zoning. This experience leads us to believe that the property's current use is not its highest and best use. In order to achieve a sale based on the property's "highest and best use" a Land Use Variance would be required thus making the property more marketable. It is of my opinion that this change would greatly influence our ability to sell the property," and I can hand that up if, I could.

BEVERLY GRIEBEL: It is dated 1/7/03.

MR. GROSSMAN: Obviously we think that what we're proposing here won't change the

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character, but we tried to take a look here at the uses that are permitted in General Business, and when you take a look at them, at the zoning map, we have a little island of General Business that is basically surrounded by Industrial use, and that has happened over time along this portion of Scottsville Road. The only exit, ingress, egress is onto Paul Road, directly across the street you have industrial sites. That is all you have over there. When you go on Scottsville Road, again, you're talking in this area, you don't have General Business kind of uses. So the character of the neighborhood obviously has changed to make this a different kind of facility, and if this became something more consistent, it would comply more with the neighborhood.

The kind of uses that are permitted: photographic and artist supplies, music school, art gallery, professional office, banks, variety store, gift/toy stores, video sales, garden supply, hardware. You also have an odd-shaped parcel, and remember we have the trailer park there, all a legal use, but that trailer park is not the best maintained trailer park we have seen. It does hurt the party house use by the way that that is there.

Again, somebody wanting to come in is going to have to deal with that existing trailer park because it is there and it is a legal use. Household appliances, theater. You can't fit a theater in there. Bowling alley, fitness center. Then you can use the -- go back to the NB uses which would be the grocery stores, barber shops, drugstores, et cetera.

When we looked at the economics of this, especially when you see we have into the property \$367,000, that's the purchase price, plus the construction price back in the '70s, and the payment on the mortgage, et cetera, the 367 -- you need to realize, you have to try to get that out of this somehow. One of the things that is probably going to have to happen is the building will get knocked down as part of development. When you look at these, clearly the best economic picture you would get for a General Business use would be as a party house. And when we have done the income and expense and shown that, and Mr. Waver has signed that, you can see that we show a net loss per year of 4.65 percent on the property. That is not a reasonable return, and we believe, first, of course, it is not self-created. This is the way the property was. Society created this by -- by not having the need for the party house that we had in the past. And we believe that these financials and any testimony you might want to have from Mr. Waver on the financials establishes the dollars and cents proof that the best possible use of the GB uses isn't economic. The others would -- Mr. Moore's letter tells us that as much.

It is a high traffic area. When we have looked -- we wanted to come to the Board for the least variance that we could under the use variance standard. The convenience store use would meet the grocery store and the other uses that are generally permitted in the GB zone. The thing that puts it over the top, that Moore and others have found that will allow us to sell the property -- in fact, we have a contract that we can sell to Fast Trak if we add gasoline sales. Not repairs, no auto repairs, none of that. Just today's market, and we can see this all over, that if you want to have a little convenience store, you need to have that gasoline or you won't get it. It is an ideal place for it, and that's the only area that we're asking for the use variance, to allow the gasoline sales to be part of it.

BEVERLY GRIEBEL: Is that the offer that has been received, the 340,000, is that --

MR. GROSSMAN: That is a contingent offer contingent upon being able to get a use variance, to allow the gasoline use.

BEVERLY GRIEBEL: That is the only way they will buy it.

MR. GROSSMAN: Yes. We have had other people that have looked at the property and found -- well, first the ones that have looked at the financial picture, who have looked at party houses, they have backed out, saying, "We can't get financing," that hasn't worked. We know that won't happen. Moore tells us that. I have a real estate contract with me, and this contract is indeed contingent upon being able to operate it for the proposed use. Purchaser obtaining any and all government authorization, permits, approvals, variances which are required for purchase to construct a convenience store with fuel dispensing operations on the subject premises. That is under paragraph 20. I will deliver the November 12th purchase, real estate purchase agreement with Fast Trak Mortgage LLC to the Board.

BEVERLY GRIEBEL: This is a several-page document.

MR. GROSSMAN: In addition to that, paragraph 20 is the condition.

BEVERLY GRIEBEL: "Purchaser to obtain variance, any and all"...

MR. GROSSMAN: From fuel dispensing, we think it is clear we need a use variance. I have

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looked through the code and I haven't found any other potential way to get around that because it is not permitted in a General Business. I also have for the Board, and you can have these, these are pictures of the general kinds of facilities that Fast Trak puts up with a convenience store and with the fuel dispensing facilities.

DENNIS SCHULMERICH: Where is Fast Trak based out of?

MR. GROSSMAN: Do you have that?

MR. WAVER: No.

DENNIS SCHULMERICH: They don't have any franchises in the area that we know of, do they?

MR. GROSSMAN: The one we're showing is in the Town of Clay, right outside of Syracuse.

DANIEL KRESS: Most of the operations are in the Syracuse area.

MR. GROSSMAN: We can't get a reasonable return. It is not self-created. It doesn't deter from the character of the neighborhood. If anything, it improves it because we'll have a facility that is open and usable to the people. We believe it will be a nice facility. The circumstances are unique because of the triangular piece surrounded by an industrial setting, and because there really will not be any special benefit to the property because we're not sitting in the middle of an area of likened property and we want to do something different.

DAN MELVILLE: Is this the first offer on the property?

MR. GROSSMAN: There are been offers that have been presented that said -- call them more letters of interest that have said, "Let us look at your financials, maybe we have an interest" and all of -- on the party house use, they have not gotten very far. Once they see the financials, you can see you can't get our return and they have all collapsed. This is the first real offer that we have seen, and the problem is that you can keep going out and trying to find offers, but you really want to try to come in with the smallest variance you can, and here we can actually end up with a mixed use so we're doing something that GB actually approves with just one small variance.

BEVERLY GRIEBEL: Now, this -- I was a little confused by the diagrams. This concerns the two properties, the triangular shape and the other property?

MR. WAVER: Yes.

BEVERLY GRIEBEL: Both of those are included?

MR. WAVER: 29 and 31 Paul Road. 29 is actually our parking facility.

BEVERLY GRIEBEL: The big front triangle. And the other one is where the building is?

MR. WAVER: Yes.

BEVERLY GRIEBEL: I wasn't sure. I don't want to speculate.

So this whole thing is included in this deal?

MR. GROSSMAN: Yes, that's correct.

BEVERLY GRIEBEL: On this Land Use Variance, it asks for you to show a dollar and cents proof. I don't see any income statement. Was there not any income? I see annual expenses.

MR. GROSSMAN: Mr. Waver will approach.

DAN MELVILLE: Is there any current income at that property?

MR. WAVER: Yes, we are operating.

BEVERLY GRIEBEL: I see cars there and signs directing people to one room.

Capital improvement attached list, I don't see that either. Just a total amount.

MR. WAVER: Here are our financial statements (indicating).

DENNIS SCHULMERICH: How would you contrast the level of the offers that you were receiving even as letters of intent for use of the property as a party house compared to the potential intended use as a convenience store/gas station?

MR. WAVER: The convenience store fuel dispensing is more attractive only because they have no use for the building. The building is old. It does now require a new driveway. It does now require roofing. Especially with this winter we have. I have already obtained leaks, and it's hard to maintain that building. It's a big building. It is 12,000 square feet.

DENNIS SCHULMERICH: You have a \$340,000 contingent offer for the new use, proposed new use. What types of ranges of offers or letters of interest have you seen for use of the party house? What type of a range are you looking at?

MR. WAVER: We were asking the 375 to 350 price, and I was even influenced to ask as a

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counteroffer that you can get more, and I said, "That is fine with me." That offer right there, because that is just what we were looking for. Any of the other offers had contingencies to obtain financing and banks won't give them the financing, and they fall through. And this is -- I have got bona fide offers I can show you with -- the last one was with a gentleman that was an executive chef at the Hyatt Regency. His wife is a manager at Wegmans, and very well qualified, but they couldn't get the financing.

MR. GROSSMAN: A letter of intent, they say if we can get the financing, if this works, we can see the financials --

DENNIS SCHULMERICH: They were trying to work with financials in the 350 range?

MR. GROSSMAN: Yes. They couldn't work in any range that would get the return. On the attached list item, the downpayment -- most of this was built back in the '70s and -- there was something in the '80s.

MR. WAVER: '79.

MR. GROSSMAN: So Mr. Waver can tell you what was built.

MR. WAVER: Well, we --

BEVERLY GRIEBEL: That was supposed to be submitted. It says, "attach a list." I mean we can't sit here and go over it tonight.

MR. GROSSMAN: It is a building. The capital improvement is the party house. It is what you see. You don't have a breakdown of construction list from 25 years ago. What you have is -- I mean that is appropriate in certain instances, in most instances if you have something fairly recent you're looking at, but here you have something bought in 1974, improved in 1979. You have a \$150,000 purchase price, and you have \$217,000 for improvements to the party house.

DENNIS SCHULMERICH: The capital improvement was essentially the new construction that went onto the old Schiano's restaurant?

MR. WAVER: Yes.

MR. GROSSMAN: To make a list for that didn't seem --

DENNIS SCHULMERICH: Capital improvements mean a lot of things. But in this particular case it is the building.

MR. GROSSMAN: It is the building. That is why we didn't do it. We apologize if we misunderstood.

BEVERLY GRIEBEL: I can't sit and go over a huge packet of information like that. Neither can the Board. I think that the problem with this, the main problem is the GB designation because -- I'm just speculating, but because it's adjacent to the trailer park, I think that's the key.

MR. GROSSMAN: It is certainly a part of the unique circumstances. It is very difficult to put anything in there with a GB because of that. That is one of the major unique circumstances.

BEVERLY GRIEBEL: But that is the protection for the people that are living in essentially a little residential pocket there, the trailer park.

MR. GROSSMAN: But that's a nonconforming use.

BEVERLY GRIEBEL: But it is there. I'm speculating, but I believe that that is why it is GB on that site, because it is adjacent to that residential area.

MR. GROSSMAN: I haven't seen the Comprehensive Plan on that, but to say that this property should end up vacant and -- which is where it would go, because -- if you're next to a nonconforming use that is a trailer park that is not very well kept up.

BEVERLY GRIEBEL: Right. But it is there. Now, do you know what the intent would be of the new owner? Is the present building going to be removed?

MR. WAVER: Yes.

BEVERLY GRIEBEL: Do you know what will be built there? Do you have any plans?

MR. WAVER: Upon site plan approval, which would be their end of it, my understanding is they would be putting their building where my building is, and they can do a lot more than I can do with the fencing and the landscaping. They're very professional.

BEVERLY GRIEBEL: Because that would be a concern that I would have, as to what it is going to look like there, and is there enough protection for the people living in the trailers right now.

MR. WAVER: I would say it will look better than now, and I keep it up.

MR. GROSSMAN: The Planning Board will have the ability to do buffering and control that protection. Our problem is we can't get to that level with this company unless we have a variance first.

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BEVERLY GRIEBEL: Well, that may be something that this Board would want to look at before we would grant the Land Use Variance. We would want to have more of an idea of exactly what is going to go on there. Are they going to be a 24-hour operation? Is there going to be lighting? Is it going to be onto the trailers? That kind of thing concerns me, because the trailers are there, and we can't take them and move them somewhere else. The County moved the ones down the street, but there are no plans to move the trailers to another place somewhere.

MR. GROSSMAN: Those are all appropriate considerations, and one thing that this Board could do with the use variance, is it could express its concerns to the Planning Board, I believe, as to concerns that should be taken into account in approving any actual construction on the site, and all of those items are exactly the items that a Planning Board can control. The issue becomes for Mr. Waver, can he get a sale so that we can go forward, and that depends on the variance. But those are -- whether we put in a General Business use or whether we put in -- presuming that one would come in, or whether we put in a use that simply has a General Business use plus the fuel stations -- which they can shield, by the way, entirely from the back property -- are issues that we apply under either setting.

BEVERLY GRIEBEL: I hear you. I still have my concerns, and I think before I would approve this, I would need to know more of what was going on there, frankly. I don't know how the rest of the Board feels. I have no idea.

MR. GROSSMAN: My only concern, I chaired the Zoning Board in Penfield for ten years. I was on it for 14 years. I would love to just take you out to the corner of Nine Mile Line Road and Atlantic Avenue and show you the property that has not sold that is the biggest eyesore probably on the eastern side of Rochester. The reason why that property has never sold, it is an old gas station, and the reason that stays there is for the reason that when some good proposals came up, and there were beautiful proposals that came up, there were individuals that looked at it and said, "We need to see the full engineered site plan for the proposal," and the problem is, that's a very expensive thing to do, and no one wants to do that unless they know they have the zoning. So we can't get the horse and the cart in the right place, and I just urge the Board and the Chairwoman to just consider this triangular piece and what else is around there. I understand that a Board can set forth its concerns in very -- great particularity to the site plan approval board to say, "You got to be sure there is protection here to these trailers, buffering."

BEVERLY GRIEBEL: The hinge is the trailers. If the trailers weren't there, that probably would be an ideal spot for this with all of the businesses. It would probably be a great business opportunity for somebody because there is a lot of traffic through there, you're on a corner of two busy roads.

MR. GROSSMAN: This business, Wavers, has clearly slowed down immensely. It is not like it used to be. Sales, as we have said, are down by \$700,000, which -- and remember, when you're running a restaurant, you see the income and expenses, and I thought that they were delivered before. I apologize. I didn't know that those weren't part of the record. But those show the business isn't running with any profit at all here. And --

BEVERLY GRIEBEL: I can understand that. I guess we need to see if we have questions from the Board. I have been hogging the floor.

DAN MELVILLE: As far as this possible tenant, I guess I can understand they don't want to go into a lot of expense until they have the zoning, but those pictures you showed us, is that probably what they're going to propose?

MR. GROSSMAN: I would think so.

MR. WAVER: I had asked the broker to -- I myself am not familiar. He supplied me with the pictures and various prototypes of the stores throughout New York State.

DAN MELVILLE: You probably don't know if they will run a 24-hour operation, do you?

MR. WAVER: I don't know if they would or wouldn't.

MR. GROSSMAN: They would be subject to General Business regulations, though.

DAN MELVILLE: How much traffic --

MR. GROSSMAN: Whatever your zoning permits under General Business, they would need another variance -- we're only asking for a variance to allow fuel. We're not asking to change the zoning from General Business -- the General Business regulations as to hours.

KEITH O'TOOLE: Which would mean that there are no restrictions, because they're requesting a use variance. They're not requesting change to a special use permit classification, so we must assume

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that the operation will run 24 hours a day.

MR. GROSSMAN: Okay. That is the case.

DAN MELVILLE: How much traffic would go through that business as compared to the party house now? I know --

BEVERLY GRIEBEL: I guess they hope a lot more.

DAN MELVILLE: You might be worried about the trailers back there as far as use, but I mean I don't know how many cars you get into that party house a day or a week.

MR. WAVER: Well, you know, when you have a party, you can have 175 cars in there, and --

DAN MELVILLE: All leaving at the same time.

MR. WAVER: Sure, coming and going. To me that is more dangerous than what you would have with this proposal.

BEVERLY GRIEBEL: With their in and out traffic.

DAN MELVILLE: In and out, over the course of the whole day, it might be kind of less of a use than a party house, and maybe less intrusive on the trailer park. I don't know.

BEVERLY GRIEBEL: It is hard to speculate without knowing their criteria.

DAN MELVILLE: There will be no road cut on Scottsville Road, then, right?

MR. WAVER: Not that I'm aware of.

DENNIS SCHULMERICH: I have a few questions. Fast Trak, do we believe this facility would be franchise owned or company owned?

MR. WAVER: I believe it is company owned.

DENNIS SCHULMERICH: I think this is probably more a question for the Board or the side table. When you have a request to modify GB for something like dispensing fuel, is there a process that allows an environmental impact assessment for the safety of the neighbors?

KEITH O'TOOLE: There is a requirement that you conduct an environmental review under SEQR.

MR. WAVER: I think that is in the offer.

DENNIS SCHULMERICH: That is aligned with the Zoning Board or aligned with the Planning Board?

BEVERLY GRIEBEL: That would be a Planning Board issue.

KEITH O'TOOLE: No. No. You have an obligation to apply SEQR to each and every application that comes before you. It is just that before the Zoning Board, a lot of applications before you such as shed variances are exempt. This one I would think is not exempt.

DENNIS SCHULMERICH: That work has to occur prior to granting the Land Use Variance, or can it occur as a result of the decision that is made here? How does that come into play?

KEITH O'TOOLE: SEQR is always conducted before a permit is issued and a variance is issued. You can do your own, or, assuming this is an unlisted one, which perhaps counsel has an opinion to the contrary --

MR. GROSSMAN: This would be an unlisted action.

KEITH O'TOOLE: In that instance you could coordinate as well with the Planning Board.

DENNIS SCHULMERICH: Okay. So there could be some concurrence.

BEVERLY GRIEBEL: We can't approve it until this is done?

KEITH O'TOOLE: That is correct.

MR. GROSSMAN: We would need to seek that negative declaration or positive declaration if there was something under SEQR that would need to be mitigated, but again, a couple fuel tanks usually would not have a massive environmental impact.

DENNIS SCHULMERICH: I understand. My interest is to ensure that we don't have a dropping ball passing between the Zoning Board and the Planning Board in addressing the safety concerns of the neighborhood. My question is basically how do we coordinate this in such a way that we know we have the right process in place so the environmental safety factors are factored in?

KEITH O'TOOLE: I have a few concerns here. Gas stations are classic nuisance uses, which is why they're typically made special use permits, or here conditional use permits. They typically impose certain negative impacts on adjoining properties. We do have an adjoining residential parcel. Certainly an operation of this type, the classic gaseteria operation, those typically do run 24 hours a day. According to the pictures they showed us of their sample outside of Syracuse, I would assume it will be

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well lit. There is a potential for glare, traffic, headlight wash on adjoining properties. I would think it would maybe be appropriate under SEQR to ship them off to the Planning Board and get some sort of site plan review feedback. As to whether that is a fully engineered review or not, I leave that to the Board's discretion, but certainly we should touch on issues like lighting, landscaping, buffering and perhaps some architectural elevation, perhaps modifying the plans given -- there again, particularly with regard to the canopy.

MR. WAVER: Can I just say, in that brochure, or the pamphlet that I handed out there, it does list some of their ways in how they have their lighting and employment per store, security.

BEVERLY GRIEBEL: That was the photo sheet?

MR. WAVER: Yes, wherever that is now.

KEITH O'TOOLE: Typically from an engineering point of view you would have a lighting plan that would show where the light spill occurs, and that doesn't include that.

MR. GROSSMAN: My concern, and I understand the position taken, is that right now we are dealing with a use variance that says that simply the fuel use will be permitted. That should not change the need -- and it may be a wording issue how -- when the approval is granted, the need to comply with any conditional use permit, et cetera. Those kinds of variances, if we had the use variance, those kind of permits, I would get Fast Trak to come in and do the site plan and do the engineering. The question really becomes at this point whether simply allowing fuel on site is an action that would require any kind of a positive finding under SEQR.

I think it could be a matter of wording, and one could require the SEQR compliance for the actual site plan and for the hours and the traffic and so forth to occur as part of a site plan review at a later stage, I believe.

What I'm trying to find a way to do is to get to that stage where I can get Fast Trak to come in and do that. Without some -- something from the Board, I probably can't get that.

MR. WAVER: My understanding is that they need that variance or they wouldn't be interested at all. So I don't think they would spend any money not knowing where they're going. Big corporations just don't do that.

BEVERLY GRIEBEL: I hear you. The key is that it's adjacent to the trailer park.

MR. WAVER: The kind of business I run, and it is all up to management, we get a lot of people drinking -- I'm talking through the years, more so earlier on in the '70s and '80s. Open container laws, you tell people they can't carry a bottle of beer now. I think the business I run now would be more of a concern to the trailer park than what we're proposing here.

BEVERLY GRIEBEL: Some of the things are a police matter. Once something is not there -- whether they're open 24 hours or bright lights or whatever, that is a different -- we're not comparing apples and apples there.

DAN MELVILLE: The thing is the convenience store could be there. It is just adding the gas.

BEVERLY GRIEBEL: The gas station.

DAN MELVILLE: So still, even if you just put a convenience store there, they could have the lights and you will have cars going in and out. You're just asking for pumps.

BEVERLY GRIEBEL: But he doesn't have an offer for just a convenience store.

DAN MELVILLE: But adding the pumps isn't going to change that a whole lot other than bringing a few more cars in.

DENNIS SCHULMERICH: What is interesting about -- it is hard to know by the pictures, but what is interesting to know about Fast Trak is it looks like more of a gas station with the convenience store as a secondary factor than the other way around. I'm not sure -- it doesn't change your position at all, it is just -- when you take a look at the business, what do you think is the primary purpose?

BEVERLY GRIEBEL: That is at that store. We don't know what they plan for this one. It could be the reverse.

DENNIS SCHULMERICH: Right.

BEVERLY GRIEBEL: We don't know.

MR. WAVER: They're all different. I mean they're not like a McDonald's. They conform to the area.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

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LEO BEAN, 2771 Chili Avenue

MR. BEAN: Leo Bean, I have known Mr. Waver for a long time. He has been a real asset to the Chili community and his business, and I hear everybody is worried about the trailer park. If anything, the trailer park has been a detriment to his business for the past 25 years. It is an eyesore. The Town has never done anything about it and I hear them keep bringing up the fact it is preexisting, nonconforming. If anything, it is costing him business because people don't want to go in an area with a run-down trailer park. He is a real gentleman and a real asset to this community. Thank you.

MR. WAVER: Thank you, Leo.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I'm familiar with the corner, but it appears that your map doesn't cover the point; am I right?

BEVERLY GRIEBEL: There was a second sheet.

DENNIS SCHULMERICH: There is a second map I didn't get up there.

MS. BORGUS: My concern would be that you have that whole point and what would become of what is now the parking lot? That is a lot of space for a convenience store. My concern would be that if this Land Use Variance were granted, that somewhere along the line somebody would then want to cut off part of it, subdivide it and sell a piece of it for something else.

BEVERLY GRIEBEL: For a bank or whatever.

MS. BORGUS: Now you have a whole different situation. And once you have given a Land Use Variance on the whole piece, you are kind of out of control of that. That is a lot of area for just a convenience store and gas station.

MR. WAVER: A lot of that point is owned by the State of New York.

MS. BORGUS: How many acres are involved in this?

MR. WAVER: 1.88.

MS. BORGUS: My other question would be would the only entrance into this convenience gas station be the present entrance of Wavers from Paul Road?

MR. WAVER: My understanding.

MS. BORGUS: And nobody --

KEITH O'TOOLE: There is no site plan.

MR. GROSSMAN: That is a site plan issue.

MS. BORGUS: I realize that. I'm coming to that.

BEVERLY GRIEBEL: It could change.

MS. BORGUS: You say that this building would be torn down?

MR. WAVER: Yes.

MS. BORGUS: You have one building?

MR. WAVER: Yes.

MS. BORGUS: And where would this company envision putting, facing this store and these pumps?

MR. WAVER: My understanding is it would go where the building is now, but, you know, that's up to them for their best use of where to face the building. I would imagine the pumps --

BEVERLY GRIEBEL: Could be anywhere on the lot, I would guess, the two lots.

MR. WAVER: Yes. The only reason it is two lots is because that is how it was purchased. Actually 31 Paul Road is our restaurant and a trailer park because it was owned by Gilbert Schiano for many years. When he sold it and somebody else bought it, they bought 31 Paul Road, which is us, too. The front part was another parcel, which is 29 Paul Road. That is the only reason there are two separate parcels. It is actually all one, but --

BEVERLY GRIEBEL: You don't own the trailer park?

MR. WAVER: No.

BEVERLY GRIEBEL: That is the same address, but different --

MR. WAVER: We have tried through the years, like Mr. Bean said there, and through Mr. Kelly, we tried like crazy, and it just wasn't worth the money that they were asking for what it was, and it just wasn't doable. Because we would have made that look very nice, because we would have got rid

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of it.

MS. BORGUS: My next question, and maybe this has been partially answered, but I just need it clarified. If the surrounding area is industrial, is what I am hearing, why not rezone this -- why not get rezoning on this piece to industrial to match the rest of the neighborhood? Why are we proceeding with a Land Use Variance?

MR. WAVER: My understanding was that was the best approach that I was to have tried.

MS. BORGUS: The Town told you that?

MR. WAVER: Um --

KEITH O'TOOLE: We don't give legal advice.

MS. BORGUS: I'm just wondering where the idea came from because it would seem to me the logical thing would be to have it rezoned.

MR. WAVER: Well, the fact is it was allowed as a convenience store and the variance would be just for fuel dispensing.

MR. GROSSMAN: That also goes to your first point. That is why we have made a very narrow request, because if there were any future development, you are still under the same General Business zone. The General Business zone is supposed to protect this property and any future development, it is all subject to site plan review, so the fact that we have done anything to the property doesn't change what you have except that it allows fuel tanks, and the interesting thing about that is, that that might well, I suspect it would, limit future expansion of the property, because it is much less likely that someone is going to come in and put a bank there, if they have fuel tanks there, but the other issue there is this is just not a place because -- because of the way the neighborhood developed where you will get a bank to come in. It will just not happen. It is not a good location right now.

MR. WAVER: Very limited.

BEVERLY GRIEBEL: There is GI on both sides of that. But I -- I am assuming, as I said before, that it stayed GB because of the trailer park. I don't know. I don't know the thinking behind that. It was never mentioned in our last plan work that -- I was on that committee -- that there was any request to change that.

MS. BORGUS: The Board has had the benefit of seeing the pictures of this Fast Trak building or operation and the audience has not. I think we have had a little problem, and I will name them, Spectors right on Scottsville Road. We should be very, very cognizant of what we allow to be built there. I know it's not an elegant territory, but on the other hand, we have had a mess there and we have had a terrible time getting rid of it, and we better look for something pretty classy because we need to bring that area up, and this is our opportunity.

It looks like a gas station, I'm sorry.

I would also say, in agreement with the Madam Chairperson, that all this paperwork and visuals should have been presented to this Board long before this Board meeting. You're handicapped right now because that is a lot of stuff to look through. It is impossible really to assimilate all that and make a decision tonight.

BEVERLY GRIEBEL: This is not five copies. It is all one bundle.

MS. BORGUS: Yes. I get that. All these things should be presented ahead of time so this Board can proceed in an orderly fashion. This handicaps the Board when this happens. I would like to agree with Mr. O'Toole, and I don't do that very often.

KEITH O'TOOLE: No, you don't.

DAN MELVILLE: Thank God.

MS. BORGUS: This is a red letter night.

BEVERLY GRIEBEL: It is in the minutes, Dorothy (Borgus).

MS. BORGUS: I go to Planning Board. I'm a regular member there. I'm always in the audience. And sometimes I see the Planning Board literally handicapped because applicants come here first, then they go to the Planning Board and they say, "But we got ZBA approval," and now the Planning Board is in a bad spot. And I'm going to tell you right now, this process tonight is another one that is backward, as Mr. O'Toole said. This should have gone to Planning first, if only informally, which the Planning Board is very willing to do -- as an informal application at the end of their meeting, and this should have been run past the Planning Board, and if it was -- that -- there is a small cost to that, nothing major. Then if it is workable to the people that want to buy this land, and operate and proceed there, they then

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could go into a formal application with the Planning Board and as a last measure, come before this Board with the Planning Board's actions contingent upon getting a variance from this Board. So this whole process is backwards. So I think it would be a good idea if they started over and went about it without the cart before the horse.

MR. GROSSMAN: Might I respond?

BEVERLY GRIEBEL: Yes.

MR. GROSSMAN: I think that other than the fact that -- I respectfully believe that your concept is right, but you have actually reversed it. I think that you have a very good point. I would like to make this point to this Board and also make a suggestion.

The problem is you can't get a buyer to go through the engineering cost to do what was just said. However, if you were to treat what we have done today with our assent as an informal presentation to this Board, and this Board were to say to the Planning Board, by an informal letter, that we have reviewed this and we have tabled this, but that our general feeling would be that if site plan could be achieved on this, and if you could get the necessary protections, that we would be leaning towards granting a variance, we could take that, give that to Fast Trak and get Fast Trak to do exactly what you want them to do and do it in then the right order. The problem is without that step, you end up with a corner of Nine Mile Point and Atlantic Avenue in Penfield. That is what you end up with, and that has been there for 25 years, vacant.

MS. BORGUS: Madam Chair, just one more comment on what this gentleman just said. If you come before the Planning Board -- and correct me if I am wrong, and I am sure you will -- before the Planning Board for an informal presentation, you don't have to spend a lot of money. They want your general idea. You don't have to do a lot of engineering. You don't have to come with a lot of maps. You come with something, a minor expense, and you come in after the general meeting, and you talk it over. It is not expensive.

MR. GROSSMAN: If this man were the man that was doing the development, that would make sense. The problem is -- I should talk to the Board. It would make sense. But the problem is, that in order to get Fast Trak to come in and do anything, they need to know that the more difficult standard -- the most difficult standard, of course, is always to get a use variance -- is something that the ZBA is not generally opposed to because you don't move steps if you don't know that the ZBA is going to.

BEVERLY GRIEBEL: I can understand where they wouldn't want to spend a lot of money on a whole big site plan and have us say, "Forget it, we don't like it."

MR. GROSSMAN: That suggestion is something that we would be willing to try to take that to Fast Trak and convince them if we had an informal --

BEVERLY GRIEBEL: To see if they would take it that way.

MR. GROSSMAN: I believe they would. I believe they would. I think then what could happen could be that we could get the Planning Board to declare themselves the lead agency for the SEQR. We could do the SEQR at the Planning Board through that, and we could meet all of the items in a sounder fashion.

DAN MELVILLE: Then you could come back here and get your variance, your front parking approved, you could get your signage approved all at once.

MR. WAVER: This is a proposed site plan (indicating) for one of their operations that the broker sent me and wants it back. It has all of the engineering. I mean it is all Greek to me, but --

MR. GROSSMAN: That is not for this site.

BEVERLY GRIEBEL: That is for another site.

MR. WAVER: But it has the lighting. It has got everything.

BEVERLY GRIEBEL: So that might be something that they're already prepared to do and modify for this site plan at maybe not a huge expense. That might be a doable way to go about it.

MS. BORGUS: I have never known, in all of the years I have been going to these Board meetings, I have never known that the situation that Mr. Grossman presents about a letter that maybe we'll consider and we're leaning toward or whatever from the Zoning Board was ever presented to the Planning Board before they made a decision. That is highly irregular. I don't remember that has ever occurred.

DAN MELVILLE: Usually we approve it --

MS. BORGUS: You approve it or don't. It is not a letter that says --

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DAN MELVILLE: We can approve it and then send it on to them, if that would make you happier.

MS. BORGUS: I'm saying I think Mr. Grossman wants to go for half a measure here, but that is not something that has been done in Town.

BEVERLY GRIEBEL: It is certainly something that we talk among Boards and maybe that is the way we can go about it. Maybe there is some solution.

DAN MELVILLE: Of course, it is not binding. It is not binding. We might sit up here and say it looks good to us, you know, if they go through all these steps with the Planning Board, but that doesn't mean they will come back here and get a yes vote. It is not binding.

MS. BORGUS: I still think the process should be -- take this map that they -- the site plan they have for another area -- sure, it is not this one -- but you don't need much more than that and a simple sketch to go before the Planning Board for a simple informal view. It is not binding on them, and I have seen them spend a great deal of time looking these things over. It is a great opportunity for an applicant. It doesn't cost much and if they have this much work done ahead of time, it won't be a lot of expense and it is still the route to take.

JAMES PERNA, 626 Florentine Way

MR. PERNA: Being a developer and stuff, I know what the gentleman is going through, because we do sell parcels and stuff. A big company is not going to buy something unless they have the zoning for it. Basically, this is General Business. He does have the Zoning for it. The only thing they're asking for is the gas facility which I just went through a few months ago myself. I don't see any harm in approving this application based on the location of it. You have 10 or 15 gas stations in the neighborhood, you know, along that stretch as it is. You have got the towing service right there. I mean if anything, I think this is going to be a great asset to that corner. It is going to brighten it up. It is going to brighten the corner up and bring some modernization to that area which needs to be modernized. I mean we're talking the airport. I mean I think it is a wonderful situation for the Board. Tax wise, tax dollar wise. Sales tax wise. I mean it is a great asset to the community. I'm in favor of it.

After discussion, Dennis Schulmerich made a motion to table the application, and no one seconded the motion. The motion died for lack of a second.

Michael Martin made a motion to adopt the EAF as drafted by the Chairperson, and Peter Widener seconded the motion. The Board members were all in favor of the motion.

Beverly Griebel made a motion to make a determination of no significant environmental impact, and Michael Martin seconded the motion. The vote on the motion was 4 yes to 1 no (Dennis Schulmerich).

Peter Widener made a motion to accept the following findings:

1. The alleged hardship of the change in catering business is not a true hardship as it does not relate to the land. Also, the change in catering business is not unique to the area.
2. The variance will negatively impact the hybrid residential and commercial area at the Paul Road and Scottsville Road triangle as the proposed use variance will harm the use and enjoyment of the residents of the trailer park.

Dennis Schulmerich seconded the motion. The vote on the motion was 3 yes to 2 no (Dan Melville and Beverly Griebel). The motion died for lack of a majority vote of the Board.

The Board discussed new findings.

DECISION: Denied by a vote of 3 yes to 2 no (Dennis Schulmerich, Beverly Griebel; lack of a majority vote of the Board) for the following reason/finding of fact having been

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cited:

1. The applicant failed to prove all the required use variance criteria, as required by N.Y. State Town Law.
6. Application of Leo Bean Funeral Home, owner; 2771 Chili Avenue, Rochester, New York 14624 for variance to extend and modify pre-existing use to allow additional parking at property located at 2771 and portion of 2781 Chili Avenue in R-1-12 zone.

BEVERLY GRIEBEL: This went to Monroe County Planning --

MR. BEAN: He has to be someplace. He said it will be about two seconds for his and mine will only take four, so I will let him go first.

DAN MELVILLE: Two seconds.

7. Application of Lou Bivone, 16 Autumn Wood, Rochester, New York 14624 for variance to erect a garage to be 1,534 sq. ft. (900 sq. ft. allowed) at property located at Lot 209 of the proposed Park Place Subdivision in PRD zone.

James Perna was present to represent the application.

MR. PERNA: James Perna with Perna Homes, representing Mr. and Mrs. Louis Bivone on this application. This house is going in -- it is going to be a Homearama house, one of the Homearama houses. As you can see, we have got a three-car garage. The depth is what we're after. It is going to be two cars deep instead of three cars deep. Mr. Bivone is a fond -- he loves collecting nice sport cars and stuff like that, so he wants to keep everything inside. The house is a half million dollar house. It is not a little house in the neighborhood, so I don't think it will affect the value or anything in the neighborhood. We're here requesting that variance for the larger garage.

BEVERLY GRIEBEL: Did you say the square footage of the house?

MR. PERNA: 4,000 square feet. Mr. Bivone presently lives in Autumn Woods with the beautiful cape at the end of the street there as you pull in there. It is going to be similar.

BEVERLY GRIEBEL: So this is a big house on a good size lot. How big is the lot?

MR. PERNA: It is close to three-quarters to an acre. It is backing up to the park.

BEVERLY GRIEBEL: Slightly pie shaped?

MR. PERNA: Right.

BEVERLY GRIEBEL: I think people are finding that they want more garage space.

MR. PERNA: Three-car garages are the common thing, especially with this size house. Not only that, at the setback we have right now at 35 feet, it still fits with no problem. We don't need any variance or anything. We're moving the house back another 10 or 15 feet so he has a little more room on both sides of the house.

BEVERLY GRIEBEL: I did talk with someone this week that said they would prefer to see an additional garage instead of a couple sheds in the backyard.

MR. PERNA: This is a gorgeous house, a great asset to Chili.

DENNIS SCHULMERICH: In the interest of making it longer than four seconds, I have 14 questions and three parts each. Ha ha. No questions.

MIKE MARTIN: How many cars do you currently own?

MR. BIVONE: Five.

DAN MELVILLE: What are the prices of the houses in that area?

MR. PERNA: Well, what they're advertising and what we're doing is two different things. There are five or six different phases to this development. In this neighborhood here, I think the Homearama houses will be 250 and up. Mr. Bivone lives in Chili now and doesn't want to leave it. His wife wants to live there.

DAN MELVILLE: This is about 500,000?

MR. PERNA: 400, 500,000.

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DAN MELVILLE: It will fit in there.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: I just have a question as to general location of Lot 209. Can you indicate such --

MR. PERNA: To be truthful with you, sir, it is hard to walk back there now. I haven't really been able to --

MR. RETTIG: Is it the north side, the west side, the south side, the east side?

MR. PERNA: I would say the southeast side.

MR. RETTIG: Okay. That makes sense. Thank you.

BEVERLY GRIEBEL: I drove in a little way, and --

MR. PERNA: It is a beautiful area.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR, made a determination of no significant environmental impact, and Peter Widener seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following finding of fact was cited:

1. Additional garage space is needed for this large home.

Note: A building permit is required.

Beverly Griebel reread the application description for Application #6.

Don Avery and Leo Bean were present to represent the application.

MR. BEAN: I'm Leo Bean from the Bean Funeral Home and we're asking the Board to approve a small addition to our parking lot. We have been to the Planning Board and now we're here before you.

BEVERLY GRIEBEL: I tried to drive in on that Sunday, the 19th. I tried to peek down there and I couldn't get in the back there. It was jammed with cars.

MR. BEAN: Well, that happens every so often. It is just the nature of the business.

BEVERLY GRIEBEL: You need more space.

MR. BEAN: We need more space.

DAN MELVILLE: Will it alleviate the parking on Chili Avenue?

MR. BEAN: Yes, except in a rare situation. There are times when there is nothing you can do. It will give us the ability to pick up the extra spaces and on top of that it gives us a little exit area that the County won't give us for the other side of our building.

DANIEL KRESS: For the record, the funeral home operation already does have a use variance dating back many years. This is strictly a question of recognizing the small parcel as being added onto the property and modifying it accordingly.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHESTER WAVER, 27 Newport Drive

MR. WAVER: I will speak in favor of it. I have known Leo (Bean) for many years. He is a good businessman and will do what is right for the Town of Chili.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just a comment. Mr. Bean did this properly. He went to Planning first and then to Zoning. Thank you.

CHILI ZONING BOARD OF APPEALS

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DAN MELVILLE: He already owns it, though.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR, made a determination of no significant environmental impact, and Dennis Schulmerich seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following findings of fact were cited:

1. No impact on neighboring properties.
2. Addition will add needed parking space.

Beverly Griebel indicated she was in receipt of a letter from Dianne Rhoads, requesting a rehearing. Beverly Griebel read the following letter to the Board members:

Dear Beverly Griebel,

I'm writing to you in regards to our variance hearing of December 17th. We feel that we were treated unfairly. In the first place, variance was written up wrong. The Board thought we wanted 6 1/2' all the way out. We only wanted 4 panels of 6 1/2' from the front of the house; the rest of the way 4'.

Also, we went to the meeting in the blind. We never got a copy of the complaint and letter that was sent to the Board. Therefore, we feel we deserve another hearing.

Yours truly,
Dianne Rhoads

P.S. Enclosed is a tape map showing what we would like.

The Board discussed the matter and indicated they felt the matter was fully heard initially.

Dennis Schulmerich made a motion to entertain the request to rehear the application. Mike Martin seconded the motion. All Board members were opposed to the motion to rehear the application.

DECISION: Unanimously declined by a vote of 5 no to rehear application for a variance to allow existing fence to be a maximum of 6'6" in portion of front setback area at property located at 890 Marshall Road in R-1-15 zone.

The meeting ended at 10:10 p.m.