

A meeting of the Chili Zoning Board of Appeals was held on October 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, Gerry Hendrickson, Richard Perry, Michael Martin, Peter Widener, Dennis Schulmerich and Chairperson Beverly Griebel.

ALSO PRESENT: Daniel Kress, Director of Planning, Zoning & Development;
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: We have a substitute stenographer over on the side this evening; Lynn Mullen is her name.

Before we begin, I was out on Saturday the 18th, and starting from the top, I was out in the afternoon on that Saturday. Number 4 didn't have a sign out. The garage was open; apparently people were home. That's Michelle O'Brien, 20 Stone Barn Road.

GERALD HENDRICKSON: I saw a sign up.

PETER WIDENER: I saw it on the 25th.

DANIEL MELVILLE: I wasn't out there on the first day, so...

BEVERLY GRIEBEL: I was out there on that Saturday, so I don't know when it went up. I didn't go back and look, but it's supposed to be up for the full ten-day period.

DANIEL MELVILLE: Is the applicant in the audience?

MICHELLE O'BRIEN: Yes.

DANIEL MELVILLE: What day did the sign go up?

MICHELLE O'BRIEN: It did go up that evening. He was mowing the lawn and everything, so he had to take it down. But it is up there, and it was up there the full ten days.

BEVERLY GRIEBEL: It wasn't up on that Saturday. It wasn't visible.

MR. O'BRIEN: I took it down to cut the grass and clean up the leaves. It went up later on that afternoon. That's why you saw the garage door open.

BEVERLY GRIEBEL: You're Mr. O'Brien?

MR. O'BRIEN: Yes.

BEVERLY GRIEBEL: Well, I was there middle of the afternoon as I started making my rounds, probably about 2 o'clock or so.

What does the Board want to do?

DENNIS SCHULMERICH: Whatever it is, I wish we be consistent.

DANIEL MELVILLE: I think it needs to be up that morning.

BEVERLY GRIEBEL: It should be put up the day before even.

PETER WIDENER: In all due respect, if the man was maintaining his yard and had the sign down and put the sign back up, we have to consider that, too. It was within a 12-hour span.

BEVERLY GRIEBEL: But it's not visible. As far as I'm concerned, I didn't see it up there. I think it can be put up ahead of time and put up a day or two ahead. And if you mow the lawn and maybe had to move it to another section of the lawn so it's up there. "Posting it" isn't on the driveway while you mow the lawn, I don't think.

PETER WIDENER: Well, maybe you can ask Keith (O'Toole).

BEVERLY GRIEBEL: Well, I think what we have been doing --

DANIEL MELVILLE: It can be tabled now if it hasn't been up.

BEVERLY GRIEBEL: If it hasn't been up for the full ten days, we'll just table it.

Our next meeting is November 25th. Do I have a motion to table that to the 25th?

DENNIS SCHULMERICH: So moved.

DAN MELVILLE: Second.

The vote on the motion to table was 5 no to 2 yes (Dan Melville, Beverly Griebel).

BEVERLY GRIEBEL: It's not consistent, but I guess you voted to hear it, so we're not tabling that.

Okay. Next one, number 7, Antonio Rosato on 252 Ballantyne. I did not see a sign that afternoon.

PETER WIDENER: Ballantyne?

BEVERLY GRIEBEL: Yeah, number 7.

DAN MELVILLE: Well, I guess you're going to have to hear it anyway, if you're going to be consistent.

BEVERLY GRIEBEL: Well, we had decided a few meetings ago that if it was not up the full ten days, we wouldn't hear it, so what do you want to do with the rest of these? There's several that I didn't see the sign.

PETER WIDENER: There's several I did see a sign on, and I also saw a sign that was in the back of the yard but not up by the front of the road where they should be. And it was there the full time, but it was in the back of the property. We will get to that in a discussion.

BEVERLY GRIEBEL: We're on number 7, and I did not see a sign there.

DENNIS SCHULMERICH: The concern I have with the time frame is Counsel advised us -- and I'm sure if I state this incorrectly, it will be corrected -- but I recall a few months back we were informed that if we don't have the full ten days, then we open ourselves up to a 72 direct appeal as a result of our finding. Irrespective of whether someone in the audience likes our decision or not, the rule is there as a rule.

BEVERLY GRIEBEL: Right.

DENNIS SCHULMERICH: We either adhere to it or we don't, and when we don't, we open ourselves up to what's happening here every single month. So if somebody in this group doesn't see the sign up for the full ten days, that basically says we don't hear it. And if that causes a problem for the resident, I'm sorry, but the rules are the rules.

BEVERLY GRIEBEL: They have an obligation to keep the sign posted, and if it's not posted, then we've been tabling it.

DENNIS SCHULMERICH: That's my perspective.

BEVERLY GRIEBEL: Well, this one, number 7 --

DAN MELVILLE: I suppose what we need on this Board is probably a resolution; if one person doesn't see it, that's it, the Board doesn't hear it.

DENNIS SCHULMERICH: Did I state that correctly?

KEITH O'TOOLE: My take has always been, as our statute reads, you have an obligation to post it ten days before, and then it's really a question of fact as to whether it's been seen by a member of the Board, because there's an implied obligation to maintain it. So I think if the sign blows down for 15 minutes, life goes on. But, you know, four members out of seven haven't seen the sign, that's a pretty good indication that the sign wasn't there when it's supposed to be. Anything in between there is really a question of fact for the Board to consider.

What I would advise you to do is go through the list; if anyone hasn't seen the sign, simply offer the resolution and say, "Do we hear it, yes or no?" And we table it to next month.

DAN MELVILLE: We just did that.

RICHARD PERRY: But the difference on that one is the fact that it was up on the 10th day, and unless I misunderstood you, are we talking it has to be up for ten 24-hour periods of time or just the fact that it was up that day?

KEITH O'TOOLE: I think there's an implied obligation of substantial compliance, which means that if it falls down for ten seconds, we still hear the application. But you've got to understand that signs do blow down, and that's part of it, too. We hand out cardboard signs; they're not made of steel.

RICHARD PERRY: Understood. Does that mean that the people that are obligated to have it

up at 12 or 1 a.m. in the morning --

KEITH O'TOOLE: No. I think they're supposed to post it ten days prior.

RICHARD PERRY: So that's why I wanted to hear the first one, and the only reason. The other ones, if they were not there, they should not be heard.

BEVERLY GRIEBEL: There's a fine line when the applicant says, "I took it down for a while"; that it didn't blow over, it didn't get in a wind storm.

RICHARD PERRY: But it was up on the tenth day before or ten days before.

BEVERLY GRIEBEL: It should stay up. But, anyway, okay.

This one, number 7, I did not see it up there on that Saturday afternoon.

PETER WIDENER: What's the street number?

BEVERLY GRIEBEL: It's 252 Ballantyne Road.

GERALD HENDRICKSON: I saw it up on Monday.

RICHARD PERRY: I did not see it on Saturday, either.

DAN MELVILLE: This past Saturday?

RICHARD PERRY: No, the first Saturday. It might have went up later that afternoon.

BEVERLY GRIEBEL: Well, two of us didn't see it on that Saturday. Do you want to table that?

RICHARD PERRY: In this case, yes.

BEVERLY GRIEBEL: Yeah.

DAN MELVILLE: Maybe they took it down to do some yard work.

BEVERLY GRIEBEL: Do I have a motion to table that to November 25th?

RICHARD PERRY: So moved.

BEVERLY GRIEBEL: Second on that?

MICHAEL MARTIN: I second it.

The vote on the motion to table was 6 yes to 1 no (Dan Melville).

BEVERLY GRIEBEL: So that one is tabled to 11/25 at 7 p.m. You'll get a letter in the mail. It will instruct you to get new signs and post them per regulations. If anyone is here to speak on that application, nothing will be heard tonight on that.

What is your name?

MR. ROSATO: I put the sign the day before, the 17th, and then at night we had a storm; it blew away. And then I find it in the backyard, then I put it back in the afternoon.

BEVERLY GRIEBEL: Well, two of us didn't see it when we were out there, so...

MR. ROSATO: Someone put it on the porch, and I went the night, afternoon about 3, I put it back up.

BEVERLY GRIEBEL: Well, you'll have to post it for next month and come back next month. Sorry about that.

Our next one I had was number 10, John Vandenbos of 42 Black Creek Road. I didn't see a sign there.

PETER WIDENER: That was the one I spoke of the sign was in the backyard all the time, but it was about 40 feet off the road front. It sat way in the backyard. It was there, but it wasn't within the measurements that we require by road frontage.

DAN MELVILLE: It wasn't legally posted.

PETER WIDENER: Correct.

BEVERLY GRIEBEL: Didn't even come close.

PETER WIDENER: It was at least 40 feet in the backyard.

MR. VANDENBOS: I misunderstood the application. I thought it had to be near --

BEVERLY GRIEBEL: Are you the applicant?

MR. VANDENBOS: I'm Mr. Vandenbos, and I put it right where the structure was going to be, so...

PETER WIDENER: Yep.

BEVERLY GRIEBEL: It should be placed 3500 feet of road frontage, no closer than 8 feet and no further than 15 feet from the front property line. Between 8 and 15 feet. I didn't see it.

MR. VANDENBOS: I thought that meant for the variances on either side of the property.

BEVERLY GRIEBEL: Well, it should be the property as pictured in the diagram that you submitted and between 8 and 15 feet from the front property line.

Okay. Can I have a motion to table that to 11/25?

DENNIS SCHULMERICH: So moved.

BEVERLY GRIEBEL: Second on that?

PETER WIDENER: I second it.

The Board all voted yes on the motion to table.

MR. VANDENBOS: I want to build that structure before the snow flies.

BEVERLY GRIEBEL: Well, it's tabled to November 25th.

MR. VANDENBOS: Okay.

BEVERLY GRIEBEL: I guess if you had a question of where it was to be posted, you probably should have called the Building Department and asked them to clarify it.

MR. VANDENBOS: I would like that structure up before the snow flies. I have bonsai trees and an azalea collection.

BEVERLY GRIEBEL: 11/25 at 7 p.m.

PETER WIDENER: With the new sign, it would be best to put it up by the road so we can see it.

MR. VANDENBOS: Okay.

PETER WIDENER: Thank you.

BEVERLY GRIEBEL: On number 12, when I went to look at that one of Betty Trimble on 7 Ascot Drive, the sign was on the front door partially covered by a hedge around a little patio area. And I went walking around the house to look at the back, and when I returned, the new owner of the house came out, a young man, and he said that he didn't know where it was supposed to be put because the prior owner's daughter had brought the sign over and asked if he would please put it up, which he did.

And I explained to him where it needed to go, and he said he would go out and get some poles or something. And I said, "Meanwhile, you'd better tie it to the tree in front or do something." So before I left, he immediately was dragging some wood out of the garage and putting it on something to put in the front yard. I told him about where he should put it in front yard so it could be seen.

Does that suffice?

PETER WIDENER: I saw the sign.

BEVERLY GRIEBEL: It was in the yard.

PETER WIDENER: Yeah, I had no problem with the sign. I saw the sign.

BEVERLY GRIEBEL: But luckily he came out and was able to move it.

Okay. Any others that people had a problem with?

PETER WIDENER: Scottsville Road, I could not find the sign.

BEVERLY GRIEBEL: Which number?

PETER WIDENER: 1302 Scottsville Road.

BEVERLY GRIEBEL: Which application?

GERALD HENDRICKSON: 3.

PETER WIDENER: Number 3.

RICHARD PERRY: It was on the pole.

BEVERLY GRIEBEL: It was on the pole in the middle of the property facing -- it was facing Scottsville Road. It's hard to see with the traffic.

PETER WIDENER: I saw RG&E'S new building.

RICHARD PERRY: It was there. I passed it at least four times.

PETER WIDENER: It's very possible. It's so congested with signs.

RICHARD PERRY: I didn't catch it the first time. I caught it out of the corner of my eye.

BEVERLY GRIEBEL: There's a lot of traffic. It's hard to see with the traffic. I did see that one. I drove in and looked at Dunkin Donuts, and then I seen the sign. I pulled into a parking space and could see that it was in front of it.

PETER WIDENER: It's probably an oversight on my part then, and I can accept that.

BEVERLY GRIEBEL: It was right in the middle in the front of the property on a pole. Was it on a telephone pole or something? A light pole or something?

RICHARD PERRY: It was a light pole, phone pole.

BEVERLY GRIEBEL: Any others that anyone had?

RICHARD PERRY: No.

BEVERLY GRIEBEL: Nothing else?

Okay. Then we will start with number 1.

1. Application of Francine Beck Roveda, owner; 416 Fisher Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a cosmetics counseling business at property located at 416 Fisher Road in R-1-12 zone.

MS. ROVEDA: I am Francine Roveda.

BEVERLY GRIEBEL: This is up for renewal, and it was granted originally -- let's see --

MS. ROVEDA: That would be the third time, I believe.

BEVERLY GRIEBEL: It's been a while. 1998.

MS. ROVEDA: Yeah, that was the last one. And then there was one before that and another one before that. I believe it's since 1992.

BEVERLY GRIEBEL: Has anything changed?

MS. ROVEDA: No, nothing. Same thing.

DAN MELVILLE: No questions on this. This has been on quite a few times since I've been on the Board.

MICHAEL MARTIN: Just to the side table if there's been any complaints or problems with the --

DANIEL KRESS: No, sir, none.

MICHAEL MARTIN: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

1. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to maintain any required State and local licenses.

The following finding of fact was cited:

1. Customary Home Occupation.

- Application of CVS, owner; c/o Site Enhancement Services, 3699 W. Lathrop Street, South Bend, IN 46628 for variance to erect a 8'5" x 6'5" double-faced freestanding monument sign to be 9 1/2' high to replace existing monument sign previously approved at 6' high at property located at 2709 Chili Avenue in N.B. zone.

Ms. Myers was present to represent the application.

BEVERLY GRIEBEL: If anyone in the audience wants to go over and take a closer look at that, you can just get up and walk over, if you'd like to.

MS. MYERS: Good evening. My name is Ms. Myers, and I'm with Site Enhancement Services, South Bend, Indiana, here on behalf of CVS Pharmacy.

And what we're requesting this evening is simply a modification of the original request that was granted I believe a few years ago. We're not proposing to install a new sign, we're simply requesting to increase the height of the existing sign by 36 inches to increase the visibility of westbound traffic along Chili Avenue, because right now the sign is -- at its existing height -- is completely obstructed.

DAN MELVILLE: How far back can you see that sign when you're coming from the west?

MS. MYERS: When you're right upon the site, because the privacy fence --

DAN MELVILLE: What's obstructing it?

MS. MYERS: The privacy fence that borders the property.

DAN MELVILLE: I remember a few years ago I think they came in and requested a variance to raise that, and we suggested that they take that part of that fence down, was one of our suggestions. Whatever happened with that idea?

MS. MYERS: I can't speak to that. I don't know. I do know that the barricade or the barrier fence was --

DAN MELVILLE: It was either taken down or cut it down?

BEVERLY GRIEBEL: Trim it down a little.

DAN MELVILLE: And then that would eliminate the problem, which is a lot cheaper than raising that fence up 3 feet -- or that sign up 3 feet.

MS. MYERS: CVS -- I'm sure they're aware of that, and I think if you reduce the height of the fence somewhat, you still have obstructed visibility, because the height of the sign is currently at 6-1/2 feet, so they would use the existing sign, create a break base of 36 feet, and use the existing sign, and that would help to raise the height of the sign over the -- over the fence. It is within the 64 square feet permitted by the Code in the NB Zone, and it is well within the 20-foot height limitations proposed on that zone.

RICHARD PERRY: I drive by there almost every day from east to west, and I don't have any problem seeing that from the appropriate distance to be able to turn left to go into CVS. I just really don't understand what the need is for, you know, increasing the height.

MS. MYERS: Well, CVS has the safety of our customers in mind, because based on practice and analysis, in this area they feel that at least 500 feet is adequate in being able to see the sign and to safely navigate your car into the parking lot. They want to avoid the sudden stops.

DAN MELVILLE: Half the time the cars are stopped at the traffic light anyway.

DANIEL KRESS: Just a clarification, if I may. The maximum for that area for freestanding signs is 32 feet, not 64.

MS. MYERS: And we are still within that. It's 29 point --

DAN MELVILLE: Is that on one side?

DANIEL KRESS: Both sides count.

BEVERLY GRIEBEL: You count both faces.

MS. MYERS: Was the Code recently changed?

DANIEL KRESS: The Code was changed at the beginning of this year.

BEVERLY GRIEBEL: But they always counted multiple faces.

MS. MYERS: Because I believe when an associate of mine had called to inquire as to whether the Code had changed since the original sign had been put up, we were told it had not. And we still have a copy of the existing code that allowed 64 square feet.

DANIEL KRESS: If you talk to me, I've always stated very clearly to anyone that's asked

about multiple-face signs, that all faces count.

MS. MYERS: So I guess we have approximately 60 square foot of sign.

BEVERLY GRIEBEL: Over the code.

MS. MYERS: Yeah.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

MICHAEL MARTIN: Did we grant an original variance for this sign, do you know?

BEVERLY GRIEBEL: Yes, for a freestanding sign.

MICHAEL MARTIN: Does it include the faces?

DAN MELVILLE: I'm sure it did.

MS. MYERS: I think the original --

DANIEL KRESS: I've got a record here for a variance back in October of 2000 for a 5-1/2 by 6-foot double-faced freestanding sign.

DAN MELVILLE: What's the square footage?

DANIEL KRESS: 33 feet on each side.

DAN MELVILLE: So it was granted for that.

BEVERLY GRIEBEL: The sign is the same.

DAN MELVILLE: They just want to raise it up.

MS. MYERS: The approval of the height of the sign was somehow all wrapped up within the site approval originally.

BEVERLY GRIEBEL: That was approved by this Board.

DAN MELVILLE: Yeah, we gave them what they asked for.

RICHARD PERRY: Once.

BEVERLY GRIEBEL: 10 of 2000, according to -- sir, in the audience, you have a question? Can you stand and give me your name?

TIM CONDON, 10 Earl Drive

MR. CONDON: My name is Tim Condon. I live at 10 Earl Drive.

BEVERLY GRIEBEL: How do you spell you last name?

MR. CONDON: Condon, C-o-n-d-o-n.

This may sound like sour grapes, and I apologize for that, but I live directly behind CVS on Earl Drive, and there were a number of promises that were made prior to CVS coming in that haven't necessarily been kept up since they came in. So it probably sounds like sour grapes.

And I guess as far as the 500 feet stopping distance to turn in there, I don't know that there's anybody in the room that doesn't know there's a CVS there when they drive by. And has there been any reported traffic accidents at that intersection when people come in or out of CVS since they moved there?

BEVERLY GRIEBEL: I don't know. I'm not sure.

MR. CONDON: But the thing -- the landscaping was never done to Code the way it was promised; the delivery of goods time frame was never done; there's still trucks showing up at 3 o'clock in the morning with their engines running; garbage pickup was never done the way it was promised. I spent \$200 to repair a fence adjacent to the property that was put in pretty poorly by CVS after some shrubs were removed.

So it sounds like sour grapes, I'm sure, but I guess I don't understand if they don't comply with the original things, then maybe it shouldn't be so easy to move up to the next step.

BEVERLY GRIEBEL: Now, when the deliveries and the garbage and the noise, when that occurs like that in the middle of the night, do you call the Building Department?

MR. CONDON: The manager of the property has been very helpful. They're on their second general manager, and they've both been very helpful. But a lot of the deliveries, from what I'm told, is out of their hands; it's a corporate issue from Indiana, and basically Indiana calls and tells them when the truck is going to be there, and they tell me there is nothing they can do.

And I was instructed by them to call the Sheriff's Department, and the Sheriffs are too busy to call and say, "Get a truck out of that parking lot" At 3 o'clock in the morning; I'm not going to do that. I

think it's up to CVS to police that, not the Monroe County Sheriff's Department.

BEVERLY GRIEBEL: That's not within the purview of this Board --

MR. CONDON: I understand that.

BEVERLY GRIEBEL: -- but I'm just trying to ask who he should call. Should he be calling the Building Department to enforce the --

DANIEL KRESS: I guess my reaction is if people have had issues, that they contact the Building Department and we'll pursue it accordingly.

MR. CONDON: No offense to the Board, but I've had contact with everybody from top to bottom a number of times, and the last person I spoke to about a year after the property opened told me, "There's nothing the Town can do now. It's been a year. I'm sorry, I can't help you anymore." So I'm pretty frustrated with the whole circumstance.

The management at CVS has been very cooperative. I don't want to sound like I'm talking negatively.

BEVERLY GRIEBEL: Except for getting deliveries done in the daytime --

MR. CONDON: They tell me it's out of their hands.

BEVERLY GRIEBEL: Well, who should he call, Building Department?

DANIEL KRESS: Yep.

BEVERLY GRIEBEL: Call and ask for DANIEL KRESS, K-r-e-s-s.

MR. CONDON: Thank you. That's all I have to say.

BEVERLY GRIEBEL: Anyone else in the audience to speak to this application?

DENNIS SCHULMERICH: I have a question. You cited a traffic study and the 500-foot distance. What would have changed now compared to the 2000 application when the initial variance was requested, and why wasn't that requested at that point in time?

MS. MYERS: Didn't they -- did they not -- I was under the impression -- and I apologize; I was not involved with the original site two years ago. But it was my impression at that time that they did request a freestanding double pole pylon sign and they were denied. I believe they were requesting a 20-foot sign at that time, and because of the residential neighborhood and other restrictions placed on the site, they were granted the 6-1/2-foot-tall monument sign.

DENNIS SCHULMERICH: So this is not another request similar to what was put in exactly at the time the building was put in; this is a variation from that? You're looking for 9-1/2 at this point?

MS. MYERS: Absolutely.

DENNIS SCHULMERICH: Thank you.

BEVERLY GRIEBEL: Any other questions from the Board?

RICHARD PERRY: Just a comment. You know, that is a heavily traveled road, but by people who know the area for the most part. I doubt seriously that you're going to attract, you know, new business from the clientele that drive up and down that street. It's not a major thoroughfare to people exploring Rochester.

BEVERLY GRIEBEL: Once you know where it is, you know where it is; you know it's at the light. I hear you.

Any other questions from the Board?

RICHARD PERRY: Maybe they can put a 9 foot sign down by the corner of Rochester directing them to Chili Avenue.

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

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

DECISION: Unanimously denied by a vote of 7 no with the following findings of fact having been cited:

1. High traffic but not a high speed road allows ample sight distance and

visibility with the present sign.

2. The area variance previously approved was at the existing height.
3. Applicant failed to establish a benefit for the 9 1/2 foot height.

BEVERLY GRIEBEL: If anybody is here for Application Number 7 or Application Number 10 -- Number 7 is Mr. Rosato, Number 10 is John Vandebos -- we will not be hearing either of those applications this evening. If you want to address the Board on those, you'll have to return on November 25th at 7 o'clock.

3. Application of Dunkin Donuts, c/o Luis Ribero, 2100 Empire Boulevard, Webster, New York 14580 for variance to allow existing building to be 11' from rear lot line (15' previously approved abutting a street) at property located at 1302 Scottsville Road in G.B. zone.

Rod Prosser was present to represent the application.

MR. PROSSER: Good evening. I'm Rod Prosser of Lakeside Engineering, 1260 Scottsville Road, representing Dunkin Donuts for this application, which is an extension of the original application for 15-foot front setback. As you can see on the drawing we've got --

DAN MELVILLE: It says "rear" in our application.

MR. PROSSER: It's a front. It was originally a front, and we have three fronts on this property.

BEVERLY GRIEBEL: Oh, okay. Because it fronts on the back road, so it's a front.

MR. PROSSER: But it was considered a front and it should read a "front." We have three fronts.

In our original application and site plan and all through building construction drawings, it was our intention to have the cooler, which is the problem, located within the store, and as large as it is, it became necessary to locate it outside.

And the contractor was unaware that we only had basically the 15 foot, which took us to the building wall, and in order to put the cooler outside and surrounded by a masonry structure, which is in -- you know, in keeping with the rest of the structure, we wanted to have you not looking at a cooler, but a nice architectural split-face brick construction.

And I guess that is what was deemed, when we turned in the as-built to the Town Building Department, to be an accessory structure, so that now we are somewhat within the setback that was given to us. And if you have the drawing in front of you -- I think I'll pass around the smaller-scale copy -- what we have is 11.18 feet with the front face of the block around the cooler, and that's 3.82 feet inside what we asked you for before, so we're reluctantly requesting an additional 3.82 feet.

I guess the only solution that we can see is to rip down the block wall which is -- you have the photos -- which aesthetically is very pleasing. Our neighbor on the opposite side of the road, as you know, is RG&E and their storage area and the school and so forth, and I know they have no problem. We'd like not to have to do that, to put up what I consider an ugly picket fence or something like that that I would assume would not be considered an accessory in that it would be a fence, but that would be the alternative, and it's not a very good one either for aesthetics or for security.

So, again, we're asking that -- I think we asked for a revision to 11 feet from the 15 foot we have. On the small scale I've highlighted.

The cooler is, we hope, insignificant in comparison to the whole project, in the whole larger scale of the thing, showing the dimensions. In the application we provided photos, the as-built drawing, which was turned into the Building Department, and they were very diligent in reviewing it and finding that we had this one problem with our construction. So we're back here before you tonight.

BEVERLY GRIEBEL: This was kind of built on the sidewalk. It's a sidewalk that goes to nowhere. It's kind of a strange one because it -- without the cooler there, it would have ended in the drive-up lane, so it's probably good that you blocked the sidewalk from pedestrian traffic from going through the hedges to the parking lot. I don't know if that was the intent.

MR. PROSSER: It wasn't the intent. Really, just to allow access to the back service delivery door and the maintenance room and those things and separate it from that driveway that's between the building and the grass, which is the frontage of Air Park on that east side of the building.

BEVERLY GRIEBEL: At least you have it elevated on the sidewalk. Has anybody hit it yet?

MR. PROSSER: No. It's protected by curbing and far enough away we haven't had any problem. If they hit the block wall, they're going to do damage to their vehicle, not to the wall, unlike a fence. If they hit a fence, it will be major damage, and probably the cooler would be impacted as well.

BEVERLY GRIEBEL: We have that photo.

MR. PROSSER: You have that photo? Well, keep them there.

GERALD HENDRICKSON: I have no questions. I've been through there, and I don't see -- I don't even know it's there when you go by it.

DENNIS SCHULMERICH: I've been through Dunkin Donuts drive-thru several times.

DAN MELVILLE: Do you drive through the front of the place?

(Laughter.)

DENNIS SCHULMERICH: I haven't hit the wall. I'm fine. No questions.

PETER WIDENER: That's probably why I didn't see the sign. I was looking at the Dunkin Donuts. I have no questions.

BEVERLY GRIEBEL: You're on a sugar high.

(Laughter.)

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

BEVERLY GRIEBEL: This was sent to Monroe County Planning for airport review, and it came back as a local matter, so the height is not interfering.

DAN MELVILLE: If it interfered with one of the airplanes, I'd be worried.

BEVERLY GRIEBEL: Anything within a certain distance of the airport has to go to airport review.

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.

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

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

1. Structure doesn't intrude into the public travel ways and is not visible from the main road.
4. Application of Michelle O'Brien, owner; 20 Stone Barn Road, Rochester, New York 14624 for renewal of conditional use permit for a bakery business in home at property located at 20 Stone Barn Road in R-1-15 zone.

MS O'BRIEN: My name is Michelle O'Brien, and I'm here to renew my -- I make cheesecakes.

BEVERLY GRIEBEL: And this was renewed the last time in '97 and -- goodness, I guess you were late getting in. It's six years ago. But how's business?

MS. O'BRIEN: Great.

BEVERLY GRIEBEL: You don't have anyone else working for you?

MS. O'BRIEN: No. My husband.

DAN MELVILLE: Do you have any customers come to the property?

MS. O'BRIEN: Occasionally in the evening.

DAN MELVILLE: Do you store any hazardous material or anything like that?

MS. O'BRIEN: Well, if you consider cream cheese...

DAN MELVILLE: That could be hazardous to your health.

MS. O'BRIEN: If you're worried about your cholesterol.

DAN MELVILLE: No further questions.

RICHARD PERRY: Didn't we discuss a requirement about samples?

DAN MELVILLE: Yeah, I think we did have that last time. We didn't get any doughnuts, either.

(Laughter.)

PETER WIDENER: This renewal is for how long?

BEVERLY GRIEBEL: Well, it's up -- it's our option.

BEVERLY GRIEBEL: Side table, were there any complaints?

DANIEL KRESS: No, I'm not aware of any complaints related to this property.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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.

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

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

1. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to maintain any required State and local licenses.

The following finding of fact was cited:

1. Customary Home Occupation.
5. Application of Geoffrey Waiter, owner; 7 Rose Road, Rochester, New York 14624 for variance to erect an addition to house and garage to be 49' from front lot line (60' req.) at property located at 7 Rose Road in R-1-15 zone.

Geoffrey Waiter was present to represent the application.

BEVERLY GRIEBEL: Okay. You want to enlarge the living room, kitchen and garage out the front of the house. The backside are all bedrooms, so that doesn't lend itself to expand in that direction.

MR. WAITER: Right, exactly.

BEVERLY GRIEBEL: So you're really limited as to what you can do. That's a pretty creative plan expanding the garage.

MR. WAITER: Yes.

BEVERLY GRIEBEL: Interesting. What do your neighbors say?

MR. WAITER: Well, I have a letter from one neighbor here who couldn't be here tonight. May I submit this to the Board?

BEVERLY GRIEBEL: Yeah.

MR. WAITER: I also have a neighbor in the audience here. They've all been spoken with, most of them, and they've all been very receptive.

BEVERLY GRIEBEL: Kathy and Chris Quigley, 5 Rose Road, October 25th. "To whom it may concern: Our neighbors at 7 Rose Road are planning to put an addition on the front of their house. We fully support this and have no objection. Their efforts to extend their home are welcome and we feel this would enhance our neighborhood."

Sometimes when people start doing that, it's contagious. People think, "Mm-hmm, maybe we can do something."

We'll pass that down for the pile.

GERALD HENDRICKSON: You've started already, haven't you?

MR. WAITER: No, sir.

GERALD HENDRICKSON: It kind of looks like it. I have no other questions.

DENNIS SCHULMERICH: You're building this yourself?

MR. WAITER: I have the contractor here.

BEVERLY GRIEBEL: And what's his name?

MR. WAITER: This is Bill Sours (phonetic).

DENNIS SCHULMERICH: Good choice.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MR. EVANGELISTA, Shrubbery Lane

MR. EVANGELISTA: I live behind the Waiters. I've seen the plans, and I think it's a great addition and I support 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 Dennis Schulmerich seconded the motion. All Board members were in favor of the motion.

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

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

1. Applicant has no other option for expansion as bedrooms are at the rear of the home.

Note: A building permit is required prior to construction of these additions.

6. Application of Anthony Cerretto, owner; 535 Westside Drive, Rochester, New York 14624 for conditional use permit to allow an office in home for a landscaping business at property located at 535 Westside Drive in R-1-20 zone.

No one was present to represent the application.

BEVERLY GRIEBEL: Okay. We will put that in the bottom of the pile and call him again.

7. Application of Antonio Rosato, owner; 4053 Buffalo Road, Rochester, New York 14624 for variance to create an undersized lot to be 1,916 acres (5 acres req.) at property located at 252 Ballantyne Road in A.C. & FPO zone.

BEVERLY GRIEBEL: And number 7 was tabled. If anyone is here for that one, we'll not be hearing that. That's Mr. Rosato.

DECISION: Unanimously tabled by a vote of 7 yes to table until the November 25, 2003 meeting at 7:00 p.m. for the following reason/finding of fact having been cited:

1. Applicant failed to post the required public hearing sign per Town regulation.

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

8. Application of Steve Zilbut, owner; 29 Omega Drive, Rochester, New York 14624 for variance to erect an 8' x 8' deck to be 52' from front lot line (60' req.) at property located at 29 Omega Drive in R-1-15 zone.

Steve Zilbut was present to represent the application.

MR. ZILBUT: Hi. Steve Zilbut. Right now we step 7 inches down from the front door onto an 8 by 5 landing. We're going to extend it out 3 feet so we can sit out there and enjoy the view, add a railing for safety. Is that all the questions you have or -- it should all be 8-1/2 by 11s in my application.

BEVERLY GRIEBEL: Questions, Dan (Melville)?

DAN MELVILLE: No, I don't think so. I've seen quite a few like this.

DENNIS SCHULMERICH: Are you having the construction built by someone, or are you doing it yourself?

MR. ZILBUT: I'll do it myself maybe in the spring. Depends on the weather. I understood it was like kind of forever.

DENNIS SCHULMERICH: The variance?

MR. ZILBUT: Yeah.

DENNIS SCHULMERICH: I just saw a red flag when you said "spring." I just wanted to make sure it was covered.

BEVERLY GRIEBEL: A conditional use would expire, but the variance to build something generally doesn't.

MR. ZILBUT: The folks in the Building Department just said if I apply for the permit, I have a limited time to start, so we'll just make that decision when we get the variance.

All right. Thanks.

BEVERLY GRIEBEL: We're not done yet.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

MICHAEL MARTIN: Just for clarification, Dan, how long after he applies for a building permit do you have to begin the project?

MR. ZILBUT: I thought I understood three months.

DANIEL KRESS: I believe it's 90 days. Yeah, 90 days to commence work, a year and a half to complete.

MR. ZILBUT: What does "commence work" mean?

DAN MELVILLE: If you apply for a permit tomorrow, you have to commence work within 90 days.

MICHAEL MARTIN: You have to show some construction.

DAN MELVILLE: Dig a hole every month.

DENNIS SCHULMERICH: Some level of activity.

MR. ZILBUT: Okay. Thanks.

BEVERLY GRIEBEL: I don't think it's totally defined, but something.

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

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

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

1. This will enhance the appearance of the front of the house.

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

9. Application of Mr. & Mrs. Charles Sinsebox, owner; 30 Jensen Drive, Rochester, New York 14624 for variance to erect an 8 1/2' x 9'8" open porch to be 50' from front lot line (60' req.) at property located at 30 Jensen Drive in R-1-12 zone.

Lee Sinsebox was present to represent the application.

MR. LEE SINSEBOX: Good evening. My name is Lee Sinsebox. I'm here on behalf of my parents, the applicants for this proposal. They had this house built 50 years ago; I won't tell you how long I was there.

But this is an upgrade and improvement. The front entrance is ready for -- to be improved. The application is for a variance for the front setback, 60 foot per zone. The porch would extend out and be within 50 foot of the front setback.

They have a small slab and steps there now. That was typical for all of the houses that were built on the track at that time. The existing porch and the existing sidewalk are within that 60-foot setback; 60 foot was measured to the front of the house.

Seeing as that it needs repair and needs upgrade, they wanted to enlarge it slightly so they have a little room to put a lawn chair out there in the summer, and we would like to put a hood roof over it to protect the entrance for access. It's a Cape Cod house; the roof would meet the pitch of the existing house. It's aluminum siding, and all the materials would match the house that's there.

There's two drawings I submitted. One was the existing house and driveway as it is today, and the second drawing shows at the top the existing dimensions of the platform and step and sidewalk that are there now that are being removed, and the sketch of the drawing shows the expansion and the new facility. It's going in the same place, just a little bit larger. The roof would be aluminum column supported with a railing around it for safety, and the steps would be turned to come in on an angle and have a railing on it.

So we're asking for your consideration to allow the variance that they can have this improvement done to their entrance.

BEVERLY GRIEBEL: There was one thing not checked. Do you work for any Government agency?

MR. LEE SINSEBOX: No. No, I don't.

DAN MELVILLE: I think it would be an improvement to the house.

RICHARD PERRY: No questions. It's consistent with so many of these that we've approved.

MICHAEL MARTIN: No, I'm all set with this one.

PETER WIDENER: Glad to see the update on it.

DENNIS SCHULMERICH: Just a confirmation. The concrete sidewalk is staying in the same place?

MR. LEE SINSEBOX: That would come out about a foot more than it is now, but it will follow the same path that's there.

DENNIS SCHULMERICH: So it would be a new sidewalk?

MR. LEE SINSEBOX: New sidewalk over to the driveway.

DENNIS SCHULMERICH: Gotcha. Thank you. No other questions.

GERALD HENDRICKSON: I have no other questions, and I think it would improve the front there for them.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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.

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

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

1. This will enhance the appearance of the front of the house.

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

10. Application of John Vandebos, owner; 42 Black Creek Road, Rochester, New York 14623 for variance to erect a 16" x 30" greenhouse (hoop construction) to be 480 sq. ft. (180 sq. ft. allowed) at property located at 42 Black Creek Road in RAO-20, FPO, FW zone.

BEVERLY GRIEBEL: Number 10 was tabled to the November meeting, November 25th.

DECISION: Unanimously tabled by a vote of 7 yes to table until the November 25, 2003 meeting at 7:00 p.m. for the following reason/finding of fact having been cited:

1. Applicant failed to post public hearing notice sign per Town regulation.

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.

11. Application of Westside Properties, owner; 495 Stoney Point Road, Spencerport, New York 14559 for variance to erect a 6 1/2' x 11 1/2' double-faced freestanding sign to be a total of 149 1/2 sq. ft. (32 sq. ft. allowed), variance for sign to be 25' high (20' allowed) at property located at 3161 Union Street in G.B. zone.

David Perry was present to represent the application.

MR. PERRY: I'm David Perry here to represent Westside Properties. I have some color copies that make it a little easier.

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

MR. PERRY: There's an actual picture of one.

Now, this is a corporate sign from John Deere that they're requiring all their dealers to put up with the new logo and all the information on it. It's not a -- if you look at the sign, only the panels that -- the parts that are green and yellow light; in other words, at nighttime. I actually took a picture of it. That's all you see; in other words, the whole sign doesn't light. It's not like a billboard; it's a soft light. You drive by this. It's at our store in Henrietta. It's not a glarey -- big old glarey sign.

BEVERLY GRIEBEL: Just the center of the image is illuminated.

MR. PERRY: Right. Really, the sign face is larger, but it really -- the actual signage itself is a

lot smaller. I made note at the bottom here. I did all the measurements and calculated it out; the actual imprint areas. These parts (indicating) are considerably less than the face of the sign. The silver part just kind of holds everything in place.

BEVERLY GRIEBEL: What other sizes do they offer?

MR. PERRY: They have a 20-foot version of this one, and that's really the only two they have is 25 and 20. Our property is located -- you guys, do you have a map? Does that actually show the plot plan on what they gave you?

PETER WIDENER: I'm trying to locate where the sign would be placed on the paper I'm looking at.

BEVERLY GRIEBEL: There was a little --

MR. PERRY: The sign is right there (indicating). See, the building sits way back in, that's why we want --

BEVERLY GRIEBEL: And you want the sign out at the road --

MR. PERRY: Yes.

BEVERLY GRIEBEL: And it's just to the south of the Post Office road?

MR. PERRY: That's right.

BEVERLY GRIEBEL: Their entrance road?

MR. PERRY: Yeah, on the other side of the driveway. But because our facility is located kind of back in behind everything, we needed a little bigger presence at the road than normally.

BEVERLY GRIEBEL: Well, I have a problem with that because that area is very busy; it's loaded with traffic. There are cars all day and into the evening and into the Post Office area; very busy. And I'm just wondering about the size of this sign and the line of sight.

MR. PERRY: The sign is very open. If you look at the picture, you can see right through the sign. It doesn't block anything more than a telephone pole would. If it was lower, then you would start getting more blockage on it. If the actual face of the sign was down low; you wouldn't be able to see through it. That picture I gave you actually shows the cars. The cars are below the sign.

BEVERLY GRIEBEL: And this is the 25-foot sign?

MR. PERRY: Yes. That's the one we erected at our Henrietta store.

DENNIS SCHULMERICH: I guess I thought Ontrac had a storefront in the plaza.

MR. PERRY: We're building a new facility, as it shows on the plot there.

BEVERLY GRIEBEL: You're moving out of the plaza and you're moving around to the back?

MR. PERRY: That's right.

DENNIS SCHULMERICH: And when's that slated to happen?

MR. PERRY: As soon as we get everything approved. We've got Planning Board approval on everything. The sign is kind of crucial to us because --

DENNIS SCHULMERICH: I was confused as to why you wouldn't use the sign that's sitting in front of North Chili Plaza and you're putting another sign around the corner, and you're explaining that to me.

MR. PERRY: We're going to be located in the back where the car wash area is.

DENNIS SCHULMERICH: No questions, but it will be an interesting discussion later.

MICHAEL MARTIN: The 20-foot-height sign is the same square footage?

MR. PERRY: No, it's a little smaller. I have a sheet on it.

BEVERLY GRIEBEL: I personally don't like the 25 foot. 20 foot is high.

MR. PERRY: I can leave this. That is the 20 foot. I think you still have -- you would have to measure. You just want to make sure you could see through, the cars can still see below it.

BEVERLY GRIEBEL: It doesn't -- this one doesn't give that dimension.

DENNIS SCHULMERICH: Does John Deere allow or recommend monument signs in any way, shape or form?

MR. PERRY: They don't want them. They have them. But that is -- we've seen them, and they actually do block -- that would be an issue for what she's talking about, because it does block more. This is a much nicer sign, also. It looks nicer.

BEVERLY GRIEBEL: Well, everything is relative. You get huge - people don't like a huge sign.

MR. PERRY: Well, everybody talks about signs like they're bad, and they're not. They're a

part of doing business in America. It's part of what you -- it's part of our identity. It's what people recognize and relate to our businesses and we all need it. Somebody wants a fancy mailbox up by the road; it's part of doing business. It's not a dirty word, a sign.

BEVERLY GRIEBEL: Pass that one down. That's the 25 foot that shows the --

MR. PERRY: That's the 20, or is that the sign --

BEVERLY GRIEBEL: This is the one in Henrietta.

PETER WIDENER: When this sign it finished, you'll have horticulture and flowers?

MR. PERRY: Yeah, that's all on there.

PETER WIDENER: That's on the plans here?

MR. PERRY: Yeah. That's similar to what we did.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

BEVERLY GRIEBEL: I personally would prefer it shorter.

RICHARD PERRY: How big is the sign in front of it? I don't recall what we approved, the height.

DAN MELVILLE: That was pretty high, too.

PETER WIDENER: I can't remember the height of the sign.

BEVERLY GRIEBEL: But that's set to carry six or eight logos.

PETER WIDENER: I was more concerned with the height of it, though.

DENNIS SCHULMERICH: We're getting to a point where we'll be able to run cables between those signs and have cablecars.

BEVERLY GRIEBEL: We can put cell phone receivers on them.

They don't go any lower than 20 feet?

MR. PERRY: Like I say, then they go to the monument sign, but the monument sign would be a problem.

BEVERLY GRIEBEL: That impedes the visuals even more.

DENNIS SCHULMERICH: Depending upon what the setback is.

BEVERLY GRIEBEL: Well, this setback -- did we have the setback --

MR. PERRY: And the monument sign is not any less square footage. It's the same exact size as the 20-foot sign, it's just you basically take that 20-foot sign and take the green poles off it.

BEVERLY GRIEBEL: Right. Now, how far back is this going to be?

MR. PERRY: I'll have to look.

DAN MELVILLE: Must be within the limits. He's not asking for a variance.

BEVERLY GRIEBEL: I don't know what the Planning Board approved. Dan Kress, do you know what was approved by the Planning Board for the setback on that?

DANIEL KRESS: The discussion at the Planning Board, it went on the assumption that it would either comply with the Code and the customary setback would apply, or else an exception would be requested at that point. And ordinarily the setback would be 15 feet from the property line.

BEVERLY GRIEBEL: 15 feet. And that would make it how far from the road? Because you have a lot more area before you actually get to the road.

KEITH O'TOOLE: It's hard to say, because the road doesn't necessarily dead-center line right away.

BEVERLY GRIEBEL: Right. That's kind of on the curb anyway. It's pictured on the curb of the road in the Post Office area.

PETER WIDENER: Just the interest disclosure, if -- Dave (Perry), do you work for any Government office?

MR. PERRY: No.

BEVERLY GRIEBEL: Okay. I guess we are done with questions and we'll move on.

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.

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

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

1. Street numbers to be on both sign faces.

The following findings of fact were cited:

1. Sign needed for a new location for an established business.
 2. Application approved for 20' maximum height and 100 sq. ft. maximum size for a double-faced sign.
12. Application of Betty Trimble, c/o Davidson, Fink, Cook, Atty., 28 E. Main Street, Suite 1700, Rochester, New York 14614 for variance to allow existing enclosed porch to be 36' from rear lot line (40' req.) at property located at 7 Ascot Drive in R-1-15 zone.

Diane Celento and Betty Trimble were present to represent the application.

MS. CELENTO: Hello. This is Betty Trimble (indicating).

MS. TRIMBLE: Hi. I'm a little nervous.

BEVERLY GRIEBEL: We don't bite.

MS. CELENTO: That's not what I heard.

DENNIS SCHULMERICH: Maybe we do.

MS. TRIMBLE: She's my strong arm.

BEVERLY GRIEBEL: I notice on your application that the porch has been there for over 18 years.

MS. TRIMBLE: It was there when I bought the house, but my lawyer didn't pick up on it. My next-door neighbor said it was there five years before I purchased the house 18 years ago.

DAN MELVILLE: Fire that lawyer.

BEVERLY GRIEBEL: Sometimes it comes up -- the bank will find it and they won't issue a mortgage until these little issues are cleared up.

MS. CELENTO: I understand that.

BEVERLY GRIEBEL: So it can come up various ways.

MS. CELENTO: Mrs. Trimble's husband passed away a little over a year ago and she sold the house, and that's how it was discovered at this point.

MS. TRIMBLE: It wouldn't have been discovered, because if he would have still been here, we would have been in the house.

BEVERLY GRIEBEL: Well, the new owner is already in, so I guess he took it subject to your getting this cleared.

MS. TRIMBLE: Yes, he did. We just want to make everything legal.

BEVERLY GRIEBEL: I did look in the backyard, and there's a lot of trees and things in the backyard, so nobody from the adjoining property to the rear can see in there. There's nothing that disturbs the neighbor in that direction.

DAN MELVILLE: After 18 years, it doesn't matter.

MS. TRIMBLE: I still have the same neighbors.

PETER WIDENER: Just the disclosure.

BEVERLY GRIEBEL: Do you work for the Government, any Government --

MS. TRIMBLE: No.

BEVERLY GRIEBEL: That question wasn't answered.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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.

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

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

1. Neighbors have no objections to this enclosed porch which has been in place for over 18 years.

Note: A building permit must be obtained for this enclosed porch.

13. Application of Glenn Schneider, owner; 236 Old Chili Scottsville Road, Churchville, New York 14428 for variance to create two undersized lots: Lot #1 to be 2.46 acres (5 acres req.); Lot #2 to be .98 acres (5 acres req.), lot width of 125.06' (275' req.), variance for proposed dwelling on Lot #2 to be 50' from front lot line (100' req.), 25' from north side lot line (50' req.) at property located at 236 Old Chili Scottsville Road in PRD & FPO zone.

Jason Moore, Michael Hedding and Don Avery were present to represent the application.

MR. MOORE: Hi, I'm Jane and Glenn's son-in-law. I'm kind of here speaking --

BEVERLY GRIEBEL: What's your last name?

MR. MOORE: Moore, M-o-o-r-e, and I brought --

BEVERLY GRIEBEL: And this is the applicant?

MR. HEDDING: My name is Michael Hedding. I'm going to be the contractor building the house.

BEVERLY GRIEBEL: How do you spell your last name?

MR. HEDDING: H-e-d-d-i-n-g.

BEVERLY GRIEBEL: Now, the owner should be here.

MR. HEDDING: They prepared this letter because they were unable to be here.

BEVERLY GRIEBEL: Is there a notarized signature?

MR. HEDDING: There's no --

DAN MELVILLE: If there's any questions, we'll just table it.

BEVERLY GRIEBEL: Counsel, without a notarized signature --

KEITH O'TOOLE: No, there just has to be an authorization. If we have a concern about the authorization, we'll have the applicant come in.

MR. HEDDING: The letter explains the problem.

BEVERLY GRIEBEL: Because I had some questions that maybe the applicant needs to answer.

MR. MOORE: I also brought -- if you want to look at these, we can leave these behind -- we have the proposed building plans, preliminaries.

DAN MELVILLE: Put them up on the board.

BEVERLY GRIEBEL: This letter explains that they're at a trade show in New Orleans and they were unable to sign it; it's just printed out in an e-mail.

MR. MOORE: My -- his daughter, my wife, would be here tonight, but I just have a sick baby, so divide and conquer.

BEVERLY GRIEBEL: It's signed "Glenn and Jane Schneider."

Is there public water there?

MR. MOORE: Yes, there is.

BEVERLY GRIEBEL: And is there public sewer there?

MR. MOORE: No, it's going to be septic. We did have an engineer do the perk test. And I'm

not an engineer, but it passed, I guess.

BEVERLY GRIEBEL: On all the properties?

MR. MOORE: Correct.

BEVERLY GRIEBEL: Counsel, do we need those reports to reach this decision?

DAN MELVILLE: I would say so.

KEITH O'TOOLE: What reports are you referring to?

BEVERLY GRIEBEL: The perk tests.

KEITH O'TOOLE: The Board's pleasure on that.

BEVERLY GRIEBEL: There's a question of approving an undersized lot. If we approve an undersized lot and then find out that the perk tests were whatever, not adequate, then we have approved something that we shouldn't have approved.

MR. MOORE: Actually, I have my --

MR. AVERY: I'm Don Avery from Avery Engineering. We have the plans here, and we have the house located, and we do have an acceptable percolation test, too, for the lot.

MICHAEL MARTIN: These marks on the diagram with the triangles and the squares, that's the perk?

MR. AVERY: We have a standard system. Good percolation. We kept the distance from the lot to the south the way we should. It's only -- you know, it's only to the north where it's part of the Schneider property. The other perks were good and we have public water, and I don't see any problem with the lot. There's a lot of pine trees there, if you'll notice, and I think you'll want to save as many of those as you can.

MR. MOORE: Right, absolutely.

MR. AVERY: They're good, stand-up pine trees there.

BEVERLY GRIEBEL: Now, the reason for a 5-acre plot, that was so you would have adequate room for a well and septic both; is that correct?

MR. AVERY: No. There's public water, so we're not worrying about that.

BEVERLY GRIEBEL: Right. But that was the thinking for the 5 acres?

MR. AVERY: Oh, way back, maybe. I believe so.

BEVERLY GRIEBEL: So now it's public water, so now the concern is having an adequate area for septic?

MR. AVERY: Right. Probably before my time. It's hard to believe, but...

DAN MELVILLE: I don't know about that.

BEVERLY GRIEBEL: So that both lots are -- okay. There's an existing septic system. And then this other smaller lot that's to be carved off of that, that has proposed septic area, so that is adequate, you say? That's the areas for the perk test?

MR. AVERY: That's it.

BEVERLY GRIEBEL: Because that's one question I had with the undersized lot if it doesn't have the public sewer.

MR. AVERY: I guarantee that they're good perks. They're approved by the County Health Department.

BEVERLY GRIEBEL: Okay. That was going to be my main question, of the undersized lot.

MR. AVERY: That's fine.

DAN MELVILLE: Why the difference in the lots? One is .98 acres, one is 2.46. How come they weren't more equal?

MR. HEDDING: I think it's probably due to the fact that their residence is located back here, and they also own this barn structure and this asphalt driveway here (indicating), so in order to -- they maximized the road frontage and went straight back with it.

DENNIS SCHULMERICH: Can I interpret if this is an area that requires 5 acres, the property as it is today is less than 5 acres, right?

MICHAEL MARTIN: Yes.

MR. HEDDING: And Glenn (Schneider) let me know that his property -- the neighbor to the -- to this side here (indicating) was also at one point carved off of the original parcel at one point prior to him purchasing.

PETER WIDENER: It used to be the old Winter's farm.

MR. MOORE: Correct.

DENNIS SCHULMERICH: Has it ever been 5 acres, or did it start out at 5 acres?

DAN MELVILLE: Apparently it was subdivided once before.

PETER WIDENER: And before that, too, because to the north there's another subdivision on the Winter's farm.

BEVERLY GRIEBEL: So pieces have been carved off of it over time.

PETER WIDENER: Virginia Winter, her mother built the house over here (indicating).

DENNIS SCHULMERICH: Okay.

PETER WIDENER: And then Charles Hall and Annette Baker, that was owned by Westlake, which was a Winter's. So you had one, two, three, four subdivisions.

DAN MELVILLE: What was the reason for subdividing this down to two lots?

MR. MOORE: Basically, it's kind of a gift to Jen and myself. We're very close with them. It's a very tight-knit family. And in the letter they mention their son as well. Eventually, they want to give the house to him eventually as well, so we're just a really tight family. My daughter and her grandparents, like any daughter and granddaughter and grandparents, they're very tight. And even myself and them have grown very close, so it's just an amazing gift.

And I really like Chili. We currently live on Grenell Drive across from Wegmans. And I grew up on Park Avenue in the City and spent some time in the 19th Ward. And I've lived out here for almost two or three years, and I love the area.

And one of the things my parents struggled with growing up was sending us to Catholic school, paying a lot of money. We didn't live in good areas where they had good faith in the school systems. I love Chili, but also the school system is just great out here, so that's also very attractive. But just the whole package is great, so it's just a great opportunity for my wife and myself.

PETER WIDENER: Your proposed single-family home, does that have a garage on it?

MR. MOORE: Yes, it does.

PETER WIDENER: Because it's really compact in here, and if you come back to ask for another variance to build a shed or a garage, you probably wouldn't get it.

MR. HEDDING: It's an attached garage kind of similar to --

PETER WIDENER: To those measurements of 50 by 50 by 25. Okay.

MR. MOORE: Right. And we wanted to kind of get plans done, something you can look at tonight, just so you could see in relation to the other homes in the area, it's going to keep up and maintain and hopefully, if all works out, increase the values around there, so...

MR. HEDDING: He brought this to my attention that a lot of the other parcels on that road down the way are kind of narrow and small in that same respect.

GERALD HENDRICKSON: I have no questions. I've seen the property. I know how it's going.

DAN MELVILLE: Just one more question. The proposed septic area on Lot Number 2 is fairly close to the existing septic system on Lot 1. Is that -- how close can septic systems be or doesn't it matter?

MR. AVERY: I can answer that in a minute, I think.

BEVERLY GRIEBEL: I don't know. I never had to worry about a septic system, so...

This did go to Monroe County Planning and came back as a local matter.

MR. AVERY: The existing septic system for the barn as a business is shown here. This is the barn (indicating), and it's back here (indicating), and I will show it on the map. It should be shown on the map.

DAN MELVILLE: It looks like they got them fairly close, and I was wondering how close -- can they be that close?

MR. AVERY: I haven't -- I've been -- I don't know of any reason they can't be.

DAN MELVILLE: I'm just wondering.

MR. AVERY: I really can't. No, there's no reason why we can't be. If there's a well or something, I understand, but there's no regulation there. And we will show it on that map, too.

BEVERLY GRIEBEL: As long as it's going to function, that's the main concern.

MR. MOORE: For me, too.

DAN MELVILLE: That's very important.

BEVERLY GRIEBEL: Don't know how soon there will be sewers out there.

MR. MOORE: Yeah, absolutely.

BEVERLY GRIEBEL: Any more questions?

DAN MELVILLE: I'm all set.

KEITH O'TOOLE: I just have a couple concerns. The sight distance between the proposed driveway and the geometry of that intersection kind of makes me wonder whether we should be going in this direction until we hear from the Planning Board. I think this may be putting the cart before the horse.

MR. HEDDING: I believe that was going to be a matter of -- for State DOT, if they would allow the driveway to be that close to the intersection. In proximity to the corner, it's -- it's the same distance as the driveway mouth for the barn is on the other corner.

DAN MELVILLE: If this still has to go to Planning Board, we don't have to act on it tonight.

KEITH O'TOOLE: I think it should go to the Planning Board first.

MR. HEDDING: We're flexible.

DAN MELVILLE: We can put this on hold.

KEITH O'TOOLE: And the location of the septic area, that's something that might be switched; perhaps dropped in front of the house. And I guess I don't understand: Why are we putting the house 50 feet away when there's obviously enough distance to drop it back? What's the thinking there?

BEVERLY GRIEBEL: Put it further from the road?

KEITH O'TOOLE: Yes. The setback is 100.

MR. HEDDING: I think just to maximize the view of the backyard and to have a nice backyard. Plus, the fact that -- like Mr. Avery said -- the area is heavily populated with thick mature pine trees, which we're going to be selectively removing and leaving a nice natural barrier around the property.

KEITH O'TOOLE: I understand that. But normally wouldn't you like to keep a house away from a State highway and all the traffic that's going to build up over the years?

BEVERLY GRIEBEL: But if they go further back, then they would have to relocate the septic area.

KEITH O'TOOLE: They could drop it in front of the house.

BEVERLY GRIEBEL: They could do that.

KEITH O'TOOLE: Put it in front of the house.

BEVERLY GRIEBEL: Well, that's true.

KEITH O'TOOLE: And, in fact, if you do that, you would have more free space for deck, pools, that sort of thing in the backyard.

In any event, I think we should go to the Planning Board first on this. Nothing further.

MR. AVERY: Could I answer that question? I understand what you're saying, but, you know, the highway is rather irregular there.

KEITH O'TOOLE: Exactly.

MR. AVERY: When I dig to the edge of the road, I'm still almost 85 feet from the edge of the traveled road. And because it's quite a --

KEITH O'TOOLE: I've got the map.

MR. AVERY: Possibly I can move a little bit, but I'm still about 85 -- let's see. Travelway, I'm still about -- I'm about 100 feet from the travelway to the center of the house. Behind the houses next to me, too.

MR. MOORE: We're very flexible for the driveway as well.

MR. HEDDING: We prefer to come out on Scottsville-Chili Road, but, like I said, I think it involves that corner and State DOT again, and so...

BEVERLY GRIEBEL: If it came out on the other side of the house, it would be too close to the corner; would that be the problem?

MR. HEDDING: The --

BEVERLY GRIEBEL: If it came out on the other side of the house and came out onto Old Chili-Scottsville Road?

MR. HEDDING: Right, because the property line is going to be right here (indicating), so it

would have to come out like this (indicating), and it wouldn't -- it would be too close to the corner.

BEVERLY GRIEBEL: It would or would not?

MR. HEDDING: Would. So having to locate the driveway on this side was to avoid the corner.

DAN MELVILLE: Isn't that something the Planning Board would probably --

MR. HEDDING: Yeah. This is all subject to change. We're looking for the subdivision of the lot tonight and a couple variances.

MICHAEL MARTIN: I would feel more comfortable waiting for the Planning Board.

BEVERLY GRIEBEL: There's several questions with this. You know, the main concern was the perk test, that that was going to be okay. But I guess the feeling of the Board is that we want to table this --

DAN MELVILLE: Until it goes to Planning.

BEVERLY GRIEBEL: -- until after the Planning Board approval on it.

MR. MOORE: Is there any way you can put exactly what questions you have in writing so that when we do go to Planning Board, we make sure any issues are -- I just don't want to come back here -- I want to make sure that all your concerns are addressed.

DAN MELVILLE: They should handle all this stuff.

MICHAEL MARTIN: The sight line, the percolation, the actual location of the dwelling, the leech field and things of that nature that are more --

DAN MELVILLE: We'll know a little bit more of what we're approving.

BEVERLY GRIEBEL: The driveway configuration, that's a main thing. That's going to be one of their main concerns, too.

KEITH O'TOOLE: Before you go there, if I may suggest: Since the site plan is related obviously to where the house is located, you might want to give them some direction on the variance issue, the setback issue.

MR. MOORE: That would be great.

BEVERLY GRIEBEL: Well, the barn on the adjacent property is very close to the road, and further along the house is close. It's very close.

MR. MOORE: Right. It's not a very -- it's a very low traffic road.

BEVERLY GRIEBEL: Right. So I don't have a major problem with the setback. The house would be set further back than either the barn or the house further along the road.

DENNIS SCHULMERICH: But if they leave it the way it's drawn now, they'll be coming back for a variance on the house.

BEVERLY GRIEBEL: That's what we'll table. They're asking for the variance on the setbacks, the side and the front setbacks.

DAN MELVILLE: I still think it might be better if it were set back a little farther than 50 feet.

KEITH O'TOOLE: I'm not a civil engineer thankfully -- with due respect to civil engineers -- but if the State ever reconfigures that intersection, I would think you would want to put that house back as far as you could, just in case they moved it to where you might not expect.

DAN MELVILLE: You could end up with a house about 20 feet from the road.

BEVERLY GRIEBEL: Possibly reversing the house and the septic system; put the septic in the front.

MICHAEL MARTIN: That will depend on elevations.

BEVERLY GRIEBEL: And a satisfactory perk test.

DENNIS SCHULMERICH: You should walk out of here knowing we have a concern about the setback.

MICHAEL MARTIN: Move it further back from the road, if possible.

MR. MOORE: There's plenty of room. I think the other thing, putting it where it is now, is the elevation in relation to the drainage, so...

MICHAEL MARTIN: That's going to be definitely a factor.

MR. MOORE: If we move it back, it's going to be closer and closer to the bottom of the hill.

DAN MELVILLE: Maybe back as far as you can move it, if it's feasible.

DENNIS SCHULMERICH: If you come back and say there's no option other than 50 foot and you've done the right work to prove that, that's fine.

MR. MOORE: Okay.

DENNIS SCHULMERICH: If you can move it back --

DAN MELVILLE: Yeah, maybe you can get another 20 feet or so out of it.

MR. MOORE: Sure. Okay.

BEVERLY GRIEBEL: Talk to the engineer again and see if there is any leeway in anything there.

MR. MOORE: Okay.

GERALD HENDRICKSON: The setback from the old road and the new road is different.

MR. MOORE: I'm sorry?

GERALD HENDRICKSON: I said your setback from the old road and the new road is all different. And if they come through there eventually, widen that road, because it is a State Road and doesn't have any traffic, you might run into a little problem.

BEVERLY GRIEBEL: You may wish for more front yard than they can take possibly.

MR. MOORE: Sure.

BEVERLY GRIEBEL: You don't want to move a house.

MR. MOORE: Why not? No.

PETER WIDENER: It will be hard to adjust that front. If they're going to take that intersection out to make it wider, you'd have to move the whole waterline, because the hydrant is right there.

Do you know if Glenn (Schneider) has water at his house or a well?

MR. MOORE: He has public water in the barn and the house. He also has gas now, too.

MR. HEDDING: The right of way is quite large there. It's very steep. It's like a gully there.

MR. MOORE: I mean, right now traffic is not really an issue on that road.

DAN MELVILLE: Ten years from now you don't know.

MICHAEL MARTIN: We're talking about the State.

MR. MOORE: That's why I like Chili, though.

GERALD HENDRICKSON: You cross that bridge there, you've got a new subdivision that's going to open up.

MR. HEDDING: We have the idea, though, of leaving up as many of the mature pine trees as possible to shield the structure from the road so you don't get any sound from the neighbors on the one adjacent side there.

MICHAEL MARTIN: You don't want too much driveway, because around here it's more snow.

MR. HEDDING: Exactly.

MICHAEL MARTIN: But those are the concerns of the Board that should be addressed by the Planning Board.

MR. MOORE: So I guess --

BEVERLY GRIEBEL: When does it go back to the Planning Board? It's not scheduled?

MR. HEDDING: It's not scheduled. We wanted to get the approval on the setbacks before we went any further. Like I said, we're moving along, we're getting preliminary prints drawn and stuff like that. It's a project I definitely want to pursue. And like I said, Mr. Schneider definitely wants to bestow his gift for his children and have them, you know, raise a family in close proximity to them, so...

DAN MELVILLE: I think you ought to make application to the Planning Board, at least preliminary, and see what they're thinking, too, because they might come up with something different.

MICHAEL MARTIN: Is it possible for us to separate this application and grant the variance for the lots and then --

DENNIS SCHULMERICH: We could, but I want to hear what the Planning Board has to say.

DAN MELVILLE: What if the Planning Board doesn't like the way the lots are configured?

BEVERLY GRIEBEL: It's not feasible because of all the things that have to be considered. That is a possibility.

DENNIS SCHULMERICH: I think it's a bigger issue to me if they come back and say there's a lack of feasibility and we've approved a variance. We've got a catch 22 situation.

DAN MELVILLE: It kind of ties their hands.

BEVERLY GRIEBEL: You haven't been to the Planning Board yet?

MR. MOORE: I didn't know we had to do that first.

MR. HEDDING: Glenn Schneider wanted to -- he hired Avery to do the site work, and they felt that this was the first step.

KEITH O'TOOLE: I think Don (Avery) was correct; it's just that this is a rather unusual application.

BEVERLY GRIEBEL: So many other factors involved.

DAN MELVILLE: We'd like a little direction from the way the Planning Board is thinking, too, before we go ahead.

MR. MOORE: Do you know how long Planning Board would usually take?

DANIEL KRESS: If we have an application by the end of the next week, you can get on the Planning Board agenda for December.

MR. MOORE: Okay.

PETER WIDENER: When did you plan to start building?

MR. MOORE: June.

BEVERLY GRIEBEL: Application deadline is November 7th for the December 9th Planning Board meeting.

MR. MOORE: Okay. Rates are up anyway, so I've already missed that boat.

BEVERLY GRIEBEL: Any other questions from the Board? No? I motion to table this. We won't put a specific date, but --

MR. MOORE: You meet around the 20th of every month?

DAN MELVILLE: The fourth Tuesday of every month with the exception of November and December.

BEVERLY GRIEBEL: December and May. December and May, it's usually the third Tuesday.

MR. MOORE: I was thinking of getting back on.

MR. HEDDING: Are there any applications that we need to put in for next month's meeting or December's meeting, rather?

PETER WIDENER: They'll tell you at the Planning Department when you apply.

DAN MELVILLE: Well, as far as for us, all you need to do, we're going to hold this, and you just have to notify the Building Department and post new signs, and as long as it's ten days prior...

KEITH O'TOOLE: Or table it to the December meeting and see what happens.

MR. MOORE: That would be great.

DAN MELVILLE: We'll bring it up next month and keep retabling it.

BEVERLY GRIEBEL: We'll table it to December 16th.

DENNIS SCHULMERICH: You still need to post signs, though.

MR. MOORE: Ten days prior.

DENNIS SCHULMERICH: With the correct date, time. Otherwise, you saw what happened at the beginning.

MR. HEDDING: Yeah, we saw that.

DAN MELVILLE: If you're not quite ready yet, come back -- just call the Building Department and ask if we can table it again, and we would table it again.

BEVERLY GRIEBEL: Depending on how you make out at the Planning Board to get on the December meeting.

DAN MELVILLE: But we'll keep it on the agenda.

MR. MOORE: Thank you very much.

BEVERLY GRIEBEL: We need a motion to table this to 12/16 --

MICHAEL MARTIN: I'll move it.

BEVERLY GRIEBEL: -- to get some more direction from the Planning Board.

GERALD HENDRICKSON: Second.

The Board was all in favor of the motion to table.

DECISION: Unanimously tabled by a vote of 7 yes to table until the December 16, 2003 meeting at 7:00 p.m. for the following reasons/findings of fact having been

cited:

1. The Zoning Board of Appeals needs clarification of issues at a Planning Board site plan review.
2. Applicant anticipates this will be heard at the December Planning Board meeting.
3. Applicant will then return to the Zoning Board of Appeals.

BEVERLY GRIEBEL: Did Anthony Cerretto return?

DENNIS SCHULMERICH: Is this the same address?

MICHAEL MARTIN: He was in last month for the land --

BEVERLY GRIEBEL: It was two months ago.

MICHAEL MARTIN: For the garage.

DENNIS SCHULMERICH: It was land use.

BEVERLY GRIEBEL: Well, I don't think he's going to show at this point.

DAN MELVILLE: Let's move to table this.

BEVERLY GRIEBEL: We'll table this to next month, November 25th.

DENNIS SCHULMERICH: Second.

MICHAEL MARTIN: You've got to move it first.

DENNIS SCHULMERICH: I thought he did.

DAN MELVILLE: I didn't say anything.

BEVERLY GRIEBEL: I'll move it.

DENNIS SCHULMERICH: Well, then I'll second it.

The Board was all in favor of the motion to table.

DECISION ON APPLICATION #6: Unanimously tabled by a vote of 7 yes to table until the November 25, 2003 meeting at 7:00 p.m. for the following reason/finding of fact having been cited:

1. Applicant failed to appear for the public hearing.

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.

BEVERLY GRIEBEL: The interesting thing on Mr. Cerretto is that he was sent a letter September 2nd to move his equipment off his property, all of his commercial equipment, dump trucks and all the other stuff, and he hadn't done it as of this morning; is that correct?

DAN MELVILLE: That's probably why he's not here.

DANIEL KRESS: That's correct.

DENNIS SCHULMERICH: At what point do we go in and tow it for him?

BEVERLY GRIEBEL: He'll sue you for damages.

And that's just an interesting sideline, because I got calls on this, too.

MICHAEL MARTIN: He wanted to build a barn or a garage?

BEVERLY GRIEBEL: He wanted to store all this stuff related to his business.

Okay. So that's tabled. This one is tabled.

DENNIS SCHULMERICH: Is he fined for that if he doesn't remove it?

BEVERLY GRIEBEL: He can get ticketed and end up in Town Court.

MICHAEL MARTIN: He can go to jail.

DANIEL KRESS: I generally give the applicants a reasonable amount of time, if they've not gotten the answer they hoped to get, to fix it on their own. If they don't, I write a letter, as I wrote, for example, to Mr. Cerretto, and give him 30 days or some reasonable amount of time.

BEVERLY GRIEBEL: But it's two months since we've heard from him.

DANIEL KRESS: That's correct. In the absence of any, you know, continuing failure to respond, eventually we're looking at an appearance ticket and a trip to Town Court.

BEVERLY GRIEBEL: That would be very near in the future, I would assume.

DANIEL KRESS: That would be in the near future.

BEVERLY GRIEBEL: From the September 2nd letter until now, that should be -- action should have taken place.

DENNIS SCHULMERICH: Seems as though he does whatever he pleases, regardless.

BEVERLY GRIEBEL: That's what he did in Gates.

DENNIS SCHULMERICH: Yep.

The meeting ended at 9:30 p.m.