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CHILI ZONING BOARD

January 25, 1994

A meeting of the Chili Zoning Board was held on January 25, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: Bill Oliver, John Hellaby, Ron Popowich, Ralph Barbaro,
John Castellani and Chairperson Beverly Griebel.

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

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

1. Application of James Ehmann, owner; 47 Stover Road, Rochester, New York 14624 for conditional use permit to allow an office in home for the distribution of promotional products and production of photo apparel at property located at 47 Stover Road in R-1-15 zone.

James Ehmann was present to represent the application. He stated he needs a conditional use permit to operate an office and light manufacturing operation for photo T-shirts and photo mugs at his property. Beverly Griebel stated at the last meeting the application was tabled because the Board was awaiting word about the products to be used in business. She read a letter from Jim Christian, the Fire Marshal, dated 1/3/94. The letter will be on file with the Building Department.

Ralph Barbaro asked if the list of materials was submitted to the Fire Marshal, and Mr. Ehmann indicated it was. He showed the Board samples of the materials that would be used. He indicated there would be a discarded piece of paper after the opposite side of the image was transferred. Ralph Barbaro asked how is the picture developed. Mr. Ehmann indicated that is done through a cartridge. He stated it is placed through a Kodak 6600 thermal printer which places it onto a carrier. He stated the carrier is a piece of paper like that on the back of an instant photo. He stated that paper film is melted on or burned via the machine, and then it is peeled off and put on the outside of a mug.

Ralph Barbaro asked what is done with the cartridge when they are done. Mr. Ehmann indicated they are discarded. Ralph Barbaro asked if they are put into a special dumpster, and Mr. Ehmann indicated according to Kodak, they don't need one. He stated there is no silver in it. Ralph Barbaro asked if the paper goes into the trash, too. Mr. Ehmann stated the paper goes through the copier and the image comes out. He stated they melt via heat A and B paper together. He stated the A paper is then separated. He stated the B paper is placed on the shirt. He stated the B paper is peeled off of the shirt and the A and B paper are both discarded.

Ralph Barbaro asked what is the thermal printer cleaned with, and Mr. Ehmann indicated he used Windex or 409. Ralph Barbaro asked his living and business overhead expense to regroup hydrocarbons, and Mr. Ehmann indicated he does not.

John Hellaby asked the applicant if he has been in business since 1981, and Mr. Ehmann indicated that was correct. John Hellaby asked what the reason is for moving the business into the home. Mr. Ehmann explained through the economic environment throughout the U.S., there has been a severe decline in business. He stated he has suffered a 47 percent decline in business in 1993 over 1992. He stated he has to combine his living and business overhead expense to regroup financially. Mr. Ehmann stated as time goes on, he hopes to move into another place. John Hellaby asked if this would be a temporary situation then, and Mr. Ehmann indicated it could be. He stated it would be a few years before he could regroup.

John Hellaby asked if there are other people involved in the business, and Mr. Ehmann indicated it

GATES-CHILI
NEWS

1635 BROOKS AVENUE, SUITE 2, WEST BLDG. ● ROCHESTER, NEW YORK 14624-3596

Date.....1/19/94.....

THIS IS TO CERTIFY THAT THE ATTACHED LEGAL NOTICE(S) WERE
PUBLISHED IN THE

GATES-CHILI NEWS

Issue Dated.....1/19/94.....

Geraldine C. Snyder
Notary

GERALDINE C. SNYDER
NOTARY PUBLIC, State of N.Y., Monroe Co.
My Commission Expires April 30, 1995

Patricia M. Smith
Patricia M. Smith
Publisher

**LEGAL NOTICE
CHILI ZONING
BOARD OF APPEALS**

Pursuant to Section 267 of Town Law, a public hearing will be held by the Chili Zoning Board of Appeals at the Chili Town Offices, 3235 Chili Avenue, Rochester, New York 14624 on January 25, 1994 at 7:30 p.m. to hear and consider the following applications:

1. Application of James Ehmann, owner; 47 Stover Road, Rochester, New York 14624 for conditional use permit to allow an office in home for the distribution of promotional products and production of photo apparel at property located at 47 Stover Road in R-1-15 zone.

2. Application of Mary Latacki, owner; 35 Evergreen Drive, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a bookkeeping business at property located at 35 Evergreen Drive in R-1-15 zone.

3. Application of Fingland Electric, 3614 Chili Avenue, Rochester, New York 14624, property owner: I. Hunt; for conditional use permit to allow an office in garage for an electricians business at property located at 3614 Chili Avenue in R-1-15 zone.

4. Application of Jacob Ras, c/o Michael O'Grady, 6117 Cook Road, Byron,

New York 14422 for variance to erect an 8' x 20' open porch to be 41' from front lot line (60' req.) at property located at 11 Brassier Drive in R-1-15 zone.

5. Application of Ronald Evangelista, owner; 28 Shrubbery Lane, Rochester, New York 14624 for variance to erect a 4' x 8' temporary freestanding sign at property located at 3328 Chili Avenue in G.B. zone.

6. Application of Domenic Asenato, owner; 79 Red Leaf Drive, Rochester, New York 14624 for variance to allow existing 12' x 12' utility shed to be 2' from side and rear lot lines (8' req.), variance for shed to be placed in a drainage

easement at property located at 79 Red Leaf Drive in R-1-12 zone.

7. Application of Stephen Beiter, owner; 37 Red Leaf Drive, Rochester, New York 14624 for variance to allow existing 10' x 10' utility shed to be 3' from rear lot line (8' req.), variance for shed to be placed in a drainage easement at property located at 37 Red Leaf Drive in R-1-12 zone.

8. Application of Theresa Solomon, owner; 775 Westside Drive, Rochester, New York 14624 for variance to erect a two car garage with living area on the second floor to be 12' from rear lot line (90' req.) at property located at 775 Westside Drive in R-1-

20 zone.

9. Application of Village Park Associates, owner; 849 Paul Road, Rochester, New York 14624 for variance to erect a 10' x 8' double faced freestanding sign to be 10' from front lot line (20' req.) at property located at 849 Paul Road in G.B. zone.

10. Application of Richard Manley, owner; 36 Everett Drive, Rochester, New York 14624 for conditional use permit to allow an office in home for a printing/advertising specialties brokerage at property located at 35 Everett Drive in R-1-20 zone.

11. Application of Rufus Hucks, owner; c/o Sear Brown Associates, 85

Metro Park, Rochester, New York 14623 for variance to erect a single family dwelling to be 50' from front lot line (100' req.), 10' from side lot lines (50' req.), 44' from rear lot line (50' req.), variance to create an undersized lot to be .738 acres (20 acres req.) with a lot width of 228' (700' req.) at property located at 57 & 59 Lester Street in RA-20 & FPO zone.

At such time all interested persons will be heard. By order of the Chairwoman of the Chili Zoning Board of Appeals.

**Beverly Griebel,
Chairwoman
Chili Zoning Board of
Appeals**

is just himself and his wife Gail. John Hellaby asked if there would be clientele coming to the property, and Mr. Ehmann indicated 95 percent of the time he visits his clients. He stated an occasional customer will come in. He stated he had 63 walk-ins in 52 weeks in 1993; just a little over one a week. Mr. Ehmann indicated he would have UPS delivery and US Mail delivery. He stated he would have a courier service come every day. He stated there would be an occasional Airborne or Federal Express delivery that would bring product orders into them.

John Hellaby questioned the quantity of the distribution. He asked what the maximum order would be. Mr. Ehmann stated he has done orders for 70 and 180 mugs at a time in the past.

Ron Popowich asked what the largest delivery coming to the property would be, and Mr. Ehmann indicated generally a single axle. He stated UPS may be going up to 150 pound shipments this year. He stated he does have a piece of equipment that weighs 128 pounds that needs to be sent out for repairs occasionally. He stated currently that has to be transported by a truck. He stated when he orders boxes, 90 percent of the time they come via UPS. He stated he has no control over how they are shipped.

Ralph Barbaro asked where the business was located prior to this, and Mr. Ehmann indicated it was at 205 Summit Point Drive in Henrietta off of LeHigh Station Road behind Microtel. He stated it was commercial property. Ralph Barbaro asked if there was a store front there, and Mr. Ehmann indicated there was not. Ralph Barbaro asked how big of an area did they have there, and Mr. Ehmann indicated they had almost 2,000 sq. ft. with walkways. Ralph Barbaro commented the application is only for 400 sq. ft. counting an office, and Mr. Ehmann indicated that was correct.

Ralph Barbaro asked the applicant if they have looked for commercial property sites, and Mr. Ehmann indicated they have. He stated the best place for them would be downtown. He stated the cost is more than what it would be worth to go downtown, though. Ralph Barbaro commented there are dozens of empty store fronts in Chili. Mr. Ehmann indicated he has spoken with Tom Fountain of the Chili-Paul Plaza. He stated the rental for 2,000 sq. ft. there was out of his reach. Ralph Barbaro commented 2,000 sq. ft. is five times the space the applicant is asking for in the application, though. Ralph Barbaro asked the applicant if they have looked at any 500 sq. ft. rentals, and Mr. Ehmann indicated the only one that was that small was Cadet's former location, and he stated that space was configured wrong.

Ralph Barbaro stated he doesn't consider this a customary home occupation. Ralph Barbaro asked the applicant if he has looked into any other smaller commercial sites other than the one he mentioned, and Mr. Ehmann indicated he has not.

Keith O'Toole commented at the last meeting the Board's concern was the materials that would be used in the operation. He stated those materials have been reviewed by the Fire Marshal and have been found to be acceptable. Bill Oliver commented production in the home is more than a customary home occupation. Larry Smith stated the only thing not permitted by a customary home occupation is the repair of gasoline or diesel engines or motors which are not owned by one of the residents. He stated light manufacturing is not prohibited for a home occupation. Larry Smith commented a hairdresser would probably use more dangerous chemicals in their home than this applicant is planning to use.

Bill Oliver stated it was the production aspect that was bothering him. Larry Smith commented if an applicant were to sell hand-made quilts out of their home, that would be production, too.

ANYONE IN FAVOR OR OPPOSED:

James Lett - 46 Stover Road

He stated he has seen what the applicant wants to do, and he stated he is in total support of the application. He stated he did not think there would be a traffic problem. He stated if the Board were thinking about denying this application, they would be stopping someone from making a living. He stated that would hurt the applicant.

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

DECISION: Approved by a vote of 5 yes to 1 no (Ralph Barbaro) with the following conditions:

- 1. No on-street parking pertaining to the business.
- 2. Minimum 4 1/2" house numbers (Arabic) be installed in color to contrast with house.
- 3. No outside advertising.
- 4. No signs on property.
- 5. Permit granted for a period of one year.

The following findings of fact were cited:

- 1. Business falls under Town Code for Customary Home Occupation.
- 2. Won't change character of the neighborhood.

The Board had a brief discussion about whether all the applications' notification signs were posted properly. The consensus of the Board was to continue hearing all the applications this evening.

2. Application of Mary Latacki, owner; 35 Evergreen Drive, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a bookkeeping business at property located at 35 Evergreen Drive in R-1-15 zone.

Mary Latacki was present to represent the application. She indicated she was present to apply for a renewal of her conditional use permit for her bookkeeping business. She stated most of her clients she picks the work up from. She stated she has one gentleman that comes to her property maybe twice a week, and she stated he comes in a personal vehicle. She stated occasionally a Federal Express delivery will be made to her house.

Beverly Griebel asked if the applicant would be requesting the same hours, and Ms. Latacki indicated she would. Ron Popowich asked Larry Smith if there have been any complaints on this property, and Larry Smith indicated there have been no complaints.

Ralph Barbaro asked the applicant if she still has a d/b/a, and Ms. Latacki indicated she does. Beverly Griebel asked the applicant how many people she employs, and Ms. Latacki indicated she has no employees. Larry Smith asked the applicant if she wanted to modify her application to indicate there would be no outside employees involved in the business, and Ms. Latacki stated she would modify her application in that regard.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

- 1. Minimum 4 1/2" house numbers be installed on house for easy identification.
- 2. No signs on the property.
- 3. No on-street parking pertaining to the business.

4. Permit granted for a period of three years.

The following findings of fact were cited:

1. Home occupation per Town Code.
2. No change in character of the neighborhood.
3. Application of Fingland Electric, 3614 Chili Avenue, Rochester, New York, property owner: I. Hunt; for conditional use permit to allow an office in garage for an electricians business at property located at 3614 Chili Avenue in R-1-15 zone.

Irving Hunt was present to represent the application. He stated he is the owner of Fingland Electric. He stated Fingland Electric does basically residential and commercial electrical work, and he stated he would like to be able to park his business' vans in his driveway.

Beverly Griebel asked the applicant how many vehicles he has, and Mr. Hunt indicated there are three in total. Beverly Griebel asked what kind of vehicles are they, and Mr. Hunt indicated they are vans.

Ralph Barbaro commented all the applicant was asking for was an office in the garage. He questioned whether the applicant would have to store electrical supplies, too. Mr. Hunt indicated he would. Ralph Barbaro commented the applicant would be using this location like a headquarters for his business and a supply room, and Mr. Hunt indicated his house is where all the materials are delivered to.

Ralph Barbaro commented the application indicates 10 vehicles can be parked in the driveway, and Mr. Hunt indicated that was correct. Ralph Barbaro asked the applicant if he was asking to be allowed to park 10 business vehicles in his driveway, and Mr. Hunt indicated he was not. Ralph Barbaro commented he has seen as many as four vans in that driveway at one time, and Mr. Hunt indicated there are only three vans that are for the business. He stated the fourth van is his wife's conversion van. Ralph Barbaro asked if this is the applicant's first application, and Mr. Hunt indicated it is.

Ralph Barbaro asked the applicant how long has he been operating out of this location, and Mr. Hunt indicated he has been there since 1991. Ralph Barbaro asked the applicant if he has looked for a commercial location to locate the business, and Mr. Hunt indicated he has not. Ralph Barbaro asked how many people are employed outside the family, and Mr. Hunt indicated normally he has two to three. Ralph Barbaro asked the applicant if he has ever had more than three, and Mr. Hunt indicated he has not. Ralph Barbaro asked if when the vans are gone, are the employees' personal cars left there, and Mr. Hunt indicated that was correct.

Ralph Barbaro asked the applicant if they do any minor assembly work or anything like that there, and Mr. Hunt indicated he does not. He stated they just store materials that they install there. Ralph Barbaro asked if they put together panel boxes and things of that nature, and Mr. Hunt indicated they do not. He stated he buys the panel boxes boxed up from a shelf at a supply house. Ralph Barbaro asked if they have any boxes of coils of wire, and Mr. Hunt indicated they do. Ralph Barbaro asked if they have junction boxes, and Mr. Hunt indicated they do. Mr. Hunt stated they are on call 24 hours a day. He stated they do service work as well. He stated it is necessary to keep some items on hand. Ralph Barbaro asked the applicant if he has conduit dropped off there, and Mr. Hunt indicated he does. Ralph Barbaro asked the applicant if he does any bending of the conduit or fixings at that location. Mr. Hunt indicated they do only small, minor stuff with small benders. He stated he does not use any power benders or anything of that nature.

Ralph Barbaro commented he thought it was about time for this applicant to start looking for commercial property. Mr. Hunt stated his initial plans were to move the business over to a property located on Davis Road which is more agricultural. Larry Smith stated that area is zoned Residential.

John Castellani asked the applicant what caused him to come in for an application all of a sudden, and Mr. Hunt indicated he was notified by the Town. Larry Smith indicated there was a complaint on the property. Mr. Hunt stated he wasn't aware of any complaint. He stated he was told the Building Department found he needed a conditional use permit on their own. Larry Smith stated the business had been parking some vans in the church parking lot. Mr. Hunt indicated he had gotten permission from the Father to do that. Larry Smith stated there were also some big spools of wire on the west side of the garage at one time. Mr. Hunt stated he does have a trailer that he carries a big spool of wire on. Larry Smith stated that is basically how this application came to the Building Department's knowledge.

John Hellaby commented the application indicates 10 vehicles can be parked in the driveway, but he questioned whether they were really on the lawn. Mr. Hunt indicated they are not on the lawn, and he stated he has a gravel area. John Hellaby asked if that area is dug out with gravel underneath, and Mr. Hunt indicated it is.

John Hellaby asked the applicant if he went into business in 1991, and Mr. Hunt indicated he purchased the business from his former employer who retired and offered him the business. John Hellaby asked the applicant what kind of dollar volume does he do in a year, and Mr. Hunt stated the economy dictates that. Mr. Hunt indicated he does about \$100,000 worth of sales. John Hellaby asked if the business is mainly residential electric, and Mr. Hunt indicated they do residential, commercial, agricultural repairs. He stated they do maintenance work. John Hellaby asked how the applicant finds his work, and Mr. Hunt indicated he has a list of builder contracts. He stated that is one reason he bought the existing business. He stated they get residential people from people just looking through the yellow pages.

John Hellaby asked if there was a full-time person on the staff that gathers up work for the business, and Mr. Hunt indicated there is not. John Hellaby commented then the applicant could control his business by handling the phone calls he gets in a year. Mr. Hunt indicated for example he would refer a large project that needed five electricians for three months out to someone else.

Ron Popowich questioned a phone number he saw on one of the vans. Mr. Hunt indicated that phone number applies to the previous location for the business, and he stated he just has not gotten that taken care of yet. Ron Popowich asked how the electrical supplies are brought in, and Mr. Hunt indicated they are brought by pick-up trucks. Ron Popowich asked how the supply vehicles get in the driveway, and he questioned whether they park on the road. Mr. Hunt indicated they pull into the driveway. He stated he has a large driveway. He stated they go in, use the turnaround, back up to the garage, unload the materials and pull out. Ron Popowich questioned whether there would be enough room to turn around when there are three vehicles in the driveway. Mr. Hunt indicated there is enough room. He stated there is a paved turnaround and gravel portion of the driveway that extends from the turnaround all the way up to the garage.

Beverly Griebel asked where the business was located before the applicant bought it, and Mr. Hunt indicated it was at 7230 Buffalo Road in Churchville. Beverly Griebel asked if that was a house or what kind of building was it. Mr. Hunt indicated the business was operated out of a pole barn on residential property.

Larry Smith stated the applicant may want to amend his application. He stated the Town has a requirement there be only one additional employee associated with a business operated out of a home that do not reside at the home. He stated the applicant has two additional people working for him. Mr. Hunt indicated he would amend his application in that regard.

Larry Smith stated the application list a total square footage relating to the business as 100 sq. ft. He stated, however, if the applicant parks a vehicle in the garage, the area of the business, there wouldn't be much room to work if the garage is really that small. Mr. Hunt indicated his garage is that small. Larry Smith stated the application should be amended to include the garage area and the office area that would be used inside the home. Mr. Hunt indicated he just has a phone line in the house that he can make calls on.

John Castellani questioned where the applicant does his billing. Mr. Hunt indicated he does that

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in a room in his house. He stated the whole room is probably 10' x 10'. Larry Smith indicated the application should list 340 sq. ft. then in total for the business, and Mr. Hunt indicated he would amend the application in that regard.

Ralph Barbaro asked the applicant if his family has two cars, and Mr. Hunt indicated they have a conversion van, and he stated he drives one of the business vans. Ralph Barbaro asked if four vehicles is the maximum number of vehicles that need to be parked on site then, and Mr. Hunt indicated that was correct. Ralph Barbaro indicated he thought that should be a condition of the application.

Larry Smith stated Jerry Schuman of the State D.O.T. called him about the application and said that Fingland Electric will require a commercial driveway permit if trucks are going to be going in and out of there.

ANYONE IN FAVOR OR OPPOSED:

Dorothy Borgus - 31 Stuart Road

She stated she is in favor of economic development in Chili but not at the expense of turning homes into businesses. She stated she has heard various complaints from members of TACT as well as other residents of Chili about this particular location. She stated it seems as though there is an incredible amount of vehicles being parked at that site in a small amount of space. She stated she has noticed the vehicles being parked in the church parking lot. She commented this business is kind of spilling over onto other properties.

Ms. Borgus asked if there was a sign posted at this location, and Ron Popowich indicated there was. Bill Oliver stated he had to make the point that there were not many people against this application tonight.

Ms. Borgus stated she frequently travels Chili Avenue, and she stated she has had to actually stop on Chili Avenue on a couple of occasions for delivery vehicles dropping off supplies at this site. Ms. Borgus commented if a pole barn was necessary to operate out of before, then how could there be enough room at this location.

Ms. Borgus stated she did not believe the fact this house has been used for a business for the past three years is a basis for continuing such practice. Ms. Borgus stated there are all kinds of commercial properties for rent in Chili.

Beverly Griebel indicated this application came back from the Monroe County Department of Planning as a local matter.

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

DECISION: Unanimously denied by a vote of 6 no with the following findings of fact being cited:

1. Traffic safety hazard demonstrated by NYSDOT requirement for commercial driveway permit for trucks.
 2. Does not fit customary home occupation as per Chili Zoning Code.
 3. Business not conducted in dwelling.
 4. Number of employees was in excess of Town Code.
4. Application of Jacob Ras, c/o Michael O'Grady, 6117 Cook Road, Byron, New York 14422 for variance to erect an 8' x 20' open porch to be 41' from front lot line (60' req.) at property located at 11 Brassier Drive in R-1-15 zone.

Michael O'Grady was present to represent the application. He stated he is the contractor for Mr. Ras. Mr. O'Grady stated Mr. Ras would like to build an 8' x 20' open porch over the front of his property. He stated there is already a slab out there that the applicant wishes to put a roof over. Ron Popowich asked what they would do to the sides of the porch, and Mr. O'Grady indicated Mr. Ras wants to use wrought iron posts similar to the neighbor's design. Ron Popowich asked how the roof would tie into the roof of the house, and Mr. O'Grady indicated it would be at a narrow pitch, but he stated it would tie in about 4 ft. into the upper main house roof.

John Hellaby asked if there was a rendering of what this would look like, and Mr. O'Grady indicated there was not. John Hellaby asked if this would require a complete set of drawings as far as construction, and Larry Smith indicated it would.

Bill Oliver asked if the roof is going to overhang to any appreciable amount beyond the concrete slab, and Mr. O'Grady indicated it would probably overhang about 12 inches. Larry Smith asked if the slab is 41 ft. from the property line, or is it 41 ft. from the overhang over the concrete slab to the property line. Mr. O'Grady stated right now to the front of the neighbor's house without the slab is 47 ft. He stated the edge of the slab would be 41 ft. Larry Smith commented then the applicant is really looking for a 41 ft. setback. He stated the Town's definition is from an element of the structure. He stated the application should be amended to say 40 ft. versus 41 ft. Mr. O'Grady indicated he would request such an amendment.

John Castellani asked Mr. O'Grady if he was very comfortable with his measurements. He stated the reason he was asking that was he did not want to see the applicant have to come back in again if they were off a little bit in their dimensions. Keith O'Toole commented the applicant was working off a tape location map, and he cautioned that those maps are not necessarily always accurate. He suggested the applicant ask for a little more than they need in case the dimensions change during construction. Ron Popowich commented there is a curve in the street, too. Larry Smith stated the applicant should request 38 or 39 ft. Mr. O'Grady indicated he would like to amend the application as such. Larry Smith indicated the application was amended to be 38 ft.

Ralph Barbaro asked if the existing concrete slab is going to be the floor of this porch, and Mr. O'Grady indicated it is. Ralph Barbaro asked if there would be anything built over that slab, and Mr. O'Grady indicated there would not be.

Beverly Griebel asked if any trees would be removed in the front yard, and Mr. O'Grady indicated there would not be any trees removed.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Will not change character of the neighborhood.
2. No health or safety concerns.
3. Rain cover over existing boundary.
5. Application of Ronald Evangelista, owner; 28 Shrubbery Lane, Rochester, New York 14624 for variance to erect a 4' x 8' temporary freestanding sign at property located at 3328 Chili Avenue in G.B. zone.

Larry Smith stated Ronald Evangelista told him he may be late this evening. Larry Smith suggested they recall the application later.

After all the applications were heard, the application of Ronald Evangelista was recalled and the applicant was still not present.

Ralph Barbaro made a motion to table the application, and Bill Oliver seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously tabled by a vote of 6 yes to table for the following reason:

1. Applicant failed to appear at public hearing. Application will be heard at the February 25th meeting.
6. Application of Domenic Asenato, owner; 79 Red Leaf Drive, Rochester, New York 14624 for variance to allow existing 12' x 12' utility shed to be 2' from side and rear lot lines (8' req.), variance for shed to be placed in a drainage easement at property located at 79 Red Leaf Drive in R-1-12 zone.

Domenic Asenato was present to represent the application. He stated he would like to keep his existing shed where it is. Beverly Griebel asked if the applicant for Application 7 was present. Mr. Stephen Beiter was present for Application 7. Beverly Griebel suggested the Board address these to applications at the same time.

7. Application of Stephen Beiter, owner; 37 Red Leaf Drive, Rochester, New York 14624 for variance to allow existing 10' x 10' utility shed to be 3' from rear lot line (8' req.), variance for shed to be placed in a drainage easement at property located at 37 Red Leaf Drive in R-1-12 zone.

Keith O'Toole stated both applications have the same problem. He stated the applicants have come in to fix the setback situation, and he stated the Zoning Board can take care of that tonight. He stated the problem the two applications have is that they involve sheds that are sitting in a Town drainage easement, which is illegal. He stated there are some provisions for taking care of that, but he stated it is subject to review by the Town Engineer, the Department of Public Works and the Building Inspector. He stated the applicants would be responsible for submitting an instrument survey. He stated the map Mr. Asenato has is a tape location map and is insufficient. He stated both applicants would have to have an instrument survey for their properties, and he stated that would cost them each about \$250.

Keith O'Toole indicated the Town workers need to get in the drainage easement from time to time to clean it out. He stated the Town may decide after reviewing the situation that it would deed a portion of the easement to each of the owners. He stated if that were not to happen, the applicants may have a problem marketing their homes in the future aside from the drainage problem.

Mr. Asenato stated in 18 years he has never seen anyone working in that easement. Larry Smith stated the Town's practices have changed in the last two years, though.

Keith O'Toole stated the applicants would have to pay for an instrument survey and the costs for the Town Engineer's fees for doing the review. Keith O'Toole suggested in order for the applicants to not lose their \$35 this evening by going forward with the applications and having them end up in denials, they should request their applications be withdrawn so that the Town and the applicants could review the issue surrounding the drainage easement. He stated if the Town Board were to approve the release of the easement, the applicants would have to come back to the Zoning Board for a setback variance.

There was a discussion amongst the Board on whether it would be better to table these applications or to withdraw them.

Keith O'Toole indicated the alternative to the situation would be for the applicants to move their sheds.

Mr. Asenato commented he built his shed in such a way that if someone were to need to get into that easement, someone with a tractor could pull the shed out of the easement. Larry Smith stated the Town cannot give someone temporary permission to have a shed in an easement, though. Mr. Asenato stated the reason he built his shed there was so that he would not have the ability to start accumulating stuff behind the shed like most people do.

John Castellani moved that Applications 6 and 7 be tabled, and Bill Oliver seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION #6: Unanimously tabled by a vote of 6 yes for the following reason:

1. Tabled pending possible Town Board action.

DECISION ON APPLICATION #7: Unanimously tabled by a vote of 6 yes for the following reason:

1. Tabled pending possible Town Board action.

8. Application of Theresa Solomon, owner; 775 Westside Drive, Rochester, New York 14624 for variance to erect a two-car garage with living area on the second floor to be 12' from rear lot line (90' req.) at property located Westside Drive in R-1-20 zone.

Theresa Solomon was present to represent the application. She stated she wants a two-car garage since there is no garage on the property. She stated above the garage there would be a living area. Beverly Griebel asked if this would extend beyond the room in the back, and Ms. Solomon indicated there is going to be a little small walkway as there are skylights on the addition that is on there right now, and she explained if she were to put it right against the back of the house, it would take away from the skylights.

Beverly Griebel asked if the barn and shed in the back are going to stay, and Ms. Solomon indicated they would. Ralph Barbaro stated the plans show the garage is going to be built where the shed is now. He asked if the shed is going to be removed, and Ms. Solomon indicated it would be.

Ralph Barbaro questioned where the access to the living area would be, and Ms. Solomon indicated it would be from the second story of the house. Ralph Barbaro asked what that living area is going to be used for, and Ms. Solomon indicated her mother would be coming to live with her. Ralph Barbaro asked if there would be a separate kitchen in that room, and Ms. Solomon indicated there would not be. Larry Smith stated the applicant would not need approval for an in-law apartment since there would be no kitchen facilities in the room.

Ralph Barbaro asked if the siding would match the existing home, and Ms. Solomon indicated it would. Bill Oliver asked the applicant how old her mother is, and Ms. Solomon indicated she will be 80 soon. Bill Oliver stated he assumes there are steps in the home, and Ms. Solomon indicated there are steps. Bill Oliver commented sometimes it is difficult for an elderly person to use stairs. He questioned where the stairs would be located, and Ms. Solomon indicated they would be located inside the house. Bill Oliver asked how many stairs there would be, and Ms. Solomon indicated there is about eight steps.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel indicated this came back from the Monroe County Department of Planning as a local matter.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

- 1. Showed need for live-in area for family member.
 - 2. Showed need for garage.
 - 3. Location won't impact neighboring properties.
9. Application of Village Park Associates, owner; 849 Paul Road, Rochester, New York 14624 for variance to erect a 10' x 8' double-faced freestanding sign to be 10' from front lot line (20' req.) at property located at 849 Paul Road in G.B. zone.

Jamie Valerio was present to represent the application. He stated he is one of the partners of Village Park Associates. He stated he is also one of the tenants of Village Park.

Mr. Valerio stated they started construction of the building in June of 1989. He stated their first tenant moved in at Thanksgiving time of 1989. He stated since that time they have had a large family practice of Highland Hospital called Chili Family Medicine move in. He stated there is also a medical imaging facility there. He stated there is also a medical group that has a family practice located in the building. He stated Chili Obstetrics and Gynecology is in the building. He stated there is a licensed blood specimen lab working out of this building.

Mr. Valerio stated they are not looking to identify all the different individual doctors on the sign. He stated there are probably 12 to 15 professionals in the building. He stated there is also a real estate broker in the building

Mr. Valerio stated one of the problems that has occurred over the years and especially since they have added so many medical facilities, is that they have been receiving a large number of complaints about the ability of people to find the building. He stated part of that problem stems from the fact they designed and had approval of their project before the reconstruction of Chili Center. He stated the NYSDOT did not even show their building on their maps in June of 1990. He stated the State maps showed the old home that used to be on this site. He stated the grades were shown as pre-existing before their building was even built. He stated the maps were drawn eight months after they had their first tenant in even.

Mr. Valerio stated one of the things the State did that really hurt them is they dropped the road in relation to their site. He stated they put the road in in relation to the old grades. Mr. Valerio stated they had already filled about 6 ft. of their site by then. He stated their building and site is now roughly 6 to 5 ft. above the center of the road. He stated the State then required them to eliminate their entrance to their site. He stated because of the grading that the State did, the entrance would have been an 8 to 20 percent pitch and would have been a very dangerous situation, especially in winter.

Mr. Valerio stated the State finally did approve an entrance for the site at the far south end of the site. He stated they have an entrance behind Pizza Hut and another one for the future part of their site at an existing road cut. He stated they have an approved site plan for Phase 2 that they will build some day. He stated there just isn't any demand for that yet. Mr. Valerio stated there is some vacant space in their existing building, about 15 percent.

Mr. Valerio stated one of the problems that exists in finding the site is that once someone comes around Paul Road, after they find Paul Road by distinguishing between the two separate Paul Roads, they make a right-hand turn at the Wendys and Pizza Hut and then find the property. Mr. Valerio stated they have received many complaints from their tenants, especially the medical offices, that people cannot find their offices. Mr. Valerio read a letter from a referring physician that was sent to the radiology group that indicated that if the site were not to get better signage to aid the patients in finding the site, he was not sure he would continue to refer his patients to this facility. The letter also mentioned the need of patients to be able to find the facility quickly when they are suffering from pain. A copy of the letter will be on file with the Building Department.

Mr. Valerio stated he has hired Terry Gleason of Passero Engineers who is a licensed landscape architect to look at the alternative locations for putting the sign. He stated the problem with their site is they are up so high, they have parking in front and back. He stated the parking is right to the right-of-way almost. He stated the location they have picked would identify the site right as a person turns the corner. He stated there would be a view of the sign coming around the corner looking north from Chili Avenue around Paul Road.

Mr. Valerio stated they are having a problem with people passing up the site. He stated they are also having a problem with people not identifying it with medical practice. He stated the people cannot even see the building behind the trees. He stated he would love to ask Pizza Hut to cut down their trees, but he stated he did not think they would do that. He stated he would hate to see the trees come down, too.

Mr. Valerio indicated the sign would have 8 inch slats with 4 to 6-inch high letters for the office names. Mr. Valerio stated they are asking for a 10 ft. distance because 20 ft. would not work. He stated no one could see the sign if it were set back 20 ft. He stated anywhere else, 20 ft. would be in a parking space. He stated they are up so high, even building signage would be barely visible until someone were to pass the building.

Mr. Valerio stated with the location they have chosen, the person turning out of the entrance would have visibility in both directions. He stated the only somewhat obstruction from exiting the site in that location is a telephone pole that they would like to have removed.

Beverly Griebel asked if there would be individual sign slats for each of the offices, and Mr. Valerio indicated there would be because they are separate and distinct operations. He stated they would not need the signage at this location for the future development because at the other end of the section there would be room for signage.

Larry Smith asked for clarification on the dimension the applicant is asking for. Mr. Valerio stated the sign would be 10 ft. from the curb which is the edge of pavement. Larry Smith stated there is a 15 ft. right-of-way that the State owns there. He commented the applicant is asking to put the sign in that State right-of-way. Mr. Valerio stated they have checked that line, and he stated they are asking to put it 10 ft. from the line, not on the right-of-way. Larry Smith stated they are asking to be 10 ft. from the front lot line. Mr. Valerio stated they are asking to be 10 ft. from the right-of-way line.

Larry Smith stated the applicant has to be 20 ft. back from the lot line. Mr. Valerio stated they are asking for a variance from that. Larry Smith stated on the application the applicant is asking for a sign to be 10 ft. from the front lot line. He stated they are going to be 20 ft. from the edge of the road. He stated the typical sign would have to be 35 ft. from the edge of the road. He stated the application is asking for a 10 ft. variance, so the sign should be back 25 ft. Mr. Valerio stated they are asking for 10 ft. from the curb. Larry Smith stated the sign would be on the State right-of-way if the variance were granted, and he stated there is no way this Board could approve that.

Larry Smith stated Jerry Schuman from the NYSDOT called him with this concern. Mr. Valerio stated if it was possible to amend the application, he would like to have the front of the sign just in from the right-of-way line, maybe 6 inches or a foot. John Castellani asked if the sign would be put up this month, and Mr. Valerio indicated probably not. John Castellani suggested the applicant take the time to review this again and come back to the Board next month.

Ralph Barbaro asked how far the curb is from the edge of the State right-of-way, and Larry Smith indicated typically it is 15 to 17 ft. from the edge of the curb. Ralph Barbaro stated if they are putting the sign 10 ft. from here, there would be 22 ft. from the curb. Beverly Griebel commented there were some County Comments pertinent to this discussion.

Ralph Barbaro commented part of the problem of going close to the road right-of-way is that they would obstruct the line of sight for cars pulling in and out of the parking area. He suggested the applicant may want to look at cutting the 2 ft. columns down depending on where the sign is

eventually proposed.

Beverly Griebel read the County Comments.

Mr. Valerio indicated he had some trouble with Mr. Lamb's comments. He stated Mr. Lamb's department is the one that originally made them work with the D.O.T. to approve this project. He stated it is like they did everything they could to get him to accept this entrance and now they are turning it around on him and not allowing him to identify his building. Mr. Valerio stated he would not be present asking for this variance if he was not receiving complaints from his tenants.

Beverly Griebel indicated she thought it would be better to have the sign identify the building, and she stated once the people were in the parking lot, they then could be directed to the different offices.

Mr. Valerio requested the application be tabled so he could review the dimensions they need. Larry Smith stated the applicant should get someone to certify where the right-of-way is from the edge of the curve. Mr. Valerio indicated he would get an instrument survey of the area.

Bill Oliver commented when the Fire Department was in, the Board did not want to see the individual tenants listed on the sign. Beverly Griebel commented she thought it would be hard for the people driving by to scan ten names in the amount of time they would have. Larry Smith commented if any of the offices change in the future, the applicant would have to come back in each time for a new variance. Mr. Valerio stated he felt his tenants have a right to be identified from the road.

John Castellani made a motion to table the application, and Bill Oliver seconded the motion.

DECISION: Unanimously tabled by a vote of 6 yes to table for the following reason:

- 1. Tabled for one month for further information.

- 10. Application of Richard Manley, owner; 36 Everett Drive, Rochester, New York 14624 for conditional use permit to allow an office in home for a printing/advertising specialties brokerage at property located at 36 Everett Drive in R-1-20 zone.

Richard Manley was present to represent the application. He stated he would like to operate a part-time printing and advertising specialties brokerage specializing in business and personal stationery, wedding invitations and other such services. Beverly Griebel asked if the work would be done in the home, and Mr. Manley indicated he would like to operate a brokerage. He stated he has several vendors lined up. He stated he would actually be doing the sales work outside, would be receiving phone calls and would be placing orders to be shipped directly to his house or bypassed to the customers.

Beverly Griebel asked if the printing work would be done on premises, and Mr. Manley indicated it would not. Ron Popowich asked if there would be any visiting customers to the premises, and Mr. Manley indicated there would not be any.

John Hellaby asked the applicant how long has he been doing this, and Mr. Manley indicated he would be starting up new with this. He stated he just got his d/b/a. He stated he wanted to get started up from his house. He stated he would like to build up a clientele and then move out of his home. He stated he would like to be able to look for commercial space in 12 to 18 months.

There was discussion amongst the Board about the application form as it relates to the number of cars that can be put in a driveway.

Ralph Barbaro asked what the applicant's products would be, and Mr. Manley indicated he would sell business and personal stationery and advertising specialties. He stated he would like to start out doing wedding invitations and get into the business stationery. Ralph Barbaro asked for clarification of advertising specialties, and Mr. Manley indicated that meant anything that a

business would want to print something on. Ralph Barbaro asked the applicant if he would get into two-man rafts like Kodak does, and Mr. Manley indicated he would not get into that out of the home. He stated he would deal with small items such as pens and pencils.

Ralph Barbaro asked if those items would be stocked in the applicant's home, and Mr. Manley indicated he would not stock those. He stated everything would be special order. Ralph Barbaro asked the applicant if he would have samples in his home, and Mr. Manley indicated he would.

Beverly Griebel questioned what the hours of operation would be, and Mr. Manley indicated he would work evening hours and on the weekends. Beverly Griebel indicated the Board would need to list more specific hours, and Mr. Manley stated he would work from 5 p.m. to 9 p.m., Monday through Friday. He stated he would work from 8 a.m. to 12 p.m. on Saturdays.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel indicated this came back as an unlisted action from the Monroe County Department of Planning.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. No on-street parking pertaining to the business.
2. Minimum 4 1/2" house numbers (Arabic) be installed in color to contrast with house.
3. No outside advertising on premises.
4. No signs on property.
5. Permit granted for a period of one year.

The following findings of fact were cited:

1. Customary Home Occupation.
 2. No change in character of the neighborhood.
11. Application of Rufus Hucks, owner; c/o Sear-Brown Associates, 85 Metro Park, Rochester, New York 14623 for variance to erect a single-family dwelling to be 50' from front lot line (100' req.), 10' from side lot lines (50' req.), 44' from rear lot line (50' req.), variance to create an undersized lot to be .738 acres (20 acres req.) with a lot width of 228' (700' req.) at property located at 57 & 59 Lester Street in RA-20 zone.

Karen Brankacz was present to represent the application. She stated she was present to represent the Huckses as well as Monroe Community Development. She stated this involves a one-story, wood frame house with a detached garage and various sheds and a fenced-in dog pen area. Larry Smith stated the garage has been removed.

Ms. Brankacz indicated the existing house has been condemned by the Town of Chili. She stated the two adjacent parcels are to be resubdivided to create an almost 3/4 acre parcel and a new single family dwelling is proposed. She stated the setbacks are 50 ft. from the front, 40 ft. from the rear and 40 ft. from the side. She stated they have appeared before the Chili Planning Board and have received site plan approval and subdivision approval pending the outcome of tonight's variance request.

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Ms. Brankacz stated with the resubdivision of land they will be increasing the existing dimensions of the property. She stated with the new house they are not going to be moving it any closer to the road, and she stated they are actually going to improve the situation for the Huckses. She stated the granting of the variance would improve their quality of life substantially. She stated the property would be more aesthetically pleasing for the neighbors, as well.

John Castellani asked if this application would be here if that area were zoned Residential, and Larry Smith indicated it might not be. There was discussion amongst the Board members about the master plan and how if its recommendations were adopted, it would affect this property. John Castellani commented if this were a Residential zone, the setback variances would not be required. Larry Smith stated there would be a problem with the rear setback.

There was discussion over how the applicant measured the setbacks from the house. There was a discussion over the measurements involved with the variances requested.

Larry Smith stated the application would have to be modified, and Ms. Brankacz indicated she needs 22 ft. and would like to ask for 21 ft. to give her a little leeway. Larry Smith indicated the application would be modified to read 21 ft. from the rear lot line.

John Hellaby asked if the Huckses are the present owners of the property, and Ms. Brankacz indicated they are. John Hellaby asked if they have been the owners for some time, and Ms. Brankacz indicated they have been.

Bill Oliver asked if the Planning Board had made mention of the fact this area has been under review, and Ms. Brankacz indicated they had.

ANYONE IN FAVOR OR OPPOSED: No one.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Minimum variance required.

The meeting ended at 10:15 p.m.

CHILI ZONING BOARD

February 22, 1994

A meeting of the Chili Zoning Board was held on February 22, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: Bill Oliver, John Hellaby, Ron Popowich, Ralph Barbaro, John Castellani and Chairperson Beverly Griebel.

ALSO PRESENT: Keith O'Toole, Assistant Town Counsel; Tony Knope, Assistant Building Inspector.

Chairperson Beverly Griebel declared this to be a legally constituted meeting of the Chili Zoning Board. 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.

OLD BUSINESS:

- 1. Application of Village Park Associates, 849 Paul Road, Rochester, New York 14624 for variance to erect a 10' x 8' double-faced freestanding sign to be 10' from front lot line (20' req.) at property located at 849 Paul Road in G.B. zone.

Jamie Valerio was present to represent the application. He stated the application was tabled from last month for more information. He stated he has provided an instrument survey to the Town. He stated there was an error last month. He stated the requested 10 ft. dimension was wrong. He stated they are asking for a variance to erect the sign 13 ft. from the curb, 1 ft. from the right-of-way line.

Mr. Valerio stated they have reduced the size of the sign. He stated they have reduced the columns from 26 inches to 18 inches. He stated they plan to brick the columns and may do them with wood.

Mr. Valerio stated the majority of the traffic the Board is concerned about comes from the left. He stated the sign is on the right. He stated the sight distance to the left is not hindered in the least by the sign.

Mr. Valerio presented a letter to the Board from David Chaffitz of Highland Hospital dated 2/4/94 indicating their concern for identification of their business for its patrons. He read the letter. Mr. Valerio stated he is receiving pressure from the medical groups in his building for signage. He stated there are over ten physicians' groups in the building.

Beverly Griebel asked how far is the temporary sign from the road. Mr. Valerio stated that sign is actually on the right-of-way line, about 12 ft. from the curb. He stated that sign will come down quickly. He stated the telephone pole is actually about 8 ft. in front of the spot that they want to put the sign. He stated the sign will end before Pizza Hut's structure impedes the view of the sign. He stated he had a stake in the snow indicating the location before the snow melted.

Beverly Griebel asked where the hedges are in relation to the proposed sign. Mr. Valerio indicated the hedges are 2 ft. in front of the right-of-way, which is about 11 ft. from the curb. He stated the sign will start further from the road than the hedges.

Beverly Griebel commented the sketch shows the dimension line to the sign to go to the center of the post. She stated when the Zoning Board grants a variance, it should be to the leading edge of the post. Mr. Valerio stated the sketch would not be his specs for the erection of the sign.

Mr. Valerio stated the dimension on the drawing that says 10 ft. should be 13 ft. He stated the

GATES-CHILI
NEWS

1635 BROOKS AVENUE, SUITE 2, WEST BLDG. ● ROCHESTER, NEW YORK 14624-3596

Date.....2.16.94.....

THIS IS TO CERTIFY THAT THE ATTACHED LEGAL NOTICE(S) WERE
PUBLISHED IN THE

GATES-CHILI NEWS

Issue Dated...2.16.94.....

Geraldine C. Snyder

Notary

GERALDINE C. SNYDER
NOTARY PUBLIC, State of N.Y., Monroe Co.
My Commission Expires April 30, 1995

Patricia M. Smith

Patricia M. Smith
Publisher

**LEGAL NOTICE
CHILI ZONING BOARD OF APPEALS**

Pursuant to Section 267 of Town Law, a public hearing will be held by the Chili Zoning Board of Appeals at the Chili Town Offices, 3235 Chili Avenue, Rochester, New York 14624 on February 22, 1994 at 7:30 p.m. to hear and consider the following applications:

OLD BUSINESS:

1. Application of Village Park Associates, 849 Paul Road, Rochester, New York 14624 for variance to erect a 10' x 8' double faced freestanding sign to be 10' from front lot line (20' req.) at property located at 849 Paul Road in G.B. zone.

PUBLIC HEARINGS:

1. Application of Ronald Evangelista, owner; 28 Shrubbery Lane, Rochester, New York 14624 for variance to erect a 4' x 8' temporary freestanding sign at property located at 3328 Chili Avenue in G.B. zone.

2. Application of Jeffrey Miller, owner; 38

Weatherwood Lane, Rochester, New York 14624 for conditional use permit to allow an office in home for a balloon bouquet business at property located at 38 Weatherwood Lane in R-1-15 zone.

3. Application of Kenneth Abbey, owner; 45 Chestnut Drive, Rochester, New York 14624 for variance to allow existing house to be 3' from side lot line (10' req.) at property located at 45 Chestnut Drive in R-1-12 zone.

4. Application of Jazzercise, 33 Cassandra Circle, Churchville, New York 14428, property owner: First Baptist Church; for variance to erect two 2' x 4' temporary "A-Frame" signs, variance for sign #2 to be 5' from rear lot line (20' req. abutting a street) at property located at 3182 Chili Avenue in G.B. zone.

5. Application of Perna Homes Inc., owner; 849 Paul Road, Rochester, New York 14624 for variance to erect a single family dwelling to be 11' from rear lot line (35' req.) at property located at 19 Hunt Hollow in PRD zone.

6. Application of Perna Homes, Inc., owner; 849 Paul

Road, Rochester, New York 14624 for variance to erect a dwelling to be 33' from rear lot line (35' req.) at property located at 22 Hunt Hollow in PRD zone.

7. Application of Perna Homes Inc., owner; 849 Paul Road, Rochester, New York 14624 for variance to erect a dwelling to be 10' from rear lot line (35' req.) at property located at 27 Hunt Hollow in PRD zone.

8. Application of Sugar Creek Stores, 760 Brooks Avenue, Rochester, New York 14619 for variance to erect a 4' x 8' double faced freestanding sign at property located at 1133 Scottsville Road in G.I. zone.

At such time all interested persons will be heard. By order of the Chairwoman of the Chili Zoning Board of Appeals.

**Beverly Griebel, Chairwoman
Chili Zoning Board of Appeals**

dimension that says 5 ft. should be 8 ft. He commented the instrument survey is signed and wetsealed.

Bill Oliver asked if all the tenants' names would be on the sign or would just Village Park Associates be on the sign. Mr. Valerio indicated the sign would have the names of the tenants. Bill Oliver stated he felt just Village Park Associates should be on the sign. Mr. Valerio stated because the buildings are 5 to 6 ft. above the road elevation, there is no place to put the tenants' names on the building that would be visible from the road. He stated he has a hardship with the entrance. He stated he did not pick that location for the entrance.

Bill Oliver stated he has yet to see a medical facility sign with all the names listed such as the applicant is asking for. Mr. Valerio stated his first choice is to name all the tenants on the sign. He stated everyone currently slows down trying to find the building and often drive by. He stated his second choice would be to have just 849 Village Park Associates on the sign. He stated then he would need a freestanding sign somewhere on the property that could direct the visitors to the appropriate business.

Ralph Barbaro questioned whether there was a sign approved for the Fire Department that listed all of the building's tenants. John Castellani commented that sign was not approved. John Castellani commented a traffic hazard could be created by having all of the names on the sign. Bill Oliver commented the old Fire Department sign should be taken down.

Beverly Griebel asked if the business names could be placed on the doors to the buildings. Mr. Valerio stated there are designations of the North Building and the South Building currently. He stated if a person is willing to walk, they can get to any business from any of the four entrances. He stated the tenant signage is located within each vestibule.

Mr. Valerio stated he did not know how much worse a situation it would be if people were to read the sign as they go by as compared to the hazard that currently exists when the people cannot locate the building until they have driven by it.

John Castellani commented if the tenant names were removed, the Village Park Associates sign could be made larger and would be easier to read from a distance. He stated he did not think with all the names that would need to be listed on the sign that there would be enough room to make the letters large enough to be read from a distance. Mr. Valerio stated the letters may not be large enough to read until a person got close to the sign.

Ralph Barbaro stated he could not find anything in the code that indicates the Board has the authority to approve or disapprove the contents of a sign. Keith O'Toole stated the Board is not present to approve the contents of the sign. He stated the Board can approve the amount of illustration or logo. Beverly Griebel stated there are signs that have to come before the Board if one of the name slats on such sign has to be changed, and she commented an example of that is Application #8 this evening. Keith O'Toole stated the Board can restrict the content of the sign, not the message.

John Hellaby asked how the sign would be illuminated, and Mr. Valerio indicated they would use probably a ground light, a spot light coming up from the surface of the ground on both directions. He stated they would use a soft orange sodium light. John Hellaby asked what the hours of illumination would be, and Mr. Valerio indicated they have three sets of lights on their property. He stated the lights are turned on during the winter at dark. He stated some of the lights are left on for safety until 6 a.m. or 7 a.m. depending on when daylight comes. He stated two-thirds of them are shut off between 2 a.m. and 3 a.m. He stated the lights are on timers. He stated the sign lights would be turned off between 2 and 3 a.m.

John Hellaby asked if the sign would be landscaped, and Mr. Valerio indicated it would be landscaped but not enough to make it a distraction. He stated they would continue the pattern of landscaping the State has done in that area.

John Hellaby asked if there are two existing brick columns, and Mr. Valerio indicated that was

correct. John Hellaby commented they do not show on the plans. John Hellaby asked where those columns fall in relation to the curb line. Mr. Valerio indicated on the plans where they are located. Mr. Valerio indicated the columns are back in from the right-of-way line about 1 ft.

Tony Knope stated the biggest thing Larry Smith was concerned about was the 10 ft. from the lot line dimension that was mentioned at the last meeting. Tony Knope stated with what he has heard this evening, he doesn't see a problem with the sign. Mr. Valerio indicated Larry Smith was correct at the last meeting when he pointed out the incorrect dimension. Mr. Valerio stated that dimension has been corrected.

ANYONE IN FAVOR OR OPPOSED: No one.

John Hellaby commented the application has not been formally amended. The application was amended from 10 ft. to the front lot line to 1 ft. from the right-of-way line.

Beverly Griebel asked what the sign dimensions would be if the signage itself were reduced to just 849 Village Park Associates. Mr. Valerio stated they have already reduced the sign from 10 ft. to 9 ft. in width. Ralph Barbaro asked what the total height would be to the peak of the columns of the sign, and Mr. Valerio indicated it would be 8 ft. tall. Mr. Valerio commented he wasn't sure they were even going to have the peaks on the sign.

Mr. Valerio stated the lettering for Village Park Associates would be 12 inches in height plus another 8 inches for the 849 lettering. Mr. Valerio stated if he did not have the tenants listed on the sign, the sign would be about 18 inches tall. He stated the columns would drop down then, too. He stated that would not be his preference, however.

There was discussion about amending the application with regard to the size of the sign. Mr. Valerio indicated he would like an 8 ft. by 9 ft. sign with the tenants' names listed on it.

Mr. Valerio asked if the sign as proposed were turned down, would he have to come back again for just the 849 Village Park Associates part of the sign. Keith O'Toole indicated Mr. Valerio would have to come back in that instance.

John Hellaby stated he would be hard pressed to see this Board pass the vote with the way the application is presented with the tenants' names being listed. He strongly recommended the applicant amend his application in that regard. Mr. Valerio stated the Town would be hearing from his tenants if the sign is not approved the way he is proposing it. Mr. Valerio stated his building has a hardship, and he stated he did not feel his sign should be compared to the Fire Department sign. He stated the Fire Department's building can be seen from the road whereas his sign cannot be seen from the road.

Bill Oliver stated he did not see the need for the individual tenant names on the sign when there could be directional signs placed in the parking lot of the property. Beverly Griebel commented the Board realizes there is a traffic hazard here, but she stated the Board does not want to create even more of a hazard with people slowing down to read all the names on the sign.

Mr. Valerio stated he is not looking to name doctors on the sign. He stated he just wants to identify the individual practices. Ralph Barbaro asked how many names would be on the sign. He also asked if there is an internal sign already existing that could direct people to the different practices. Mr. Valerio stated there is no such sign. Mr. Valerio explained there are four doors currently into the building. He stated any tenant can be found from entering any of the four doors. He stated there is a directory at every door inside, but not outside the doors.

Mr. Valerio stated he was assuming the Board would vote no on his application. He stated if that is the case, then he would amend the application to drop the individual tenants' names. He questioned how he could amend the application so he could come back and appeal the decision of the Board. He stated he would have a flurry of tenants going to Supervisor Kelly's office next week if this were turned down. He stated he would rather table the application maybe.

Bill Oliver stated at this point his vote would be no on the proposed application. He stated he felt there was a very strong case for the applicant to amend the application to drop the individual names.

John Castellani asked the applicant what he would present at the next meeting if this application were tabled. Mr. Valerio stated he would probably come back with some tenants so that they could present their cases to the Board. He stated he would probably look for some other cases of businesses having such a sign. Mr. Valerio stated he feels every business has a right to identify itself on a shingle.

John Castellani commented if the Board is concerned about the size of the sign and the traffic hazard it presents with all the information on it, what would it matter if the tenants came in to testify as to their need. He asked what would change with the health, safety and traffic issues that the Board is addressing. Mr. Valerio commented if the Board was concerned about the size of the lettering and its ability to be read from the road, he would make the letters larger.

Mr. Valerio stated he wanted to make sure his opportunities were left open. John Castellani commented anyone can always appeal a Zoning Board decision by an Article 78 proceeding. Mr. Valerio stated he wouldn't want to do that; he would want to appeal his case before the Zoning Board.

Bill Oliver stated the applicant would have to wait a year to reapply if the application were turned down. Keith O'Toole commented if a substantial change were made in the application, the applicant could come back in less than a year. Mr. Valerio questioned who would make the determination that a substantial change has been made. Keith O'Toole stated the size of the sign ^{could} be a substantial change.

Ron Popowich stated he did not feel people would stop to read the sign with all the tenants' names listed on it. He stated he felt this was a unique property and unique situation. He stated he had no problem with what the applicant was suggesting.

Ralph Barbaro stated he did not have a problem with the sign. He stated he thought the sign was tastefully done. Mr. Valerio stated he would be willing to limit the signage to the bare minimum lettering. He stated there will be no logos or illustrations.

Bill Oliver stated he was a member of the Traffic & Safety Committee, and he stated these are some of the issues that that Committee looked at.

John Hellaby asked Mr. Valerio if he wanted to amend the application to drop the tenant names from the sign or not. Mr. Valerio asked if a substantial change would be his coming back with just the 849 Village Park Associates if the current proposed wordage for the sign were turned down. Keith O'Toole stated in his opinion that would be a substantial change. He stated, however, that decision would be made by the Building Inspector.

Mr. Valerio asked the Board to vote on the application the way it was originally proposed regarding the wording, assuming he could come back next month with an application for just the 849 Village Park Associates wordage if the variance were turned down this evening.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver seconded the motion. The vote on the motion was 5 yes to 1 no (John Hellaby).

The Board took a vote on the conditions to be considered as part of the vote on the application. The vote on the conditions was 4 yes to 2 no (John Hellaby, Ron Popowich).

DECISION: Approved by a vote of 5 yes to 1 no (John Hellaby) with the following conditions:

1. Sign change from ten smaller panels to four.

2. Lettering will be enlarged for improved visibility.
3. Total area of permanent signage will be as per application.

A sign permit is required, and it is the Board's recommendation that the Building Department oversee the exact location of signage.

The following findings of fact were cited:

1. Sign needed to show location of business.
2. Changes needed for impaired traffic safety.

PUBLIC HEARINGS:

1. Application of Ronald Evangelista, owner; 28 Shrubbery Lane, Rochester, New York 14624 for variance to erect a 4' x 8' temporary freestanding sign at property located at 3328 Chili Avenue in G.B. zone.

Laura Evangelista was present to represent the application for her father. She stated the sign would be 30 ft. from the sidewalk. She referred the Board to the sketch of the sign as to its colors and style. She stated they would need the sign effective immediately until May 31st. Beverly Griebel asked if the new building would be in place then, and Ms. Evangelista indicated that was correct.

Ralph Barbaro asked if they are going to sell just custard and beef-on-wick, and Ms. Evangelista indicated they would also sell turkey sandwiches. Ralph Barbaro asked Ms. Evangelista if she knows where the right-of-way is with respect to the sign, and Ms. Evangelista indicated she did not know that. Tony Knope indicated he did not know that dimension either. Ralph Barbaro asked if the Chili Avenue right-of-way is 100 ft., and Tony Knope indicated he did not know that.

John Hellaby questioned where they stand on the construction process. Ms. Evangelista stated they plan to open up in the spring. She stated they need three months to get the construction finished and also for the permanent signs to be up. Ralph Barbaro asked if this has gone before the Planning Board yet, and Ms. Evangelista indicated it has.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following condition:

1. Granted for a period not to exceed six (6) months.

The following findings of fact were cited:

1. Necessary to identify future site.
 2. No health or safety concerns.
 3. Minimum variance needed.
2. Application of Jeffrey Miller, owner; 38 Weatherwood Lane, Rochester, New York 14624 for conditional use permit to allow an office in home for a balloon bouquet business at property located at 38 Weatherwood Lane in R-1-15 zone.

Jeffrey Miller was present to represent the application. He stated he basically has a desk and a

phone for his business. He stated the variance was applied for by the previous owner of the business when she lived at 40 Weatherwood Lane. He stated he purchased the business from that previous owner, Ginny Fisher.

Ron Popowich asked the applicant if he has a helium tank, and Mr. Miller indicated he does have a tank that is properly chained down. He stated his neighbor works for Jackson Welding and came down to make sure that everything was safe regarding the tank. Mr. Miller stated the tank is brought in with a two-wheeled handcart. He stated the helium is turned off and capped every time he is done using it. Ron Popowich asked if the helium is delivered by Jackson Welding, and Mr. Miller indicated it is either delivered by his neighbor or he picks it up himself in his Blazer.

Ron Popowich asked if there would be any customers coming to the property, and Mr. Miller indicated there would be no customers at the site. Ron Popowich asked if the orders are placed strictly by phone, and Mr. Miller indicated that was correct.

John Hellaby asked if this is a part-time business, and Mr. Miller indicated it is. He stated the hours on the application are listed as 9 to 6 because he has a private phone line that people can call on all day and leave messages. He stated he works full-time for an engineering firm. He stated his parents help him out by answering the phone and taking orders occasionally if they are near the phone.

Bill Oliver asked how large the tank is, and Mr. Miller indicated the tank yields 600 balloons. He stated it is a standard helium tank, the largest Jackson Welding has. Bill Oliver stated the Fire Department should be notified there is a helium tank in the basement of this home. Mr. Miller indicated he would be more than happy to notify the Fire Department in that regard.

Beverly Griebel asked if the tank would explode in case of fire. Mr. Miller indicated helium is not flammable. He stated the only thing on the tank that can explode is the nozzle itself.

John Castellani clarified the applicant lives at 38 Weatherwood and the previous owner lived at 40 Weatherwood.

ANYONE IN FAVOR OR OPPOSED: No one.

Tony Knope asked if anyone would be coming to the house, and Mr. Miller stated there would be no traffic. He stated once in a while he will have a bride come to the home to check out the color of his balloons. He stated he tells his customers he does not have a permit that allows customers to come to his home. He further commented his parents do not want people coming to their home all the time either.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Approved for a period of one year.
2. No on-site advertising.
3. No on-street parking pertaining to the business.
4. Large house numbers (minimum 4 1/2") to be installed on house.

The following findings of fact were cited:

1. Home occupation allowed under Town Code.
2. No change in character of the neighborhood.

3. Application of Kenneth Abbey, owner; 45 Chestnut Drive, Rochester, New York 14624 for variance to allow existing house to be 3' from side lot line (10' req.) at property located at 45 Chestnut Drive in R-1-12 zone.

Kenneth Abbey was present to represent the application. He stated the application should read 3.8' from the side lot line, not 3'. He stated the house was approved by Chili 20 years ago. He stated he is present to get it reapproved. He stated there is a problem with the hub. He stated they need the variance to sell their home. He stated there may be a problem with the whole neighborhood.

John Hellaby questioned the encroachment of the shed in the back in relation to the fact they want to sell the property. Mr. Abbey indicated that has not been relocated. John Hellaby commented that may create a problem at closing.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Pre-existing, non-conforming lot.

4. Application of Jazzercise, 33 Cassandra Circle, Churchville, New York 14428, property owner: First Baptist Church; for variance to erect two 2' x 4' temporary "A-frame" signs, variance for sign #2 to be 5' from rear lot line (20' req. abutting a street) at property located at 3182 Chili Avenue in G.B. zone.

Pamela Auglia was present to represent the application. She stated there are a lot of people that come to her part-time business. She stated she works at the church nine hours a week. She stated there are always so many new students that come in and out. She stated she would like to have a way for new students from all different areas to know where she is located.

Ms. Auglia stated she would like to put two signs up. She stated the rear sign would be 5 ft. from the property line instead of 20 ft. She stated if the sign were 20 ft. back, it would be in the middle of the parking lot. She stated if the signs were approved, she could tell the new people to look for the signs so they would know where they are going.

Ms. Auglia stated she would maintain her own signs. She stated she would be storing the signs inside her truck. She stated she would put the signs up when she arrived at the property and would take them down when she was ready to leave. She stated she holds morning, evening and Saturday classes.

Ralph Barbaro asked if these classes are done as a service of the church, and Ms. Auglia indicated that is not the case. She explained she rents space from the church. Ralph Barbaro asked the applicant if she is actually conducting a private business out of the church, and Ms. Auglia indicated she is. She stated she had a letter from the church indicating it was okay for her to apply for this variance.

Ms. Auglia indicated the signs would help people that do not know where the First Baptist Church is to find her class. She commented her business would also bring more people to the community's other businesses.

Beverly Griebel asked if one of the signs would be by the K-mart entrance, and Ms. Auglia indicated that was correct. She stated that is the sign that would be 5 ft. from the property line, near Pumpkin Hill.

There was clarification that the signs would be 24 inches wide.

Tony Knope asked if both signs would be brought in each night, and Ms. Auglia indicated they would. Tony Knope asked what time the classes usually end. Ms. Auglia indicated Mondays and Wednesdays she is there from 5 p.m. to 8:30 p.m. She stated Tuesdays and Thursdays she is there from 5 p.m. to 7 p.m. She stated she would be there Saturdays from 9 a.m. to 10:30 a.m.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following condition:

1. Signs to be placed during classes and removed after classes.

The following findings of fact were cited:

1. Temporary sign.
2. No impact on neighborhood.
5. Application of Perna Homes, Inc., owner 849 Paul Road, Rochester, New York 14624 for variance to erect a single-family dwelling to be 11' from rear lot line (35' req.) at property located at 19 Hunt Hollow in PRD zone.

Jamie Valerio was present to represent the application. He stated they would like to angle the house on Lot 506. He stated to do that they need a variance according to the Building Department. He stated being a corner lot they have two front setbacks to meet on the corner lots. He stated they have an 11.5 and a 55 ft. setback. He stated the Building Department has determined that the 11.5 is the rear setback. He stated he would be asking for the same type of variance with Lot 509. He stated in that case he will be asking for a variance for 10 ft. for the rear setback.

Mr. Valerio questioned why the setbacks are determined in this manner. John Castellani stated he did not think this was the forum to discuss that.

Mr. Valerio indicated they came in for a variance for Lot 512 a few months ago. He stated they are angling the houses for a number of reasons. He stated an angled home is more aesthetically pleasing. He stated they have angled homes in their developments over the past 14 years they have been building in Chili. He commented an angled corner lot home provides more visibility for traffic at the intersections. He commented an angled home has more privacy in the backyard.

Mr. Valerio commented the Planning Board does not handle the angled configuration of these corner lots. Bill Oliver stated Mr. Valerio should speak with the Building Department regarding how they determine the setbacks.

Beverly Griebel asked if when they do lot 507, will they make sure no one is infringing on the existing home, and Mr. Valerio stated there has to be 30 ft. in between homes. He stated he cannot push the home any closer to the road. Ralph Barbaro asked if the front of the house on 507 will essentially be in line with the leading corner of the house on Lot 506, and Mr. Valerio indicated that was correct. Ralph Barbaro asked if one house would be sticking out in front of another house. Mr. Valerio indicated there are staggered houses in the whole subdivision. He stated most homes would have 30 ft. in between homes.

Ralph Barbaro commented it looked to him if the houses were lined up with the other houses on Hunt Hollow and were not angled, they would fit within the confines of all the setback requirements without any difficulty at all. He commented when the houses are turned, that is

when it makes it more confusing as to which line becomes the rear setback.

John Hellaby stated this type of situation is soon going to be looked at again. He stated Application #5 has to be amended. He stated the application reads 11 ft. from the rear lot line, but he stated the way it looks, the leading edge of the corner of the house is 9 ft. plus or minus. He stated he would suggest the 11 ft. be amended to 9 ft. Mr. Valerio indicated he wished to amend his application in that manner.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Aesthetically favorable for area.
 2. Improves line of sight safety at intersection.
6. Application of Perna Homes Inc., owner; 849 Paul Road, Rochester, New York 14624 for variance to erect a dwelling to be 33' from rear lot line (35' req.) at property located at 22 Hunt Hollow in PRD zone.

Jamie Valerio was present to represent the application. He stated the application should actually read 23' instead of 33'. Tony Knope agreed. Beverly Griebel asked if that is for Lot B-111, and Mr. Valerio indicated it is. Mr. Valerio passed out copies of letters from residents of Hunt Hollow.

Beverly Griebel read a letter addressed to Mr. Valerio from Daniel and Maureen Mulhearn of 2 Hunt Hollow indicating they are not opposed to the variance. Beverly Griebel read another letter addressed to the Zoning Board of Appeals from Donald and Karen Stulpin of the Chestnut Subdivision that indicated they are not opposed to the variance. The letters will be on file with the Building Department.

Mr. Valerio indicated this variance involves a smaller lot. He stated the lots in this section were originally for their patio homes. He stated when the development was approved seven years ago, they were going to put in patio homes. He stated, however, the patio homes have not proven to be as popular as the industry once thought they would be.

Mr. Valerio stated Lot 111 has 61 ft. in the front, 63 ft. in the rear and 125 ft. on the one side and 132 ft. on the south side. He stated a resident of Pumpkin Hill wants to build a little more than a 1,400 sq. ft. ranch on this site. He stated he has offered the person a larger lot for the same price, but he explained the buyer wants to have a large home with not a lot of grass to cut. Mr. Valerio stated they are basically asking for a rear setback variance.

Mr. Valerio stated all the lots along there back up to a 70 to 100 ft. wide greenbelt. He stated Chestnut is comprised of approximately 20 acres of parkland owned in common by the residents. He stated the residents pay a fee to maintain them. He stated there is landscaping and some pathways through the parkland areas.

Mr. Valerio stated this is the first time in building 140 homes in this subdivision that they have asked for a variance other than the corner lots.

Beverly Griebel asked if there is a pond in the back, and Mr. Valerio indicated there is not.

Ralph Barbaro asked what the total square footage is of the structure including the garage in relationship to the total square footage of the lot. Mr. Valerio indicated he did not have that

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information on hand. Ralph Barbaro stated he thought the difference might be close enough that the applicant would need another variance. He suggested the applicant double-check the dimensions to make sure they do not exceed the 25 percent lot coverage that is allowed.

John Castellani asked if the future owner realizes how close he is going to be to the side neighbor, and Mr. Valerio stated he has explained that to the buyer.

John Hellaby asked what the front range line is of the proposed house projected across the Lot B-112. He asked if there is a projection that comes out on the existing structure or does that go straight across. Mr. Valerio stated there would be a side-low garage. He stated they are going to put windows on the front of the garage to make it more appealing. He stated they do not want the side of the garage looking at the street. He stated they are going to have windows with a decorative projecting gable vent over the peak and ridge of the garage. He stated they do have other homes in their communities where the garages project out in front of the home. Mr. Valerio stated this particular garage projects out about 6 ft.

John Hellaby asked if Hunt Hollow has a continuing sweeping curve. He also asked how many homes are going up the street. Mr. Valerio stated there are 14 homes from Paul Road to Mae Meadow along Hunt Hollow. Mr. Valerio stated there are homes on every lot except 103, 104 and 111. Mr. Valerio stated all the homes are staggered.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Minimum variance.
2. House meets plot requirements.
3. Common area in rear.
4. No impact on neighboring properties.
7. Application of Perna Homes, Inc., owner; 849 Paul Road, Rochester, New York 14624 for variance to erect a dwelling to be 10' from rear lot line (35' req.) at property located at 27 Hunt Hollow in PRD zone.

Jamie Valerio was present to represent the application. He stated everything he stated about Lot 506 applies to Lot 509.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Aesthetically favorable for area.
2. Improves line of sight safety at intersection.
8. Application of Sugar Creek Stores, 760 Brooks Avenue, Rochester, New York 14619 for

variance to erect a 4' x 8' double-faced freestanding sign at property located at 1133 Scottsville Road in G.I. zone.

Thomas Giannone was present to represent the application. He stated they would like to replace two of their panels in their existing pole sign, the 4' x 8' panels. He stated they want to change them to read Sugar Creek Stores and Subway instead of just Sugar Creek Stores. He stated in their industry the trend has been to add a name-brand food service operation to the convenience store. He stated that is what they have decided to do at this location. He stated in order to let people know Subway is now there, they would request the sign change. He stated only the center panel would change; the remainder of the sign being the same size.

Beverly Griebel asked if the size of the Sugar Creek lettering would be decreased to allow for the Subway lettering, and Mr. Giannone indicated that was correct.

Bill Oliver asked if this is a standard syndicated type sign that Sugar Creek has, or would this be a specially formulated sign for this location. Mr. Giannone indicated this sign would be the first one they have done with the Subway lettering on it. He stated they hope this would become their standard signage elsewhere, too. Bill Oliver asked if the sign would be lit up, and Mr. Giannone indicated it would be since the sign is currently back lit. Bill Oliver asked when the sign would be illuminated, and Mr. Giannone indicated from dawn to dusk.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Sign needed to identify business.
2. No increase in size of existing sign.

The 12/93 and 1/25/94 Zoning Board minutes were approved.

Beverly Griebel read some comments from the County that indicate many Zoning Board actions are exempted from County review. She stated all the agenda items this evening were exempted.

The meeting ended at 10:12 p.m.

CHILI ZONING BOARD

March 22, 1994

A meeting of the Chili Zoning Board was held on March 22, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: Bill Oliver, John Hellaby, Ron Popowich, Ralph Barbaro, Gerry Hendrickson, John Castellani and Chairperson Beverly Griebel.

ALSO PRESENT: Keith O'Toole, Assistant Town Counsel; Larry Smith, Building Inspector (arrived late).

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

1. Application of Gary Spoor, owner; 250 Fisher Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for an auto dealership at property located at 250 Fisher road in RA-10 & FPO zone.

Gary Spoor was present to represent the application. He stated he was present to renew his conditional use permit for an office as a car dealer. He stated he has had the conditional use permit for 20 years. He stated he mainly uses this for an office. He stated he doesn't display cars for sale on his property. He stated he goes to auctions. He stated he may have someone he knows come to the office to sell them a car. He stated he doesn't do any paint or body work. He stated he does wash and wax cars.

Beverly Griebel asked what the hours of operation are, and Mr. Spoor indicated he does not operate at night. He stated he has no specific hours except for his bringing a car to the property. He stated the latest he would work in the garage is 7 or 8 p.m. He commented that is the first time in 20 years anyone has asked him that. He stated he sends all his body and repair work out.

Ralph Barbaro questioned what the original conditions were. Ralph Barbaro asked when this was first applied for. Mr. Spoor indicated he came in in 1964 or 1965. He stated he used to live on Janice Drive and then moved to Fisher with this operation. Ron Popowich asked if there have been any complaints in the past, and Beverly Griebel indicated they would have to wait until the Building Inspector was present to get an answer to that. She stated they would put the application on hold until he arrived.

ANYONE IN FAVOR OR OPPOSED: No one.

2. Application of David Steinmiller, owner; 248 Archer Road, Churchville, New York 14428 for renewal of conditional use permit to allow a beauty shop in home at property located at 248 Archer Road in R-1-20 zone.

David Steinmiller was present to represent the application. He stated he is reapplying for a conditional use permit he has had for 20 years. He stated he is open three to four days a week. He stated he has never received a complaint. Beverly Griebel asked if he would have the same hours of operation as in the past, and Mr. Steinmiller indicated he would.

Bill Oliver stated the only condition he saw listed was all original conditions apply with the exception of one outside person may be employed. He questioned what the original conditions were. Mr. Steinmiller stated his wife had worked there. He stated she passed away two years ago. He stated he has a lady that comes and works for him that has worked for them for the past 12 years.

GATES-CHILI
NEWS

1635 BROOKS AVENUE, SUITE 2, WEST BLDG. ● ROCHESTER, NEW YORK 14624-3596

Date.....3.16.94.....

THIS IS TO CERTIFY THAT THE ATTACHED LEGAL NOTICE(S) WERE
PUBLISHED IN THE

GATES-CHILI NEWS

Issue Dated..3.16.94.....

Geraldine C. Snyder
Notary

GERALDINE C. SNYDER
NOTARY PUBLIC, State of N.Y., Monroe Co.
My Commission Expires April 30, 1995

Patricie M. Smith
Patricie M. Smith
Publisher

3-4-94

Chili Town Offices, 3235 Chili Avenue, Rochester, New York 14624 on March 22, 1994 at 7:30 p.m. to hear and consider the following applications:

1. Application of Gary Spoor, owner; 250 Fisher Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for an auto dealership at property located at 250 Fisher Road in RA-10 & FPO zone.

2. Application of David Steinmiller, owner; 248 Archer Road, Churchville, New York 14428 for renewal of conditional use permit to allow a beauty shop in home at property located at 248 Archer Road in R-1-20 zone.

3. Application of Zuber Farms, owner; 3846 Westside Drive, Churchville, New York 14428 for conditional use permit to allow the sale of agricultural products at property located at 280 Archer Road in R-1-20, FPO and FW zone.

4. Application of Ralph Wehner, owner; 29 Scott Lane, Rochester, New York 14624 for variance to allow

the total square footage of garage area, including a 24 1/2' x 20' addition to be 1,112 sq. ft. (900 sq. ft. allowed) at property located at 29 Scott Lane in R-1-12 zone.

5. Application of Susan Belding, owner; 11 Amanda Drive, Rochester, New York 14624 for renewal of conditional use permit to allow a beauty shop in home at property located at 11 Amanda Drive in R-1-12 zone.

6. Application of The ARC of Monroe County, owner; 1000 Elmwood Avenue, Rochester, New York 14620 for variance to erect a 20' x 25' pavilion to be 500 sq. ft. (160 sq. ft. allowed) at property located at 2692/2694 Chili Avenue in R-1-20 zone.

At such time all interested persons will be heard. By order of the Chairwoman of the Chili Zoning Board of Appeals.

Beverly Griebel, Chairwoman
Chili Zoning Board of Appeals

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ICE
OF APPEALS

Law, a public hearing
ard of Appeals at the

Larry Smith arrived.

Ralph Barbaro asked if the person now operating the shop is a family member, and Mr. Steimmiller indicated she is not. Ralph Barbaro questioned whether this would still fall under a customary home occupation then. John Castellani stated they are allowed one outside employee. Ralph Barbaro asked if anyone other than the one lady works out of the home, and Mr. Steimmiller indicated there is no one else.

John Castellani asked if there have been any complaints. Larry Smith stated there have been no complaints. Ralph Barbaro questioned what the original conditions were. Larry Smith stated in 1/4/89 it was granted for five years with the original conditions with the exception that one outside person may be employed for the business. He stated on 6/21/83 the application was approved for 5 years with the following conditions: no on-street parking; no signs; Mr. and Mrs. Steimmiller would be the sole operators. Larry Smith stated in 1980 the same conditions were approved as those in 1983.

Ralph Barbaro asked if the hours would be the same, and Mr. Steimmiller stated the hours would actually be less since his wife has died. He stated the woman that works out of his home works Wednesdays from 10 a.m. to 4 p.m.; Thursdays from 3 p.m. to 8 p.m. and Friday and Saturdays. He stated she hasn't been working Tuesdays because she is going to school. She stated the lady may want to go back to working Tuesdays, though. Larry Smith stated the hours on the application say 10 a.m. to 5 a.m. Mr. Steimmiller stated it should say 5 p.m.

Larry Smith stated the hours would be Thursday from 9 a.m. to 8 p.m.; Saturdays from 8 a.m. to 3 p.m.; Wednesdays from 9 a.m. to 5 p.m. and Fridays from 9 a.m. to 5 p.m. Beverly Griebel indicated the Board would amend the application to correct the typos.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ralph Barbaro 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-street parking.
3. No signs on property.
4. One outside person may be employed for the business.

The following finding of fact was cited:

1. Customary home occupation under Town Code.

Beverly Griebel stated the Board would go back to Application No. 1. Ralph Barbaro asked Larry Smith what the prior conditions were. Larry Smith stated in 1/4/89 all the original approvals continued to apply and the application was approved for five years. He stated on 6/28/85 the applicant was given a conditional use permit for three years with the following conditions: no more than four cars on premises at one time, including those registered or customarily used by owners; no advertising of cars for sale on premises; no signs on property; owner must adhere to the rules and regulations for customary home occupation as defined in 115-83 of the Chili Town Code, specifically prohibiting repair of gasoline, diesel engines or motors which are not expressly registered in the owner's name; washing and waxing and vacuuming is permitted but body work is expressly prohibited.

John Castellani asked if any hours of operation were ever listed for the application, and Larry

Smith indicated there were no hours of operation listed.

Ralph Barbaro stated the applicant recently stated in the application there would be four to five cars on the property. He questioned whether four of the cars belong to family members. Mr. Spoor stated he got married and his wife and his wife's son each have a car. He stated they're registered vehicles, though. Ralph Barbaro asked if there would now be five cars instead of four, and Mr. Spoor indicated that was correct. He stated he would probably have four cars in the driveway and would keep one car in the garage. Ralph Barbaro asked if all the cars are registered to individuals, and Mr. Spoor indicated the cars with the plates are registered. He stated two cars are in his wife's name. He stated her son uses one of her cars. Ralph Barbaro asked if one of the cars would be registered in the applicant's name, and Mr. Spoor indicated no car would be registered in his name. He stated he drives a car with dealer plates because he doesn't know how long he will be driving a particular car.

Ralph Barbaro asked how many dealer plates the applicant has, and Mr. Spoor indicated he has three sets. Ralph Barbaro asked if there are ever any for sale signs in the cars that are for sale. Mr. Spoor indicated he has never put a for sale sign in the window of any cars on his property. Ralph Barbaro asked how often are the cars changed, and Mr. Spoor indicated within a week usually except for the car he drives. Ralph Barbaro stated the Board would have to amend the application to allow five cars on the premises. Mr. Spoor stated all the cars have to be registered in the name of the business because he buys the cars in the name of the business.

Ralph Barbaro questioned the condition regarding the registered cars on the property. Larry Smith stated the condition refers to the part of the code that prohibits repair of gasoline or diesel engines or motors which are not expressly registered in the owner's name. He stated the applicant can work on vehicles registered in his name. He stated those vehicles registered in the business name, without registration or with dealer plates on them cannot be repaired on site.

Larry Smith indicated there have been no complaints regarding this application. He stated originally when the applicant came in years ago, there were about 50 people that registered complaints. He stated there hasn't been a complaint since this application was approved.

Beverly Griebel made a motion to declare the Board lead agency and made a determination of no significant environmental impact, 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 the following conditions:

1. Conditional use approved for a period of 5 years.
 2. No more than five cars on the premises at one time, including those registered and/or customarily used by the owners.
 3. No advertising of cars for sale on premises.
 4. No signs on property.
 5. Owner must adhere to rules and regulations for Customary Home Occupation as defined in Section 115-83 of the Code of the Town of Chili; specifically but not exclusively to part "E" which prohibits repair of gasoline or diesel engines or motors which are not expressly registered in the owner's names; vehicles registered in the business name or without registration, or carrying dealer plates are expressly prohibited from being repaired on the premises.
 6. Washing, waxing and vacuuming of cars is permitted, but body repair work is expressly prohibited.
3. Application of Zuber Farms, owner; 3846 Westside Drive, Churchville, New York 14428 for conditional use permit to allow the sale of agricultural products at property located at 280

Archer Road in R-1-20, FPO and FW zone.

Eric Zuber was present to represent the application. He stated they would like to sell fresh market produce that they grow there at that location. He stated their cousins have sold sweet corn and stuff up the road. He stated his cousins are getting older and have decided they do not want to sell produce any more.

Mr. Zuber stated they have planted some strawberries on their property in the hopes of having some U-pick business. Ralph Barbaro asked if this operation was located on this site last year for some period of time. Mr. Zuber indicated the operation was at their site for a while. He stated Larry Smith came and told them last year there was a zoning problem so they moved the operation back up to their cousin's property. Larry Smith stated the cousin's operation was a pre-existing, non-conforming condition.

Bill Oliver asked if the operation would be set up on the road itself, or would the produce stand be set up at the farm house. Mr. Zuber indicated the stand would be off the road.

Larry Smith stated last year Mr. Zuber put in a circular parking area and the cars were totally off the road, all the way in. Larry Smith stated he stopped Mr. Zuber from using that because of the situation that he had to come in before the Board for a conditional use permit. Mr. Zuber stated he would be willing to do whatever he had to do to have the driveway. Larry Smith indicated in the past he talked to Ron Griffith who told him that there was a resolution passed by the Town Board about 15 years ago that stated any parcel with two cuts would have to come before the Zoning Board for a variance. Larry Smith stated he did not know the legality of that resolution since this matter was not addressed in the form of a local law.

Ralph Barbaro stated when he frequented the stand last year, he did not like having to back out onto Archer Road, and he added the area did not seem large enough for the amount of traffic they had. He stated the parking area was often full, necessitating people to park on the road. He stated the parking area was unprepared. He stated many times the area was quite dusty. He asked if they have any plans to enlarge the parking or making it more obvious what the parking constraints are.

Larry Smith suggested if the Board were to give approval for this, the applicant should be required to go to the Planning Board for site plan approval. Mr. Zuber stated he would really not like to have blacktop there, but he stated he is willing to work with the Town. Ralph Barbaro suggested they look at using larger stones to keep the dust down as well as putting up a noise barrier.

Beverly Griebel asked the applicant if he has a County license to operate the business. Larry Smith stated since the applicant owns this property, that would not be required. Ralph Barbaro asked Mr. Zuber if his primary residence is out in Churchville, and Mr. Zuber indicated that is their main office location. He stated they work 2,000 acres of ground. Mr. Zuber indicated his main residence is in Genesee County.

Ralph Barbaro asked if everything sold at the stand would be from the Zuber's farms. Beverly Griebel asked if they would be bringing anything in from a wholesaler. Mr. Zuber indicated they do sell some tomatoes that their friends grow. He explained they are actually the Zuber's tomatoes but they are grown on other people's land. Mr. Zuber stated the peaches that they were selling they were getting from another farmer. Ralph Barbaro questioned how that would fit under the customary farm stands that are allowed.

Keith O'Toole stated the Code provides a conditional use for agricultural products that shall be subject to the limitations they are sold only during the local individual harvest season. He stated that doesn't necessarily restrict them from taking off-site goods. He stated the legislative intent is that the goods are locally grown. He stated the Board could restrict the type of goods as opposed to their sources, which would be much easier to enforce.

Ralph Barbaro asked how close the strawberries would be to the stand. Mr. Zuber stated they

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would be planted relatively close. He stated there are 6.5 acres there. He stated they would probably move the stand back from where they had it to allow for more parking.

Beverly Griebel asked what the growing season is for strawberries. Mr. Zuber indicated it is a short window. He stated it is probably the first and second week of June to the end of June. Beverly Griebel asked if the strawberries would be the only produce available to the public for them to pick, and Mr. Zuber indicated that was correct.

Bill Oliver stated he knew the Planning Board would be looking at this. He stated, however, he is concerned about the traffic.

John Hellaby asked if the site plan review would require a full engineered site plan drawing, and Larry Smith stated he doubted the Planning Board would require that. John Hellaby stated his only concern was the site distance dropping down off of Archer Road. He commented it is extremely short. He commented no one drives at the posted 30 miles an hour there. He asked if any consideration has been given to asking the cousins if they would allow the applicant to operate this business from their property where the road is more level. John Castellani commented moving the operation would be tough considering they were planning on having a U-pick operation.

John Hellaby asked in the course of this being approved, is the Town obligated to put up any type of signage as far as there being a blind drive or fruit stand ahead. Larry Smith indicated he would talk to the Highway Department. Mr. Zuber stated he did not think they would be adding any traffic to the area.

Keith O'Toole asked if there would be any outside employees. Mr. Zuber stated they do have other people that work for them. He stated they employ 12 people in the daily functioning of the farm. Keith O'Toole asked if at any given time would there be more than one non-family member working at the fruit stand. Mr. Zuber indicated there would not be unless they were doing field work.

ANYONE IN FAVOR OR OPPOSED:

Gregory Richard - 166 Archer Road

He stated he welcomes the stand to the area and doesn't see there being a problem. He stated as far as this operation producing noise, he commented there is a train that goes right through that area. He stated he would welcome this type of operation more than a housing development or industrial business.

George Peterson - 18 Beaver Road

He stated he welcomes the stand to the area, too. He stated the Jehovah Church is more of a problem than the stand would ever be.

Don Ramsey - 27 Red Bud Road

He presented a petition to the Board in opposition to the application. Beverly Griebel read the petition dated 3/22/94. The petition will be on file in the Building Department.

Mr. Ramsey indicated he was speaking on behalf of his in-laws, Mr. and Mrs. Thomas McGinn of 274 Archer Road. Mr. Ramsey stated the Zuber family has been a great asset to the Town of Chili. He stated he has a favorable relationship to the Zubers. He stated he had nothing more to add that was not covered in the petition. He stated there was a specific problem last year with the supply truck and the refrigerator compressor running next to his in-laws' property. He stated there was a problem with many cars pulling in and out of his in-laws' property. Mr. Ramsey stated the strawberry operation is going to bring even more people to the site.

Barbara Ireland - 268 Archer Road

She stated she knows and thinks highly of the Zubers. She stated her main objection is that the area is a blind spot for cars travelling on the road.

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

1. Applicant is to apply to the Planning Board for site plan approval to address concerns of traffic, parking, dust, noise, etc.
2. Granted for a period of one year.
4. Application of Ralph Wehner, owner; 29 Scott Lane, Rochester, New York 14624 for variance to allow the total square footage of garage area, including a 24 1/2' x 20' addition to be 1,112 sq. ft. (900 sq. ft. allowed) at property located at 29 Scott Lane in R-1-12 zone.

Ralph Wehner was present to represent the application. He stated his wife and himself recently moved into this house last September. He stated he would like to put an addition on his garage which will be approximately 212 sq. ft. above the legal size. He stated the house was remodeled before they moved in. He stated a complete basement was turned into a recreation room allowing no room for any shop area whatsoever.

Mr. Wehner stated he would like to get the garage for a carpenter's shop and a place for a workbench. He stated he would also like to store at least one or two vehicles in the garage so he would not have to keep them registered year round. He stated he has a custom van that he takes off the road in the winter. He stated his son owns a pick-up truck and is going in the service and would like to store it in the garage.

Mr. Wehner stated he presently does work on his family's vehicles on the property. He stated he has six vehicles among all his children and himself and his wife. He stated he does oil changes and small body work to the cars. He stated no professional work is done on the property. He stated he does not run a business out of that location.

Mr. Wehner indicated the roof of the garage would match the house. He stated he thought this addition would look better than putting up an addition and a shed as he would be allowed to under the code. Mr. Wehner stated in the six months he has been there, he has sold a couple of vehicles on the property, but he stated they were personally owned vehicles. Mr. Wehner indicated nothing is going to be done on the property for money. He stated he just needs the storage space.

Mr. Wehner indicated the addition would have a garage door on it so he could get the cars in and out. He stated, however, he did not plan on putting a driveway up to the garage. He stated there is a small culvert in that location. He stated he could put a 12-inch drainage tile down through there. He stated he wants to cover that with dirt and replant grass over the top so there would be no driveway or stone.

Mr. Wehner indicated the garage door would face Keebler. Beverly Griebel commented there is a small opening now in the chain link fence. She asked if that would be expanded to a vehicle's width, and Mr. Wehner indicated it would be.

Ron Popowich questioned what the carpentry section of the garage would entail. Mr. Wehner indicated he wanted a place to put his table saw, radial arm saw and a drill press in there. He stated he wants to set up a place where he could put a 4' x 8' sheet of plywood because he wants to do some small remodeling in the kitchen. He stated right now he has a 6' x 7' area in the basement that he can work in. He stated the workshop would be used for his hobby.

John Hellaby asked the applicant what kind of guarantees could he give the Board that the area in front of the overhead door where there would not be a driveway would not be rutted up by the vehicles driving over the lawn. Mr. Wehner indicated the door would be there just to allow him to get the cars in and out of the garage when he stores them.

Bill Oliver asked if there would be any gasoline or other flammable liquids stored in the garage. Mr. Wehner indicated there would be no more than a two-gallon container for the snowblower. Bill Oliver asked the applicant if he would have an acetylene tank in the garage, and Mr. Wehner

indicated he would not.

John Castellani asked what the size of the present garage is, and Mr. Wehner indicated it is roughly 24 1/2' x 25'. John Castellani commented the applicant could go up to 900 sq. ft. without a variance. He commented the applicant could also go up to 160 ft. on a separate shed.

Mr. Wehner stated the siding on the addition would match the house. Mr. Wehner stated if he were not able to store the vehicles inside the garage, he would have to have them registered through the winter. He stated if he were to put up a shed, it would have to be 8 ft. off the property line, which would take up a large amount of space in his backyard.

Ralph Barbaro asked if a curb would be put in on Keebler Drive opposite the garage door. Mr. Wehner stated he would intend to duplicate at minimum what the Town has already allowed. He stated there is a 12-inch drainage tile there underneath his driveway and in two other places. He stated he would put that into the ditch and then would cover it over with some small stones for support around the tile, and he stated he would put dirt over the top of it and plant grass.

Ralph Barbaro asked the applicant if he was planning on stoning from the road to the garage, and Mr. Wehner indicated he was not. He stated there is no curb in the road there. Ralph Barbaro asked how big the door would be, and Mr. Wehner indicated it would probably be either 10 or 12 ft. He stated he presently has two 8 ft. doors. He stated it is pretty hard to get the van in through the door without pulling the mirrors in. Ralph Barbaro asked if the van is a high top, and Mr. Wehner indicated it is not.

Ralph Barbaro asked the applicant what his profession is. Mr. Wehner indicated he is an electrician by trade, but he stated he is the Supervisor of Maintenance and Construction for Eastman Kodak.

Beverly Griebel read a letter dated 3/17/94 from David and Shirley Buss of 30 Couver Drive. The letter was in opposition to the application. The letter will be on file with the Building Department. Beverly Griebel read a letter dated 3/17/94 from Mr. and Mrs. Alan Walker of 26 Charlene Road. The letter was in opposition to the application. The letter will be on file with the Building Department.

ANYONE IN FAVOR OR OPPOSED:

Jim Brown - 55 Hitree Lane

He stated he did not see anything wrong with having a garage a little larger than is allowed.

Gregory Richards - 166 Archer Road

He stated he is a former neighbor from that neighborhood. He stated he did not see any problem with the application. He commented the applicant has a corner lot. He stated the addition would enhance the property.

Frank Allen - 24 Scott Lane

He stated he would like to back up the letters that were previously read. He stated he was against the application because Scott Lane is a Residential area. He stated as far as he understood, a person is only allowed to have one unregistered car in a garage at one time. He stated he was amused to hear the people in support of this application that do not live in the area. He stated he did not understand why anyone needs that much room.

Barbara Corwin - 42 Keebler Drive

She stated she lives kiddycorner to the applicant. She stated many kids ride their bicycles around that corner. She stated the area should remain Residential. She stated when a garage becomes that large, it is not a residential garage. She stated she has a problem believing the applicant is only going to be working on the cars of his family. She stated two cars have been up for sale from that property recently.

Girard Jones

He stated his lives right next door to the applicant. He stated he does not have much complaint about the building, but he stated the people that lived next door to the applicant had complained about the applicant working on and painting cars. He questioned what would happen if this turned into a professional business. Larry Smith indicated the applicant would be issued a notice of violation and would have to go to court to let the judge decide what should be done.

Mr. Wehner indicated he would not have any unlicensed vehicles on the property.
Mr. Jones indicated he thought this would be a lot of garage for the size of the parcel.

Bob Walter - 45 Keebler Drive

He stated he drives by the applicant's house every day. He stated the proposed garage is too big.

Marlene Piczko - 52 Keebler Drive

She stated she agrees with what Mr. Walter said.

Joan Peck - 28 Keebler Drive

She indicated she will have to look at this big garage out her windows. She stated she was concerned about the applicant painting vehicles on his property. She stated she felt there would be ruts leading to the garage. She stated she was against the application.

Tom Ivan - 51 Keebler Drive

He asked if the applicant would be doing any brake work on his cars at this location. Mr. Wehner indicated that was a possibility, yes. Mr. Ivan asked where the applicant would test drive the cars after they were fixed. Mr. Wehner indicated he would drive them on the street. Mr. Ivan stated his kids ride their bikes up and down that road. He stated he was opposed to the application.

Mr. Wehner stated his test driving of vehicles on the street is no more dangerous than the people that drive up and down that street speeding and running stop signs. He stated he could provide affidavits from people regarding how long he has been working on cars.

Carol Jones - 49 Keebler Drive

She stated she has recently spent a lot of money to improve her home. She stated she did not think this garage would improve the neighborhood. She stated it would be more of a commercial building. She stated she was opposed to people speaking in favor of this application when they do not live in the area. She commented the applicant is planning on retiring next year.

Kathy Sweetland - 51 Keebler Drive

She asked if the applicant could work on his childrens' vehicles. Larry Smith indicated the applicant could do that if they are members of the household.

Mr. Ivan asked the applicant if his son lives with him, and Mr. Wehner indicated he does.

Mr. Allen stated he checked with the Town and has learned in the last six months, there have been no complaints regarding the applicant's property. He stated, however, at the applicant's previous address, 102 Stover Road, there were complaints.

Kathy Kopeckio

She stated she felt this garage would take away from the value of the property.

Ralph Barbaro asked the applicant if he has done any painting of vehicles recently. Mr. Wehner indicated he has done some touch-up work on his son's pick-up. Ralph Barbaro asked the applicant if he has any paint compressors or paint guns. Mr. Wehner indicated he does. Ralph Barbaro asked the applicant how old is his son, and Mr. Wehner indicated he is 19. Ralph Barbaro asked the applicant what his son's occupation is. Mr. Wehner indicated he works for Dick Booth's Mobil on Chili Avenue. Ralph Barbaro asked if the applicant's sons does any repairs or painting work on cars. Mr. Wehner indicated he does not. He stated his son basically pumps gas and changes tires at the Mobil station.

Ralph Barbaro commented he has children that live with and without him that he does car repairs

for. He stated he too has a conversion van and likes to take it off the road in the winter and stores it in his garage. He further stated he is not qualified to do commercial woodworking, but he stated he too has tools and likes to do woodworking as a hobby. He stated he does his own brake jobs. He stated his brakes are safer when they leave his garage than when he was driving the car around before the repair.

Ralph Barbaro stated the zoning regulations require a 35 ft. setback. He stated even with the addition, the applicant would be almost 55 ft. from the rear lot line.

Ms. Sweetland stated she does not have a problem with anyone having a hobby as long as the hobby doesn't turn into a business. Ms. Sweetland asked what the complaints were about the applicant at his previous address. Mr. Allen indicated he did not know what the complaints were, just that there were complaints.

Mr. Wehner indicated his previous neighbor had been concerned about his working on cars in his yard. He stated that complaint was addressed by the Town. He stated he did have for sale signs in cars at that location, but he stated he was selling personal vehicles that were licensed.

Larry Smith clarified for the audience, if a person sells more than five cars in a year, they have to have a dealer's license.

Jerry Brixner - 14 Hartom Road
He stated members of the Zoning Board have a responsibility to hear the pros and cons of the conditions. He applauded those in the audience that voiced their opinions.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 the following conditions:

- 1. Visual and material conformance with existing structure.
- 2. All work done in road right-of-way must be approved and inspected by the Chili Highway Department.

The following findings of fact were cited:

- 1. Minimum variance.
- 2. Applicant described hardship; total basement space unavailable due to remodeling for living space.
- 3. Will have vehicles under cover during repairs.
- 5. Application of Susan Belding, owner; 11 Amanda Drive, Rochester, New York 14624 for renewal of conditional use permit to allow a beauty shop in home at property located at 11 Amanda Drive in R-1-12 zone.

Susan Belding was present to represent the application. She stated she would like her conditional use permit renewed to operate a beauty shop in her home on a part-time basis for another five years. Beverly Griebel asked the applicant how long she has been in business in that location, and Ms. Belding indicated it has been ten years. Larry Smith indicated there have been no complaints regarding this operation.

Beverly Griebel asked if the applicant only works Saturdays. Ms. Belding indicated her husband works trick work. She stated she works when he is home and can take care of the kids. She stated Saturday is probably her busiest day, though. She stated she does not work evenings. Beverly Griebel asked if that is the way the applicant has operated since the beginning of her

business. Ms. Belding indicated she used to work more because she did not have all four kids then.

Beverly Griebel asked the applicant if she had any set hours of operation in the past, and Ms. Belding indicated she did not. Larry Smith indicated there was no restriction for hours of operation; just that there be no outside employees.

ANYONE IN FAVOR OR OPPOSED:

Amanda Argen - 4 Amanda Drive
She indicated she was in favor of the application.

Ms. Belding presented the Board with a letter from her next door neighbor. Beverly Griebel read the letter dated 3/22/94 from Thomas and Marion Friedman of Amanda Drive. The letter indicated they were in support of the application. The letter will be on file with the Building Department.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich 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 signs on property.
3. No on-street parking.
4. No employees.
5. No set hours, but no evening appointments.

The following finding of fact was cited:

1. Customary home occupation under Town Code.
6. Application of The ARC of Monroe County, owner; 1000 Elmwood Avenue, Rochester, New York 14620 for variance to erect a 20' x 25' pavilion to be 500 sq. ft. (160 sq. ft. allowed) at property located at 2962/2694 Chili Avenue in R-1-20 zone.

Jim Berner was present to represent the application. He stated sometime ago The ARC benefitted from a donation made to beautify the property at 2694 Chili Avenue. He stated there was a home at 2692 that has since been raised. He stated the whole property has been resubdivided through the Planning Board based on the condition they come before the Zoning Board regarding the pavilion.

Mr. Berner indicated they would like to erect the pavilion for the use of the residents and their families at that location. He stated they currently have a 10 bed facility. He stated several of the residents in that facility are in wheelchairs and 160 ft. pavilion would not allow them to accommodate the wheelchairs and the range of motion that would be needed for the residents in that facility. He stated they plan to landscape the property. He stated they need something to cover the residents and keep them out of the sun and elements. He stated some of the residents are on medications that make them very sensitive to the sun.

Larry Smith stated pavilions are classified as accessory structures. He stated they can only have 160 ft. under the code, so that is why they need the variance.

Brian Powers was also present to represent the application. He stated last year ARC began to

create a parking area in that location. He stated they installed a paved pathway from the existing parking or driveway area over into the pavilion location. He stated the pavilion will be constructed on a concrete slab, and he stated they would bring the existing pathway up to the pavilion to allow access for those in wheelchairs.

John Castellani asked if the pathway would be covered, and Mr. Berner indicated it would not be. Larry Smith stated the applicant has been given site plan approval.

John Hellaby stated his concern last year was over the driveway congestion, but he stated it looks like they have alleviated that problem. Beverly Griebel asked if the pavilion would match the portico, and Mr. Berner indicated it would.

ANYONE IN FAVOR OR OPPOSED:

Jerry Brixner - 14 Hartom Road

He asked if the pavilion is going to go in the area where the old home was, and Larry Smith indicated that was the area it would be built in. Mr. Brixner indicated he was in favor of the application.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and John Castellani 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 findings of fact were cited:

1. Positive addition to neighborhood.
2. Demonstrated need for shelter for handicapped residents addressing their health, safety and welfare.

Beverly Griebel stated all the agenda items this evening are exempt from Monroe County Department of Planning approval.

The Chili Zoning Board 2/22/94 minutes were approved as is.

The meeting ended at 10:05 p.m.

CHILI ZONING BOARD

April 26, 1994

A meeting of the Chili Zoning Board was held on April 26, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: Bill Oliver, Ron Popowich, Ralph Barbaro, Gerry Hendrickson, John Castellani and Chairperson Beverly Griebel.

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

Chairperson Beverly Griebel declared this to be a legally constituted meeting of the Chili Zoning Board. She explained the meeting's procedures and introduced the Board and front table. She stated the fire safety exits. The Pledge of Allegiance was cited. Beverly Griebel stated most of the items on the agenda have been exempted from review by the Monroe County Department of Planning.

- 1. Application of Martin Wiest, owner; 16 Charles Avenue, Rochester, New York 14624 for variance to erect a 14' x 26' garage to be 5 1/2' from side lot line (50' req.) and 33' from rear lot line (50' req.) at property located at 16 Charles Avenue in RA-20 and FPO zone.

Beverly Griebel read the County Comments. Martin Wiest was present to represent the application. He stated he would like to build a garage on his property. He stated he would like to store his tools and his car in the garage.

Beverly Griebel asked if the garage would be attached to the house, and Mr. Wiest indicated it would. Ron Popowich asked if the rear of the garage would be in line with the rear of the house, and Mr. Wiest indicated it would.

Bill Oliver asked if the garage would be for personal vehicles and not for repair work other than on the personal vehicles that the applicant owns, and Mr. Wiest indicated this was just for personal use. John Castellani asked if there was anything that would get into the flood elevation concerns or anything like that, and Mr. Wiest indicated there would not be.

Ron Popowich asked the applicant why he chose 14 ft. for the width. Mr. Wiest indicated the house is 5 1/2 ft. from the lot line on the east side. He stated he chose 14 to try and center it better. He stated he would like the garage to be wider but then it would be too close to the lot line. He stated his neighbor has got a garage existing that is about a foot off the lot line, so he would want at least 5 ft. between the lot line so that he could have access to the backyard for emergency purposes and for cutting the grass.

Ralph Barbaro asked the applicant if he was familiar with the new zoning regulations proposed for that area, and Mr. Wiest indicated Beverly Griebel has explained that to him. Ralph Barbaro stated he believed the proposed setback requirement on the new zoning regulation is stipulated at 8 ft., and Larry Smith stated that was correct. Ralph Barbaro asked the applicant if there was any reason why they could not make the garage 11 1/2 ft. wide instead of 14 ft. to comply with the new regulation. Mr. Wiest stated he could go 12 ft., but that would be it. He stated he would not be able to work on his own car in the garage if it were smaller. He stated he also needs the room because the back door of his home leads into the garage, and he stated he would not be able to swing the door open without hitting the car.

Ralph Barbaro commented most garage doors are 8 ft. wide, and he questioned why the applicant is allowing for a 10 ft. door. Mr. Wiest stated he wants to have a swinging door instead of an up door. He stated the garage will have a shed type roof. Ralph Barbaro asked what kind of siding would be used on the garage. Mr. Wiest indicated he would use regular cedar shingles with T-111. Ralph Barbaro asked if there would be any sheeting, and Mr. Wiest indicated he would have

just studs and the T-111 painted to match the house. Ralph Barbaro commented that was pretty basic construction. Mr. Wiest stated the garage next to him has T-111.

Ralph Barbaro asked the applicant what his hardship would be to having the garage conform to the setback of 8 ft. Mr. Wiest indicated he could go 12 ft. and still have room. Larry Smith commented an 8 ft. setback would still require a 6-inch variance. Ralph Barbaro asked the applicant if he would be willing to amend his application to 12 ft., and Mr. Wiest indicated he would.

Mr. Wiest stated he has \$100,000 worth of tools that he would like to have room in his garage to store. He stated he also has a race car that he would like to store in the garage. Ralph Barbaro commented a race car is a little different than a personal car. Mr. Wiest stated it is his own personal car, though. Ralph Barbaro asked the applicant if he is in the business of racing cars, and Mr. Wiest indicated he is not. He stated it is just a hobby of his.

Larry Smith indicated he was concerned the applicant was basing his measurements on a tape location map since those maps are not as accurate as instrument surveys. Mr. Wiest indicated he had an instrument survey map at home. Larry Smith stated before he would issue a permit for this garage, he would want to see an instrument survey for this property.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Approved by a vote of 5 yes to 1 no (Ralph Barbaro) with the following condition:

1. Submit instrument survey to the Building Department.

The following findings of fact were cited:

1. Applicant showed need for extra space.
 2. Pre-existing, non-conforming lot.
 3. Not detrimental to health and safety as plans meet N.Y. State setback requirements.
2. Application of Barbara Jonak, owner; 50 Hitree Lane, Rochester, New York 14624 for conditional use permit to allow an office in home for a pet sitting business at property located at 50 Hitree Lane in R-1-15 zone.

Barbara Jonak was present to represent the application. She stated for her business she would be making one or two visits a day to the pet owner's home. She stated she would be taking care of the pets at their homes, giving them water, taking them for a walk, whatever is required. She stated in her home she would just have an office where she would make telephone calls and where she would do her paperwork. She stated she would never take care of any pets in her home. She stated she would have no clients coming to her home. She stated she would not require a sign for her business.

Larry Smith asked if a State or a County license is required to conduct this business, and Ms. Jonak indicated she was not sure. She stated she has an appointment with her lawyer tomorrow on that.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver seconded the motion. All

Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Granted for a period of one year.
2. No on-site advertising.
3. No on-street parking pertaining to the business.
4. Large house numbers (min. 4 1/2") be installed on house.
5. No non-family employees.
6. Hours as per application.

The following finding of fact was cited:

1. Standard customary home occupation.
3. Application of Michelle O'Brien, owner; 20 Stone Barn Road, Rochester, New York 14624 for renewal of conditional use permit to allow a bakery business in home at property located at 20 Stone Barn Road in R-1-15 zone.

Michelle O'Brien was present to represent the application. She stated she has run her business out of her home for the last year and has had no problems. She stated she has had no complaints from her neighbors.

Ralph Barbaro asked the applicant how many cakes has she baked in the last year, and Ms. O'Brien indicated hundreds. She stated she averages about 10 to 15 a week, sometimes more. Ralph Barbaro asked who the applicant's clients are. Ms. O'Brien indicated she sells to caterers, the general public and brides. Ralph Barbaro asked if the applicant delivers her product, and Ms. O'Brien indicated she delivers 90 percent of them. She stated the other 10 percent come to her house to pick them up. Ralph Barbaro asked if the caterers come to her home, and Ms. O'Brien indicated she delivers to the caterers. Ralph Barbaro asked the applicant if she has a registered business name, and Ms. O'Brien indicated the name is The MOB.

Larry Smith indicated there have been no complaints with regard to this application. Ralph Barbaro asked if the applicant sees her business increasing in the future. Ms. O'Brien indicated it is increasing. Ralph Barbaro asked the applicant if she was going to outgrow her facilities. Ms. O'Brien indicated she would not. Ralph Barbaro asked the applicant where she does most of the baking, and Ms. O'Brien indicated she is licensed by the State of New York and has a separate kitchen facility in her home. Ralph Barbaro asked if that kitchen is inspected periodically, and Ms. O'Brien indicated it is inspected once a year by the New York State Department of Agriculture. Ralph Barbaro asked if the applicant's business were to triple in the next few years, would she be hard pressed to stay at that location, and Ms. O'Brien indicated she would not be.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Permit granted for a period of three years.
2. No outside employees.

3. No outside signs on or near the premises.
 4. Applicant to maintain proper licenses from State and County authorities.
 5. No outside delivery to business from suppliers except owners.
 6. Hours as per application.
4. Application of Donald Marker, owner; 1358 Paul Road, Churchville, New York 14428 for variance to erect a 21' x 7' addition to garage to be 53' from front lot line (75' req.) at property located at 1358 Paul Road in R-1-15 zone.

Donald Marker was present to represent the application along with his wife Carol. He stated they would like to extend the front of their garage 7 ft. into the setback of 60 ft. He stated that would allow them to put a family room in the back area of the garage that is existing. He stated the side would not allow any expansion, and he stated the back of their house there is too great a slope of land.

Mr. Marker stated they would put new trusses on and would extend the front of the house and the roof line out. He stated it would look like most colonials with an overhang to match up to the garage. Beverly Griebel asked if they would be taking part of the garage for the family room, and Mr. Marker indicated that was correct.

Bill Oliver asked what the reason for the family room is. Mr. Marker stated they have decided to stay in Chili and the house does not have enough room when they have family functions. Bill Oliver asked how they would enter the garage if they put the addition on. Mr. Marker stated there is a side door on the garage now that would stay there. Bill Oliver asked what would happen to their car. Mr. Marker indicated it would go in front.

Beverly Griebel asked if they would just be moving the door forward, and Mr. Marker indicated that was correct. Mr. Marker stated the trusses that are there would be removed and the new trusses would be put on to extend the garage forward. Beverly Griebel asked how far out would the garage extend, and she asked if it would be equal with the front stairs. Mr. Marker indicated it would. Mr. Marker stated they do not want to go out any farther than they have to.

Ralph Barbaro asked if any of the neighbors' homes to the east or to the west stick out another 6 or 7 ft. Mr. Marker stated they are all consistent with what he has there now. Ralph Barbaro asked if anyone in the area has added onto their home, and Mr. Marker indicated not to his knowledge. Ralph Barbaro asked if the other lots on their side of the street are all 100 ft. lots, and Mr. Marker indicated they are.

ANYONE IN FAVOR OR OPPOSED: No one.

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

Beverly Griebel indicated this application came back from the Monroe County Department of Planning as a local matter.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Applicant demonstrated need to expand.
2. Not detrimental to neighborhood.
3. Minimum variance needed to accomplish desired project.

5. Application of Daniel Doherty, owner; 84 Parkway, North Chili, New York 14514 for variance to allow existing 8' x 12' utility shed to be 2'1" from east side lot line (8' req.) and 2'7" from dwelling (8' req.) at property located at 84 Parkway in R-1-15 zone.

Daniel Doherty was present to represent the application. He stated he was present for a variance for the shed that he put up last year. He stated through his ignorance, he did not realize that he needed a variance for it because he did not have a footing for it. He stated the shed needs to be where it is at because of the landscaping of their yard. He stated there is no other practical place that the shed would look aesthetically correct. Mr. Doherty stated if he cannot have the shed there, he would have to take it down. He stated they do not want the shed any other place in their yard. Mr. Doherty stated they need the shed because the garage is the standard 20 ft. He stated it takes a lot of yard tools to maintain his yard. He stated they are running out of space in their garage.

Ralph Barbaro asked the applicant when they put the shed in this location, did they consider the fact that it might be in violation of the setback regulations to the side lot line or the house. Mr. Doherty indicated he did not. Mr. Doherty stated he was misinformed, and he stated he takes responsibility for that. Mr. Doherty stated the shed can be moved. Ralph Barbaro asked who misinformed the applicant, and Mr. Doherty indicated it was a friend of his.

Ralph Barbaro commented the applicant does have a pretty big lot. Mr. Doherty stated aesthetically the shed should be where they have put it. He stated the shed is tucked to the side of the house and has a lot of shrubs and flowers around it. Ralph Barbaro commented the lot shows a lot of talent in landscaping, but he stated that same talent could be applied to relocating the shed and still making the yard look good. Mr. Doherty disagreed and stated they would have to take the shed down.

John Castellani asked if they are storing gasoline in the shed, and Mr. Doherty indicated he is not. He stated he stores the gasoline in the garage. John Castellani commented the chimney is right next to the shed. Larry Smith indicated he had a problem with that. He stated the shed should be six inches away from the chimney.

Ralph Barbaro stated this application should be amended to reflect that the shed is only a few inches away from the chimney rather than the house.

Beverly Griebel stated when she looked at the property, she noticed there was a fence in the front. She stated that fence should be reflected on the diagram. She asked if the fence is at the property line, and Mr. Doherty indicated it is just inside of the property line. Mr. Doherty indicated there is a foot or so between the shed and the fence just to provide egress to the backyard.

Bill Oliver commented since the applicant has stated he would take the shed down if he doesn't get the variance, that must mean he doesn't really need the shed. Mr. Doherty stated he does need the shed. He stated if they did not get the variance, he would have to leave a car outside so he could fit his tools inside the garage.

Ron Popowich commented the applicant's yard is beautiful. He asked if there have been any complaints from the neighbors about the appearance of the shed. Mr. Doherty indicated they have not received any complaints. Ron Popowich asked if the fence is up against the shed, and Mr. Doherty indicated it is not. He stated there is a clearance of about 2 ft.

Ron Popowich asked if it was possible to move the shed to the south so that it would clear the chimney. Mr. Doherty stated he could do that. He stated he would be willing to do that.

John Castellani asked the applicant how he realized he had to come to the Town for a variance. Mr. Doherty indicated he was notified by the Building Department. Larry Smith stated typically a shed like this should be at least 4 ft. away from a chimney. Mr. Doherty indicated he could move it 4 ft. away from the chimney. Larry Smith asked if they could move the shed so the back of the shed lines up with the back of the house, and Mr. Doherty indicated they could do that.

There was discussion among the Board members and the applicant where the best location would be to move the shed. Beverly Griebel questioned if there were any trees that would limit the movement of the shed towards the backyard. Mr. Doherty indicated there would not be a problem. Ralph Barbaro asked if the shed would be moved back 10 ft. from its current location, and Mr. Doherty thought he could do that. Larry Smith indicated he would have no objection to the variance for the side lot line as long as the shed was moved away from the chimney.

Larry Smith suggested the applicant amend his application to ask for the shed to be 2 ft. from the side yard and 2 ft. from the house, with the north end of the shed being moved to the south end of the house. Keith O'Toole stated the application should be amended to read the shed would be parallel to the southern edge of the two-story frame house, the house not including the sunroom for purposes of definition. There was further discussion regarding how to define the positioning of the shed. Keith O'Toole indicated it could be stated that the north face of the shed would be aligned with the southern face of the primary structure, not including the sunroom.

Mr. Doherty stated he could move the shed a foot west more for more setback from the property line. Larry Smith stated nothing would be gained by doing that because it would be closer to the house. Larry Smith stated they should position the shed to be 2 ft. from the side yard line, 2 ft. from the house with the north face of the shed being located at the southern edge of the garage, at a minimum of 4 ft. from the chimney. Mr. Doherty indicated he would amend his application in that regard.

ANYONE IN FAVOR OR OPPOSED: No one.

John Castellani made a motion to table the application as amended, and Bill Oliver seconded the motion.

DECISION: Unanimously tabled by a vote of 6 yes for the following reason:

- 1. Applicant needs to work out another site that would be a more appropriate location, and amend with new drawings.
- 6. Application of Jane Elliott, owner; 31 Everett Drive, Rochester, New York 14624 for conditional use permit to allow an office in home for the assembly of gift baskets at property located at 31 Everett Drive in R-1-20 zone.

Beverly Griebel read the County Comments. Jane Elliott was present to represent the application. She stated she would like to put an office in her home and have an area with a counter for the assembly of gift baskets. She stated the baskets would have dry goods in them. She stated the baskets would have different themes such as: baby showers, Father's Day, etc. She stated she would deliver all of her baskets. She stated she would not employ anyone in her home. She stated she has a full-time job currently and this would be a part-time business.

Ron Popowich asked if there would be any spray painting or spray aerosol for preserving dried flowers. Ms. Elliott indicated she would not get into that. She stated she would just assemble different products in the baskets. Ron Popowich asked if there would be any chemicals involved, and Ms. Elliott indicated there would not be.

Ron Popowich asked the applicant if she would purchase and pick up the baskets and items, or would the supplies be delivered to her home. Ms. Elliott indicated where she would purchase her basket supplies from.

John Castellani asked the applicant if she was going to be making the baskets, and Ms. Elliott indicated she would purchase them already made. Ms. Elliott indicated she would be picking up her supplies and would be delivering her final product. She stated no one would be coming to her home.

Ralph Barbaro asked the applicant if she would have fruit baskets. Ms. Elliott indicated she is not planning on doing that because she did not think there would be enough orders to support the

quantity of fruit she would have to buy. She stated if she were to have any candies in the baskets, they would be purchased and wrapped candies. She stated she is not interested in making candy. Ralph Barbaro commented the applicant would not have perishables, then, and would not need a refrigeration system then. Ms. Elliott indicated she would buy products for the baskets that she would be able to store.

Gerry Hendrickson asked the applicant if this is a hobby she has taken up. Ms. Elliott indicated it is.

Ralph Barbaro asked the applicant how she plans on selling these baskets, and Ms. Elliott indicated by word of mouth. She indicated she does not have a marketing plan at this point.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Granted for a period of one year.
2. No on-street advertising.
3. No outside employees.
4. No on-street parking pertaining to the business.
5. Large house numbers (min. 4 1/2") be installed on the house.
6. Hours of operation as per application.

The following findings of fact were cited:

1. Customary home occupation per Town Code.
 2. Not detrimental to other properties.
7. Application of Linda Privitera, owner; 30 Blue Ridge Trail, Rochester, New York 14624 for variance to erect an 8' x 10' utility shed to be 4' from dwelling (8' req.) at property located at 30 Blue Ridge Trail in R-1-15 zone.

Linda Privitera was present to represent the application. She stated she would like to have her shed be a foot from the house rather than 8 ft. She stated if she were to bring the shed out, it would end up in the middle of her lawn. She stated she has a lot of space when she comes out of the garage door over to the right side where there is a lot of empty space. She stated that would be an ideal space for the shed.

Ralph Barbaro commented the drawing he had was not to scale. He stated the back of the house sticks out 4.1 ft. from the back of the garage. He stated the shed, however, is shown to be at 10 ft. He stated the Board needs to have a better perspective of where the shed would be located with respect to the garage.

Ms. Privitera indicated on the back of the garage there is a door, and she stated over to the right there is an empty space that she could put the shed. She stated it would be centered in the back of the garage. Ralph Barbaro asked if that would put the shed near the house, and Ms. Privitera indicated it would. Ralph Barbaro asked if there is a walkway between the garage door and the wooden deck, and Ms. Privitera indicated there is not.

Ralph Barbaro asked where the door to the shed would be, and Ms. Privitera indicated it would be facing the yard. Ralph Barbaro asked if there would be a concrete pad for the shed, or how would the shed be anchored. Ms. Privitera indicated there would be just a wood floor. She stated it would be anchored the way the company would do it. She stated there would be no concrete.

Bill Oliver commented some of the sheds manufactured today have cables inside the sheds that anchor them to the ground. Ms. Privitera indicated the way the shed would be anchored was illustrated in the booklet she provided to the Board. She stated she would have a vinyl shed.

John Castellani asked who would be constructing the shed, and Ms. Privitera indicated she would be having a contractor do this.

Ralph Barbaro commented the deck sticks out 8.9 ft. He stated the way the shed is positioned now, it is going to be even with the back of the deck. Ms. Privitera indicated she was not sure about that. Ralph Barbaro asked the applicant what the hardship is for not moving the shed another 4 ft. back. Ms. Privitera indicated she has to have space for her children to play and for their playground equipment. Ralph Barbaro commented there is a lot of depth to the applicant's backyard. He asked where the playground set is, and Ms. Privitera indicated it is in front of the deck.

There was discussion amongst the Board members and the applicant regarding where the shed is going to be.

John Castellani asked if the shed would be coming out 4 ft., or would it be even with the deck. He stated if it were even with the deck, the applicant would not need a variance. Ralph Barbaro stated the Board would have to go by the dimensions and not the drawing. Ms. Privitera indicated there is a tree close to where the shed would end up. She commented she has a lot of trees in the back of her property. Ms. Privitera indicated there is probably enough room for a car to fit between the garage and the tree. Ms. Privitera indicated if she came out 10 ft. with the shed, it would be close to the tree.

Keith O'Toole asked the applicant if the reason she is moving the shed that close to the house is to preserve lines of sight so she could view her children from the house, so that there would be open space for the enhancement of the enjoyment of the premises, and to keep the shed at an aesthetically pleasing distance from the natural obstruction of the tree, and Ms. Privitera indicated that was correct.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Applicant demonstrated need for shed placement.
2. Not detrimental to neighborhood.

The March 22, 1994 Zoning Board minutes were approved as is.

The meeting ended at 9:10 p.m.

Gerry Hendrickson asked how close the house next to this property was. Larry Smith stated he wasn't sure but that it had to be a minimum of 8 ft. Richard Gilmore then stated that house is 16 ft.

Ron Popowich asked Larry Smith for further clarification on the proposed code changes. Larry stated he was proposing two rules of interpretation and that it would be his discretion as to what is the side and rear yards regardless of where the house sits on the lot.

Ralph Barbaro asked Mr. Gilmore if he would be building the deck. Mr. Gilmore stated he is not. Mr. Pascoe stated he would be building the deck himself.

ANYONE IN FAVOR OR OPPOSED:

Mr. Pascoe asked if the initial situation was the builders fault or something overlooked by the Town. Ralph Barbaro stated it was an interpretation of the rules. On corner lots there is a problem with interpretation. Larry Smith stated the town could change the definition of side and rear lot lines to give flexibility on corner lots.

Mr. Pascoe stated he was told the house could not have faced Colonist Lane as he wanted. Larry Smith stated the house would not have fit the setback on Battle Green Drive. Ralph Barbaro stated there still would have been a zoning problem.

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

DECISION: Unanimously approved amended application by a vote of six with no conditions, and the following finding of facts were cited:

1. Approval of variance best suits needs of all parties.
2. Not detrimental to neighborhood.

The meeting ended at:

CHILI ZONING BOARD

May 24, 1994

A meeting of the Chili Zoning Board was held on May 24, 1994 at the Chili Community Center, 4400 Buffalo Road, North Chili, New York 14514 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, Ron Popowich, Ralph Barbaro, Gerry Hendrickson, John Castellani and Chairperson Beverly Griebel.

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

Chairperson Beverly Griebel declared this to be a legally constituted meeting of the Chili Zoning Board. 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 stated Application #10 would be tabled until next month.

Beverly Griebel indicated the next item was a tabled item regarding Dan Doherty's property at 48 Parkway Drive in North Chili. She stated Mr. Doherty applied for a variance to allow an existing 8' x 12' utility shed to be 2.1' from the east side lot line (8' required), and 2.7" from a dwelling (8' required) at property located at 48 Parkway Drive in an R-1-15 zone. Beverly Griebel stated this was tabled for a new site plan to be submitted by the applicant.

Dan Doherty was present to represent the application. He stated when he first put up his shed, he did not seek Town approval because he mistakenly believed it was not necessary because there was no footing or foundation. He apologized to the Board for not getting a permit.

Mr. Doherty stated last summer his wife and himself evaluated whether they wanted to continue to live in Chili or to move. He stated they came to the conclusion they could find nothing better for the money than their current home that they have lived in for 23 years. Mr. Doherty stated in the next few weeks they intend to start a \$15,000 improvement to their property including a backyard brick patio, a covered spa and landscaping. He stated their developer is in the process of contacting Larry Smith to see if any permits or variances are needed. He stated they will proceed with the codes of the Town.

Mr. Doherty stated when he left the meeting last month, his thoughts were to remove the shed from the property because of their belief that there was no other suitable location in which to place the shed. He stated they came to the conclusion after that just because there was no other place to put the shed, it did not mean it was not already in its most desirable location as they continue to feel. Mr. Doherty presented some photographs of his property to the Board.

Mr. Doherty stated to place the shed in any other location would be detrimental to the overall appearance of their yard. He stated the shed is almost invisible to anybody casually looking around the backyard, and he stated it is well obscured from the front yard. He stated his most immediate neighbor whose home is next door to the shed has no objection.

Mr. Doherty stated he was told by the Fire Marshal after discussing with him the location of the shed during a phone conversation earlier this month that there was no fire hazard. He stated the Fire Marshal declined an invitation to inspect the property.

Mr. Doherty stated the job of moving the shed would be enormous and would cause damage that would have to be repaired. He stated the relocation would be time-consuming, expensive and wasteful. He stated the yard is prettier now than it would be with the shed plopped in the middle of it.

Mr. Doherty stated he needs a place to keep two lawnmowers, two stepladders, three bikes,

numerous lawn tools, shovels and so on. He stated without the shed, he would have to move that stuff into his standard size garage at the expense of leaving the car or both cars out in the driveway. He stated during the winter months that would especially not be acceptable. Mr. Doherty stated it is also not acceptable to trash the almost \$1,000 they have invested in the shed and the landscaping.

Mr. Doherty stated there are many sheds in Town that violate the code. He stated while he understands that each case should be judged on its own merits, he stated he also believes the petition he is presenting to the Board in support of his application should be reconsidered. He stated there is no reasonable objection to this variance request. Mr. Doherty stated he is submitting his original petition for the Board's consideration in the hopes that the Board would act on it in a positive way based on the further information, the photographs and signatures he has provided to the Board this evening.

John Castellani asked Larry Smith if he knew Mr. Doherty was going to be at the meeting tonight early enough to make the agenda. Larry Smith indicated he did not. He added it was not advertised. John Castellani stated the Board does not handle old business; everything is done in the normal advertised manner. He stated a tabling just indicates the applicant does not have to pay any more money.

Beverly Griebel stated the applicant has presented a petition dated May 22, 1994 to the Board in support of his application. She read the petition. The petition will be on file with the Building Department.

John Castellani stated he thought the applicant would have to go through the procedures for getting on the agenda in order for the Board to handle this matter, otherwise he thought the Board would be in violation of the procedures for hearing applications. Mr. Doherty stated he was just told he had to show up again and present another plan. He stated he was not informed of the necessity of having to get on an agenda or posting anything. John Castellani stated in reality, that is the way the Board operates, though. Mr. Doherty asked why he was not informed he had to do that.

John Castellani asked Mr. Doherty if he asked the Building Inspector what the procedures were for coming back to the Board. Mr. Doherty stated it was very definitely implied to him that he should come back again. He stated there were words mentioned to the effect the matter was being tabled until the next meeting to come up with a different plan. John Castellani stated he remembered that the applicant was told he had to notify the Town that he was ready to come back. Mr. Doherty stated he did not remember that.

John Castellani stated the only way the Zoning Board of Appeals operates is based on the fact the applicant is appealing a decision of the Building Inspector. He stated the Zoning Board only operates in a public forum. He stated the applications have to be advertised so that the neighbors can be informed what is going on.

Mr. Doherty stated Larry Smith came to his house and looked at the shed. He stated Larry Smith made some suggestions at that time and told him to come back before the Board. Mrs. Doherty, present in the audience, stated at no time did Larry Smith inform them that they had to post their property again. Mr. Doherty questioned where he is supposed to get this information on what he is supposed to do from.

Larry Smith stated he did not tell Mr. Doherty when to come back, and Mr. Doherty agreed. Larry Smith stated in the April 26, 1994 Zoning Board meeting minutes, it indicates Mr. Doherty's application was unanimously tabled by a vote of 6 yes for the following reason: The applicant needs to work on another site that would be a more appropriate location and amend the new drawings. Larry Smith commented the applicant had indicated he would amend his application in that regard.

Larry Smith stated if the drawings were brought into the Building Department, this application would have been on the agenda and would have been advertised. Mr. Doherty stated he cannot

change the placement of the shed. He stated he would have to take the shed down.

Ralph Barbaro commented the point is for an application to come back before the Board in a public hearing, it has to be advertised to the public. He further commented Mr. Doherty did not notify the Building Department that he was coming back in with a revised plan or that he was coming in with the same plan. Mr. Doherty stated he thought it was only fair that that should have been explained to him. Ralph Barbaro stated the only thing he thought could be done at this point is to advertise the application for next month's meeting. He stated it is required by State Law that the applications the Board hears have to be posted. He stated when the applicant comes back in with a revised plan, that is when he would be put on the agenda.

Larry Smith referred the Board to Section 167-E of the code that indicates a time extension is basically a tabling. He stated that indicates the Board may extend the time requirements or limits set forth in the chapter upon mutual agreement between the Board and the applicant. He further stated such time extensions shall be for such purposes as obtaining additional information, resolving major conflicts between the Board and the applicant, or to provide time to contact other agencies or persons who may have an interest in the application. He stated the time and date when the hearing is to resume should be part of the minutes of the meeting according to the code.

Keith O'Toole indicated that Section basically means that the Board can extend the time and rehear the application as old business if it wants to call the application old business. He further stated, however, the Board would have had to have stated at the last meeting the date and time when the application would be reheard. Keith O'Toole stated it was up to the Board to consider whether in the minutes of the last meeting it indicated to the applicant a time when he should reappear.

Keith O'Toole stated what he reads in the findings of the Board was that the applicant needed to work out another site that would be a more appropriate location and should amend new drawings. He stated the Board was essentially making the applicant's reappearance contingent upon the applicant's resubmission of new drawings to the Code Enforcement Officer, who in turn would notify the Board the application was to be reheard. He stated at that time it would have been appropriate for the Board to publish the notice in the paper. Keith O'Toole stated he did not think is necessary to republish the notification in the paper; however, there should have been some indication either that the Board was setting a specific time where the applicant would resubmit the application or not.

Keith O'Toole indicated in this case the Board required the applicant to resubmit the application with amended drawings, which the applicant has failed to do. Keith O'Toole stated he did think the Board could hear the application as old business, but he stated he did not think the applicant has met the standard that the Board set at the last meeting as reflected in the minutes.

Mr. Doherty stated he was present to resubmit his original application. Keith O'Toole stated if the Board were to hear new evidence without advertising the application, there would be a problem. He stated if the Board were to hear the original application without new additions to the minutes, without any new letters or petitions, that would not be a problem because it would appear that the public comments had terminated at the last meeting.

Keith O'Toole stated he felt the good course would be to advertise the application for next month's meeting. Larry Smith stated he would reinstate the initial application tomorrow for the next meeting if that is what the applicant wants to do.

Mrs. Doherty asked if they would have to post a new sign. Larry Smith indicated they could use the same sign, but he stated they should bring it into his office to change the date. Larry Smith indicated he would keep the materials presented at this meeting and would include them as part of the old/new application.

1. Application of Scott Miller, owner, 2393 Westside Drive, North Chili, New York 14514 for variance to erect a two-story addition to house to be 6 1/2' from side lot line (10' req.) at property located at 2393 Westside Drive in an R-1-15 zone.

Scott Miller was present to represent the application. He stated he has an existing 28' x 32' house, not including the garage. He stated he would like to go out 8 ft. in the back the whole 32 ft. in length, one story. He stated he would turn the Cape Code home into a colonial. He stated when the house was built, it was 5 ft. from the lot line. He stated now the requirement has been changed to 10 ft. He stated the house would be 6.7 ft. from the west lot line.

ANYONE IN FAVOR OR OPPOSED:

Darrell Millsbaugh - 2397 Westside Drive

He stated he lives directly west of the property. He stated he has no problem with the application.

The Zoning Board is aware that Scott Miller is a Town employee.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Pre-existing, non-conforming structure.
2. Application of Susan Wainwright, owner; 10 Dallas Drive, Rochester, New York 14624 for conditional use permit to allow a beauty shop in home at property located at 10 Dallas Drive in R-1-12 zone.

Susan Wainwright was present to represent the application. She stated she wants to do hair on a part-time basis a few hours a week. She stated she has a large driveway that can hold eight cars. She stated she would space the appointments so that there is only one, possibly two cars in the driveway at a time. She stated there would be no on-street parking. She stated she would not have a sign out front indicating there is a business on site. She stated her three immediate neighbors, 14 to the left, 8 to the right and directly across the street at 2 Gary Drive are in favor of the application.

Beverly Griebel asked the applicant if she needs a State license for her business. Ms. Wainwright indicated she has a hairdresser's license. Larry Smith stated 6-A in the application should be yes. Beverly Griebel indicated the application would be so amended.

Ralph Barbaro asked if the name of the business would be Cut Right, and Ms. Wainwright indicated it would be. Ralph Barbaro asked the applicant if she has a d/b/a, and Ms. Wainwright indicated she does not. She stated she would apply for one if necessary. Larry Smith stated if the applicant uses her own name for the business, she would not have to get a d/b/a.

Ron Popowich asked if this business would be operated out of the basement of the home, and Ms. Wainwright indicated it would be. John Hellaby asked the applicant if she is presently employed, and Ms. Wainwright indicated she is not. She stated she was employed as a hairdresser for 4 1/2 years before she had kids. She stated she has been doing friends' and family's hair to keep up her license. She stated she wants to get back into the business now that her kids are older. John Hellaby asked the applicant if she would expand her hours over the years, and Ms. Wainwright indicated she would not. She commented if she were to work expanded hours, she would work outside of the home. She stated she does not want to expand her hours.

Ralph Barbaro asked why this business needs to be conducted out of the applicant's home. Ms. Wainwright indicated it would be convenient with the kids. She stated she does not want to have to work too many hours. She stated it would not be worth it to go outside the home for only a few hours a week.

Ralph Barbaro asked how many customers are expected a day, and Ms. Wainwright indicated on Monday and Tuesday nights, probably three to five customers a night. She stated she plans to

work only Monday and Tuesday nights and Saturdays, 6 to 10.

ANYONE IN FAVOR OR OPPOSED:

Geraldine Burger - 11 Gene Drive

She stated she lives in Hillcrest which is a residential area. She stated she holds nothing personal against the applicant. She stated this is the fifth time the neighbors of the area have come before the Board to oppose a business in the home in their community. She stated they have been successful four times. She stated they do not want to open the door for future businesses in the area.

Ms. Burger stated Hillcrest is unique in that it has a park area and small roads. She stated people do not drive in the area to go any place other than in the tract. She stated there are many talented people in the area that could open a business. She stated she wants to live in a residential area.

Ms. Burger stated her neighbor next door wanted an optics business in his home. She stated the neighbors saw to it that that request was defeated. She stated if this application were granted, it would not be fair to the others who were turned down. She stated a beauty parlor is not a harmful operation. She stated, however, there was a deed restriction set up by Mr. Benedict when the tract was built that stipulated he did not want any businesses brought into any of the residential homes in the area.

Peter Bonney - 14 Earl Drive

He stated he has nothing personal against the applicant. He stated he has lived in the Hillcrest area for the last seven years. He stated he is the President of the Hillcrest Park Association. He stated what attracted himself and his wife to the Hillcrest area seven years ago was the small family oriented area surrounding a park that was jointly owned by the Association members.

Mr. Bonney stated a business does not belong in such a neighborhood. He stated the extra traffic in the area would be a hazard. He stated cars are already starting to come into the area because of the construction on Chili Avenue.

Mr. Bonney presented the Board with a letter signed by two other residents of the neighborhood. Beverly Griebel read the two letters from Virginia Whitsell of 11 Earl Drive and Margaret Ehle of 9 Earl Drive. The letters indicated they were in opposition to the application. The letters will be on file with the Building Department.

Edna Crandall - 3 Hillcrest Drive

She stated she agrees with Mr. Bonney.

Carolyn Spadoni - 4 Earl Drive

She stated she moved to Hillcrest because it was a residential area. She stated she applauds the applicant for wanting to support her family, but she stated she wants to keep the residential area residential.

Brian Williams - 6 Earl Drive

He stated he supports what the others have said. He asked the Board to not grant the variance.

Maria Williams - 6 Earl Drive

She stated she bought her home two years ago in July. She stated they picked the location because it was quiet, there was a park and they were told the area would definitely be residential. She stated the neighbors have defeated such requests as the applicant's in the past. She asked the Board to not allow the variance.

Dallas Benedict - 8 Hillcrest Drive

He stated the neighbors of Hillcrest have always fought this type of application and have always won. He stated he would like to see them keep winning.

Barbara Cortley - 20 Earl Drive

She stated she has been living there for 35 years. She stated the neighbors have fought through the years to keep the area residential. She stated if the applicant were granted the variance, it would open the door to other businesses.

Lorraine McGee - 1 Hillcrest Drive

She stated she agreed with what the others have said.

Helen Casey - 10 Gary Drive

She stated she has lived in the area 27 years. She stated she agrees with what the others have said. She asked the Board to not grant the variance.

Gilbert White - 11 Hillcrest Drive

He stated he has lived in the area 45 years. He stated he was the third family in the tract besides the two Benedict boys. He stated he would like to keep the area residential.

Lloyd Merrill - 9 Hillcrest Drive

He stated he has lived in the area for 34 years. He stated the variance should not be allowed.

Shirley Reifsteck - 24 Gary Drive

She stated she has lived in the area for 34 years. She stated she would like to keep the area residential.

Eugene Buyers - 8 Gary Drive

He stated he was against the variance.

John Castellani commented there was a deed restriction issue brought up the last time the optics matter was before the Board. Larry Smith stated a deed restriction issue would be a civil matter.

Keith O'Toole stated if there is a deed restriction, then the neighbors may have a causative action against the applicant for operating the business in the premises. Larry Smith stated as far as the code is concerned, this is a permitted use in the zone.

John Castellani asked Larry Smith if he has done any research into this deed restriction matter since last time, and Larry Smith indicated he has not. Keith O'Toole commented Larry Smith may not be able to find the deed restriction because they are not always published.

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

DECISION: Approved by a vote of 4 yes to 2 no (John Hellaby, Ralph Barbaro) with the following conditions:

1. Approved for a one-year initial period.
2. No on-site advertising.
3. No on-street parking pertaining to the business.
4. Large house numbers (min. 4 1/2") be installed on house.

The following findings of fact were cited:

1. Customary home occupation.
2. Business will not change the character of the neighborhood.
3. There are no outside employees.

4. Only two additional business-related vehicles would be present at one time.
 5. Applicant expressed need and desire to minimize time away from young children.
3. Application of United Refining Company, owner; c/o Robert Pacer, 5 Bright Oaks Drive, Rochester, New York 14624 for variance to erect a 3' x 6' double-faced addition to freestanding sign, variance to erect an additional two 2'2" x 3 1/2' wall signs at property located at 4399 Buffalo Road in G.B. zone.

Hyrem Colwell was present to represent the application. He stated Mr. Pacer was on vacation. He stated he was present to ask the Board for the variances for two reasons. He stated one of the reasons is to be able to compete with Coastal station across the street, and he stated the other reason is for advertisement

Beverly Griebel stated there presently are wall signs on the building, and she asked if that is going to change. Mr. Colwell stated the signs on the wall now will be eliminated. He stated they want to put the price signs on the freestanding sign that is already there instead. Ralph Barbaro asked if the two small signs would stay, and Mr. Colwell indicated they would.

Ralph Barbaro asked what the total signage comes to, and Mr. Colwell stated 18 sq. ft. He stated he did not calculate the square footage for the two wall signs that they intend to take down. Ralph Barbaro asked if there is any other signage on the building other than the two wall signs, and Mr. Colwell indicated there is not.

Keith O'Toole asked if they currently have one pole sign and the two wall signs, and Mr. Colwell indicated that was correct. Mr. Colwell stated there are two square frame signs plus the price sign on the wire mesh right now. Keith O'Toole asked if there are four signs total, and Mr. Colwell indicated that was correct. Keith O'Toole asked if they are asking for an additional sign to be attached to the pole sign that will indicate the pricing, and Mr. Colwell indicated that was correct, except that they would eliminate the price sign on the building.

Ron Popowich commented it is not a Coastal station across the road.

John Hellaby asked if the new pricing sign would be illuminated, and Mr. Colwell indicated it would be lit from the inside. Mr. Colwell indicated the sign would be on a red background with white numbers.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Advertising needed to identify business and competitive pricing.
 2. Provides public service.
 3. Diminished traffic hazard with prominent pricing.
4. Application of Gillette Machine, owner; c/o Empire Sign Company, 101 Louise Street, Rochester, New York 14606 for variance to erect an 8' x 2 1/2' double-faced freestanding sign at property located at 955 Millstead Way in G.I. zone.

Craig Tesler was present to represent the application. He stated they are proposing to construct a 2 1/2' double-faced freestanding illuminated sign on the property. He stated Charlene Gillette was

also present to represent the application.

Beverly Griebel asked if the sign would be visible from Paul Road and from Millstead Way, and Mr. Tesler indicated it would. Ralph Barbaro commented on the map that apparently shows the water lines in the area, it shows the location of the ground sign but does not give any dimensions indicating the distance of that sign from the road right-of-way or the property line. Mr. Tesler stated the sign would meet the setback requirements. Mr. Tesler indicated on the drawing where the sign would be 40 ft. from the property line, 25 ft. from Millstead Way and 20 ft. from the diagonal property line.

Ralph Barbaro asked if this business was owned by Frank Gillette, and Ms. Gillette indicated it was four years ago.

John Hellaby asked if there is a sign presently on the front corner of the building, and Mr. Tesler indicated there is. John Hellaby questioned the need for the additional sign. Mr. Tesler stated the building sign is not illuminated. He stated the traffic travelling down Paul Road in an easterly direction towards Scottsville cannot see the building sign. Mr. Tesler stated when the trees are in bloom on the property line on the Paul Road side, the sign is not visible. John Hellaby questioned the need for the double-faced V-shape sign, and Mr. Tesler commented it would follow the contours of the road.

John Hellaby asked when the sign would be illuminated, and Mr. Tesler indicated that would be the hours of business. John Hellaby asked if the business is a 24-hour operation, and Mr. Tesler indicated it is. He stated, however, they would not keep the sign lit all night. Mr. Tesler commented typically a sign such as this would have a photocell in it or would be on a timer.

John Hellaby asked if there are parking lot lights over in that area, and Mr. Tesler indicated there are. John Hellaby asked if the parking lot lights stay on all night. Mr. Tesler stated there are no parking lot lights per se, but there is a security light on the building that does stay on all night.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Signage will identify and locate industrial property.
5. Application of Marc Coloney, owner; 28 Silverknoll Drive, Rochester, New York 14624 for variance to erect a gazebo to be 208 sq. ft. (160 sq. ft. allowed) and to be 14' high (12' allowed) at property located at 28 Silverknoll Drive in R-1-20 zone.

Marc Coloney was present to represent the application. He stated Stephen Cangialosi was also present to represent the application as the contractor that would be building the deck. Mr. Coloney indicated he has a large house and a large lot. He stated he wants to build a deck centered onto the back of the house. He stated on the deck would be a gazebo that would be 208 sq. ft. Mr. Coloney stated the reason for the size is so that they could put a few picnic tables under it. He stated the deck would be one level.

Beverly Griebel asked how high the house is at that point, and Mr. Coloney indicated the house is 3,000 sq. ft. and in the neighborhood of 28, 30 ft. high. He stated the center of the house is actually the high point, which is where they are going to put the deck.

Ralph Barbaro asked if the gazebo has already been built. Mr. Coloney stated the gazebo is in Rochester at Churchville Wood Products. He stated he was unaware of the limitations of the square footage and went ahead and purchased the gazebo. Ralph Barbaro asked if the gazebo

was purchased before the contractor was hired to build the deck, and Mr. Coloney indicated he and Mr. Cangialosi ordered the gazebo together. Mr. Cangialosi stated he was unaware of the square footage requirement also. Ralph Barbaro asked Mr. Cangialosi if he felt it was the homeowner's responsibility to make sure everything conforms with the regulations. Mr. Cangialosi stated he thought it was the homeowner's responsibility.

John Hellaby asked if the 14 ft. high measurement was from grade level, and Mr. Coloney indicated it is. Mr. Coloney stated the height is actually 11 ft., and he stated they are going to put a platform up so it will be level with the deck.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Structure will be in proportion to size of house and lot.
2. No significant impact on neighboring properties.
6. Application of Freda Phillips; owner, 35 Cutter Drive, Rochester, New York 14624 for conditional use permit to allow an office in home for a personal fitness consulting business at property located at 35 Cutter Drive in R-1-15 zone.

Freda Phillips was present to represent the application. She stated she has lived in her neighborhood for 10 years now. She stated all her business would be conducted at her clients' homes, so there would be no one coming to her house whatsoever. She stated she only needs space to operate administrative type things such as typing and billing. She stated she is doing business under the d/b/a Personal Fit. She stated she has drafted a letter that she sent around to her neighbors explaining her business. She stated no one has objected to the requested variance. Ms. Phillips presented her letter to the Board. That letter will be on file with the Building Department.

John Hellaby asked for an explanation of the personal fitness consulting business. Ms. Phillips stated she performs personal fitness programming. She stated if someone wants to work out in their home and they have some equipment, she evaluates what the people have and recommends a fitness program that can fit with their schedule and budget. She stated she can stand over people to make sure they are doing their fitness program, or she can just recommend a program for people to follow. She commented a lot of people do not have the time to go to clubs to work out, and she further stated many people like to work out at home once they have a fitness program to follow. Ms. Phillips stated she usually goes to a person's home three times a week.

Ralph Barbaro asked Ms. Phillips if she has to have a certain license to perform this work. Ms. Phillips stated there is no license required in New York State, but she stated she is a certified aerobics instructor and is currently working on her certification to be a personal trainer. Ms. Phillips stated she also works at a health club. She stated she will be certified in personal training in about a year.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following condition:

1. Approved for a period of one year.

The following findings of fact were cited:

1. Customary home occupation.
 2. A home office with no visiting clients.
7. Application of First Baptist Church, owner; 3182 Chili Avenue, Rochester, New York 14624 for variance to erect a 3' x 4' double-faced changeable letter sign on front lot line (20' req.) at property located at 3182 Chili Avenue in G.B. zone.

Don Avery and Bill Gravett were present to represent the application. John Castellani asked if this is the same sign they previously had up. Mr. Avery indicated this is the same sign they had up. Mr. Avery stated when they put up the current sign, they looked at the State plans which did not show any pole supporting the control box. He stated the light was installed by a private company. Mr. Avery presented photographs to the Board. He stated the pole and the control box block the view of the sign. Mr. Avery stated they want to put the sign back where they originally had it.

Mr. Avery stated they want to put the sign right on the property line. He stated the post is about 9 ft. from the edge of the building. He stated they are going to use the same sign which will be illuminated in the same manner as it has been lit. Ms. Griebel asked if the sign would be in the location where the notice sign was posted, and Mr. Avery indicated it would not. He stated the sign would be in the center of the front of the church. Mr. Avery stated they are going to remove some of the trees that have gotten out of size in that area. Ralph Barbaro commented the trees probably block the sign as much as the pole does.

Mr. Gravett stated they looked at putting the sign on the other side of the building, but he stated during the winter they put their plowed snow over there.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Demonstrated need for change of sign location for visibility.
8. Application of James Reece, owner; 51 Hillary Drive, Rochester, New York 14624 for variance to erect a 6' high stockade fence in front setback area (3' allowed) at property located at 51 Hillary Drive in R-1-15 zone.
 9. Application of James Reece, owner; 51 Hillary Drive, Rochester, New York 14624 for variance to erect a 27' diameter above-ground swimming pool to be 38' from side lot line (55' req. abutting a street) at property located at 51 Hillary Drive in R-1-15 zone.

James Reece was present to represent the applications. He stated he wishes to erect a 27' diameter above-ground swimming pool. He stated due to the shape of his lot which is on the inside of a curve, he has street frontage in his backyard. Mr. Reece stated in order to get 55 ft. from the setback, any pool larger than 10 ft. would be partially in his neighbor's yard. He stated in order to put in a 27' diameter pool, he needs to have a variance to be 30 1/2 ft. from the setback. He stated if he were to pull the pool closer to the house, he might gain another 2 ft. He stated, however, that would not be beneficial to him. Mr. Reece stated if the variance is approved, he has a tree that has to be removed and overhead wires that have to be relocated, all of which he is in the process of arranging.

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Mr. Reece stated the fence would be located in the backyard. He stated it is a front setback because of the road frontage and the curve. He stated the fence runs towards the front of his property and would impact slightly on the visibility to traffic coming from the curve. Mr. Reece stated currently there is a shrub on the front corner of his property which is the existing line of sight to the oncoming traffic. He referred the Board to a diagram included with his application. He stated a person travelling east on Hillary would have 80 ft. to turn the car before it would not see any traffic coming in the other direction. He stated if someone were to move back to the rear of his property line, there would be 150 ft. before they would have to turn the car. Mr. Reece stated with the erection of the fence, the difference would be the car would be 26 ft. closer at that point.

Mr. Reece stated after the fence is erected one would be able to see a car 17 car lengths away instead of the current 18 1/2 car lengths. He stated he does not think that would create a major difference in the traffic flow. Mr. Reece pointed out where the angle is significantly more than 90 degrees in the turn, and he stated a person would have to be slowed down to well below the normal speed limit in order to negotiate that corner anyhow.

Mr. Reece indicated he wants the fence for privacy since there is traffic driving by 55 ft. from where the pool would be. He stated in his application he stated there was no other alternative location for the fence. He stated since the time he filled out the application, he has learned that there are privacy fences that can go on the side of a pool. He stated that is an alternative; however, he does not care for the appearance of such fences.

Mr. Reece stated when Beverly Griebel was out to his property, they had talked about the variance reading for a fence or a natural barrier. John Castellani stated natural barriers do not require a variance. Mr. Reece stated it does require a variance if it is over 3 ft. high. Larry Smith stated trees and shrub lines also fall under the definition of a fence in this instance. Larry Smith stated as far as he was concerned, if the Board gives the applicant a variance for a fence and he puts up a tree line, it is the same thing.

John Castellani commented if there was a problem, his neighbor would have been in here complaining. He commented Carol O'Connor, the Town Clerk, lives next door. He commented she does know the procedures of the Board.

Ralph Barbaro asked what kind of fencing would be used, and Mr. Reece indicated it would be a 6 ft. stockade fence or they would use a wall of Arborvitae. He stated they have not decided which way to go yet. Keith O'Toole stated the applicant is really applying for a barrier, and he stated the application should be amended to that effect. Mr. Reece stated he would like the application amended to that effect.

Ralph Barbaro commended the applicant on the thoroughness of his application.

Gerry Hendrickson asked what Carol O'Connor has to say about the variance. Mr. Reece stated he has talked with her about talking down some unsightly pine trees of his in order to put up the fence.

ANYONE IN FAVOR OR OPPOSED: No one.

On Application #8, Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

On Application #9, Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and John Castellani seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION #8: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

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1. Demonstrated need for backyard-privacy.
2. Minimal impact on line of sight at curb of street.

DECISION ON APPLICATION #9: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Unique character of lot creates hardship for owner to erect pool.
 2. Best site for pool.
10. Application of Mark Seaman, owner; 17 Greyson Road, Rochester, New York 14623 for variance to erect an open porch to be 40' from front lot line (100' req.) at property located at 17 Greyson Road in RA-20 & FPO zone.

John Castellani made a motion to table the application, and Gerry Hendrickson seconded the motion.

DECISION: Unanimously tabled by a vote of 6 yes to table for the following reason:

1. No sign posted.

Note: If application is to be withdrawn, applicant must submit written notification to the Building Department.

The April 26, 1994 Zoning Board minutes were approved as is.

The meeting ended at 10:10 p.m.

CHILI ZONING BOARD

June 21, 1994

A meeting of the Chili Zoning Board was held on June 21, 1994 the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson, Ralph Barbaro 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. 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.

Chairperson Beverly Griebel stated none of the applications on tonight's agenda had to be submitted to the Monroe County Department of Planning because they are all exempt from County action.

1. Application of Scott Pfunter, owner; 498 Chili Riga Townline Road, Churchville, New York 14428 for variance to erect a 16' x 16' utility shed to be 256 sq. ft. (160 sq. ft. allowed) at property located at 498 Chili Riga Townline Road in RA-1 zone.

Scott Pfunter was present to represent the application. He stated he wants to erect a standard utility shed which he could use for lawn instruments, garden instruments, and various odds and ends that they would need. He stated the utility shed would be the same basic structure as the house with the same siding and same roof.

Beverly Griebel commented the applicant has a large piece of property. Ron Popowich commented the shed is a long ways back from the road.

Ralph Barbaro asked what kind of floor would the shed have. Mr. Pfunter stated eventually he would put in a cement floor. He stated right off the bat he would put in a stone floor. Ralph Barbaro asked how the shed would be anchored to the ground with the stone floor. Mr. Pfunter stated he would have a post and beam construction similar to a Morton structure. He stated he would use pressure treated lumber, 4 ft. below the surface with a standard footer.

ANYONE IN FAVOR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Not detrimental to neighboring properties.
 2. Expressed need to store lawn and garden equipment which is a customary use.
2. Application of Victor Colombini, owner; P.O. Box 26232, Rochester, New York 14626 for variance to erect a 4' x 2' double-faced addition to freestanding sign at property located at 3193 Chili Avenue in G.B. zone.

Victor Colombini was present to represent the application. He stated he would like a variance to

change the name on the pre-existing sign. he stated he is not erecting a new sign; he is just replacing the face of the sign. He stated the previous name was C&C Custard. He stated he wants the name to be Custard and Yogurt. He stated there would be 10 inches of the sign for the word "Custard," and 8 inches of the sign for the word "Yogurt". He stated he would use vinyl lettering. He stated the sign is double-faced.

Beverly Griebel commented there is a new owner of that shop, and Mr. Colombini stated he is operating that shop now.

Bill Oliver asked if the sign is illuminated, and Mr. Colombini indicated it is. Bill Oliver asked if the sign is on a timer switch, and Mr. Colombini indicated it is. Mr. Colombini stated when he built the new building back in October of 1987, that lighted sign was put in. Bill Oliver asked if there would be any logos on the sign, and Mr. Colombini indicated there would not be any.

John Castellani asked if the sign would be the same size as before, and Mr. Colombini indicated it would.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Wordage change on existing sign.
2. Demonstrated need to identify business.
3. Application of Roberts Wesleyan College, owner; 2301 Westside Drive, Rochester, New York 14624 for variance to erect a 10' diameter satellite antenna on top of building (library) to be 26.10' from grade level at property located at 2301 Westside Drive in P.I.D. zone.

Richard Greer was present to represent the application. He stated he is the Director of Grounds for Roberts Wesleyan College. He stated they are seeking to erect a 10 ft. dish to be placed on the top of the library building located on Westside Drive. He stated the satellite antenna will be used for educational purposes to be able to get more programming for their students. He stated they need to put the antenna on the roof to get the proper signal. He stated they cannot get the proper signal from the ground.

Beverly Griebel asked if the satellite were on the ground, would there be problems from nearby buildings. Mr. Greer stated the buildings and trees would cause interference. Beverly Griebel commented the library is in the middle of the campus area. Mr. Greer stated the library is 250 yards off of Westside Drive to the south of Westside Drive. Beverly Griebel commented the library is quite a distance from the residential homes in the area.

Ralph Barbaro asked if the signal would be distributed from the library to other buildings. Mr. Greer stated at this point it would only be for the library. He stated eventually it would go to the other buildings via the fiberoptic network they have installed on their campus.

Ralph Barbaro asked what type of programming would be picked up, and Mr. Greer stated purely educational programming. Ralph Barbaro asked if the college presently has cable television service, and Mr. Greer indicated it does just to the library and the Life Fitness Center; not the dormitories. Ralph Barbaro asked if the college is planning on running this service or cable network to the dorms. Mr. Greer stated at the present time they have no plans to do that; only to the classrooms. Ralph Barbaro asked if the satellite would be used for commercial purposes. He asked if it would infringe on the franchise cable distributor in Chili. Mr. Greer stated they are not intending to infringe on that.

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Ralph Barbaro asked what the angle of reception they intend to use is, what angle from the horizontal would the antenna be pointed. Mr. Greer stated he did not know. He stated it may be from the horizontal tilted out 15 to 20 degrees. Ralph Barbaro commented normally the angle runs anywhere from 55 to 80 or 90 degrees from the horizontal. He stated 15 degrees will not get them that much of a signal from the satellite. Mr. Greer stated he was not doing the installation himself.

Ralph Barbaro commented what the applicant is proposing to do has been before the Board for other locations for the same reasons, for educational purposes, and he further stated the previous boards have asked that those devices of that size be located on the ground rather than on the roof structures. Ralph Barbaro stated he did not see anything from an architect stating what the effects of the roof loading and the wind loading on the roof rafters would be. He stated that concern, however, is not under the jurisdiction of the Zoning Board. He stated the satellite would add appreciably to the wind load on that roof structure.

Ralph Barbaro stated there seems to be plenty of open land around that would allow them to have a 50 or 60 degree angle of reception from the ground plane without any difficulty in that area. He asked if they have any other reasons to not locate the satellite antenna on the ground. Mr. Greer stated they have aesthetic reasons. He stated if the satellite is on the roof, it would not be sitting out in front of the building or the side of the building. He stated there are certain locations around the site that would interfere with traffic. Mr. Greer stated the person installing the antenna recommended it be put up on the roof to get the proper signal.

Larry Smith stated the antenna weighs 102 pounds. Ralph Barbaro stated he was not concerned with the weight; he was concerned about the wind load. Larry Smith stated as indicated on the spec sheet, the wind force at 60 degrees at 100 mph would be 38 knots. Ralph Barbaro stated that is 3,890 pounds, which is just short of two tons. Larry Smith stated the structure would support that. Ralph Barbaro questioned whether the roof would support that. Ralph Barbaro asked how the satellite would be fastened to the roof. Larry Smith stated that is something he has to look at when he issues the permit.

Ralph Barbaro stated it would look better on the ground than on the roof. He stated, however, he did not think a viable argument has been made for the inability to retain reception from the ground. He stated several other locations in Town have antenna on the ground. He stated there is one on Paul Road that has been there for a number of years. He stated Meadow Brook Farms has several on the ground. He stated he felt from a safety standpoint it would be better on the ground.

John Castellani asked how tall is the building. Mr. Greer stated it is 13 ft. to the flat part of the roof from the grade at the front northwest corner. He stated depending on what corner one stands at, they will get a different height. John Castellani asked what the total height would be of the superstructure of the dish and the dish itself. Mr. Greer stated it would be 26 ft. from grade level.

Ron Popowich asked if they had any concern for vandalism when they determined the location of the antenna. Mr. Greer stated the vandalism is always a possibility, but he stated he was not aware that that entered into the location decision.

Keith O'Toole stated the applicant failed to answer Question 10 of the application as to whether State and local governments have an interest in the application. Mr. Greer stated the answer was no, to the best of his knowledge. Larry Smith had the representative for the application check off "No" on the original application and initial it.

Larry Smith asked why the college wants the satellite on the roof. Mr. Greer stated the whole purpose of getting it on the roof is to get the best possible reception.

Ralph Barbaro stated 15 ft. of elevation at the ground level would not make any difference unless there is a structure that would interfere with the reception. He stated there is so much land around that building, they could even put the satellite dish within the walkways around that

building and still reach the satellite. Mr. Greer stated if they could not have it on the roof, the only conceivable place to put it on the ground from their standpoint would be to place it to the south of the building. He stated, however, when one gets to the south of the building, it's a lot lower than on the north or west side of the building. He stated there are also a lot more projections there that are coming up in front of it such as trees and buildings.

Ralph Barbaro asked which way the antenna is going to aim, and Mr. Greer stated it would aim towards the west. Ralph Barbaro asked if that would be to the southwest, and Mr. Greer indicated it would slightly.

Ralph Barbaro made a motion to table the application until the next meeting for additional information, and Bill Oliver seconded the motion. The vote on the motion was 4 yes to 2 no (Beverly Griebel and John Castellani voted no.)

ANYONE IN FAVOR OR OPPOSED: No one.

DECISION: Tabled by a vote of 4 yes to 2 no (Beverly Griebel and John Castellani) for the following reasons:

1. Submit detailed advantages of roof installation versus ground.
 2. Supply cost of various alternate sites.
 3. Supply angle of ground plane to satellite from which they will receive transmission.
 4. Detail physical obstructions on ground that would impede line of sight versus roof installation.
4. Application of Pizza Hut, owner; c/o Clinton Signs, 1407 Empire Blvd., Webster, New York 14580 for variance to erect two wall signs totaling 128 sq. ft. (100 sq. ft. allowed), variance to erect a 6'7" x 7'4" double-faced freestanding sign at property located at 3208 Chili Avenue in G.B. zone.

Eric Peterson and Cheryl Ritter were present to represent the application. Ms. Ritter stated she is the unit manager for the Chili Pizza Hut location. She stated they are looking for a variance to replace their existing signs to update the property with their recent remodeling.

Ralph Barbaro questioned the height of the signs on the roof. Mr. Peterson stated the two signs on the roof are an overall height of 3'6". Mr. Peterson stated the signs would be 64 sq. ft. per sign. Ralph Barbaro commented the application was to replace existing roof signs. He stated he did not see any roof signs when he visited the property. Mr. Peterson stated the signs were removed during the remodeling. He stated they did not put up the old signs in anticipation of receiving the variance for the new signs. He further stated the new signs would actually be smaller than what the existing signs were. Ralph Barbaro asked if they are asking for a total of 176 sq. ft. of signage with the three signs, and Mr. Peterson stated that was correct.

Beverly Griebel asked if the sign at the road would be illuminated. Mr. Peterson stated there is an existing sign at the roadway. He stated it is a double-faced lit cabinet, but he stated it sits fairly low to the ground. He stated it is only about 6 inches off the ground. He showed the Board a picture of that sign that he took from across the road to show how difficult it is to see the sign. Beverly Griebel asked if the existing road sign is illuminated, and Ms. Ritter indicated it is. Beverly Griebel asked if the new road sign would be on a pole and would be illuminated, and Mr. Peterson indicated that was correct.

Ron Popowich asked what the current height is of the road sign, and Mr. Peterson stated that sign is about 7 ft. in height. He stated the sign hangs from a wood stockade and the cabinet is below that. Ron Popowich asked if the illumination on that sign currently is two lights on the ground, and Mr. Peterson stated it is internally lit.

Bill Oliver asked if the freestanding sign is something that all Pizza Huts have, and Ms. Ritter stated that is the standard Pizza Hut sign, the one they are proposing to put in. Bill Oliver asked what the difference is between the proposed roof signs and the existing roof signs. Mr. Peterson stated the signs previously on the roof were individual letters that were stud-mounted to the roof. He stated Pizza Hut as part of a nationwide program is replacing all their signs in conjunction with remodeling their restaurants. He stated they are changing the signs to a one-piece lit cabinet. Beverly Griebel asked if they are doing this to be consistent across the country, and Mr. Peterson indicated that was correct.

Larry Smith stated Ms. Ritter was supposed to contact him a while ago concerning the shed. He stated he wished she would call him about that. Ms. Ritter stated she contacted their consultant today and will have that all completed within two to four weeks.

ANYONE IN FAVOR OR OPPOSED:

Dorothy Borgus - 31 Stuart Road

She stated she does not live near Chili Center but is a life-long resident of Chili. She stated she feels 176 sq. ft. of signage is excessive. She stated the Pizza Hut is distinctive enough in its style without going to such lengths. She stated the Town of Chili has waited a long time to see Chili Center improved. She stated she did not think the Town should go backwards by allowing this much illuminated signage. She stated this would set a bad precedent.

Beverly Griebel asked what the current signage is, and Mr. Peterson stated he did not know the square footage of the roof signs since his company did not put them up. He stated, however, he thought they were approximately 22 ft. in overall length, and he stated the new sign for the roof is just a little over 15 ft. in total length. He stated they would have less square footage with the proposed roof signs. Mr. Peterson stated the square footage of the pole sign would be approximately the same as what is there currently, however, it would stand higher because the current sign is not very visible from the road and doesn't serve its purpose.

Ms. Borgus asked how long the notification sign is supposed to be posted at a site before the meeting, and Beverly Griebel indicated the sign must be up ten days prior to the meeting. Ms. Ritter stated the sign had blown down. She stated they came back to the town and got up another sign. She stated they called the Town as soon as the sign went down. Ms. Ritter stated they posted a new sign yesterday.

Ralph Barbaro made a motion to separate the items to be voted on, and there was no second to the motion. The motion dies for lack of a second.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Signage needed to identify business.
2. Road cut tends to indicate need for new sign.

Note: A sign permit is required.

5. Application of Patricia Thomas, owner; 17 Iva Mae Drive, North Chili, New York 14514 for conditional use permit to allow an office in home for the sale of light industrial equipment at property located at 17 Iva Mae Drive in R-1-15 zone.

Patricia Thomas was present to represent the application. She stated she is applying for an office in one of their two bedrooms upstairs. She stated they have no inventory and no business is conducted from the home except for telephone calls.

Beverly Griebel commented the applicant has indicated she would be operating essentially weekdays from 8 to 5.

Ron Popowich asked what the nature of the business is. Ms. Thomas indicated the business involves special orders of abrasive blades and saw blades. Jim Thomas was also present to represent the application. He stated they sell a few diamond saw blades, small pieces of hose, diamond core bits and some machine parts. Ms. Thomas indicated all of the product is brought in by UPS.

Ron Popowich asked if the businesses contact the applicants, they then order it from a supplier and is it then shipped from the supplier to the business. Ms. Thomas stated sometimes it goes directly to the customer. She stated other times it comes to their home by UPS. Ron Popowich asked how the equipment gets from the applicants' residence to the business. Ms. Thomas stated they deliver it by car. Ron Popowich asked the applicants if they are currently doing this business some place. Mr. Thomas stated they have decided they are going to do this and want to do it right.

Ron Popowich asked how many deliveries per week do they have by UPS. Mr. Thomas stated he generally gets one delivery from UPS a day for two or three customers. He stated he loads his car directly from the UPS truck around 12:30 and comes back home by 5 p.m.

Bill Oliver commented this sounds like a distribution center where they would be storing product. Ms. Thomas stated they do not store anything in their home. Mr. Thomas commented if the product is large, it is shipped directly to the customer. Mr. Thomas stated his main customer right now is Eastman Kodak, and he stated their products get shipped directly to them.

John Castellani commented he seemed to remember hearing about this business. Mr. Thomas stated he was in a smaller type business similar to this where they just had one product, diamond blades.

Ralph Barbaro commented the applicant has indicated they are just starting this business, but he commented it sounds like they have been in business for a number of years. Mr. Thomas indicated they have been in business for less than a year. He stated they just wanted to feel out the community to see if there would be any business for them. Ralph Barbaro asked the applicants how long they have lived at that location, and Mr. Thomas stated they have been there 32 years.

Ralph Barbaro asked Mr. Thomas if he is employed somewhere else, and Mr. Thomas indicated he is not. Ms. Thomas stated Mr. Thomas has been in this type of business for 30 years. John Castellani stated Mr. Thomas worked for a big corporation that at one time sold product to Kodak. Ralph Barbaro asked Mr. Thomas what his relationship was to this type of business with his former employer. Mr. Thomas stated he was the general manager of a company, then took ill and they retired him.

Ralph Barbaro asked the applicants if they were aware that a conditional use permit is usually granted for one year, and then if that year is trouble-free, then the Board will consider extending that permit to a three-year permit. Mr. Thomas stated he had no problem with that.

Larry Smith asked Mr. Thomas if essentially he is just a manufacturer's rep, and Mr. Thomas stated that is basically what it amounts to.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

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1. Granted for a period of one year.
2. No on-street parking related to business.
3. No outside employees.
4. Hours as per application.

The following findings of fact were cited:

1. Customary home occupation.
 2. No change in character of the neighborhood.
6. Application of Joseph Zabitchuck, owner; 2778 Chili Avenue, Rochester, New York 14624 for variance to erect a 12 1/2' x 24' addition to house to be 5' from side lot line (10' req.) at property located at 2778 Chili Avenue in R-1-12 zone.

Joseph Zabitchuck was present to represent the application. He stated his mother-in-law has been diagnosed with Alzheimer's. He stated this addition would be an alternative to her going to a nursing home facility. He stated his mother-in-law has been living with him for five months, but he stated she cannot facilitate the stairs. He stated the only bathroom is upstairs. He stated as her condition worsens, they expect her to be in a wheelchair and will have outside help coming in. Beverly Griebel asked if this addition would be a family room. Mr. Zabitchuck stated the addition would be a bedroom with a bathroom. Beverly Griebel commented the plan for the addition is even with the existing house. Mr. Zabitchuck stated it would be right in line with the existing house. Ralph Barbaro asked if the addition would be the same level as the first floor, and Mr. Zabitchuck indicated it would. Ralph Barbaro asked if there would be any cooking facilities, and Mr. Zabitchuck indicated there would just be a bedroom and a bathroom big enough for a shower that could accommodate a wheelchair.

Mr. Zabitchuck presented to the Board a letter from his neighbor indicating he had no objection to the erection of this addition. Beverly Griebel asked if that was the neighbor that lives directly adjacent to the side, and Mr. Zabitchuck indicated it is.

Ralph Barbaro asked if the addition would have the same type of siding as the house, and Mr. Zabitchuck stated it would be constructed the exact same way as the house.

Larry Smith indicated the letter submitted by the applicant was from a Kenneth Cress who resides at 2782 Chili Avenue. Larry Smith read the letter. The letter will be on file with the Building Department.

Keith O'Toole asked how far the addition would be from the rear lot line, and Mr. Zabitchuck indicated it would be a good 40 ft. or more.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Demonstrated need for addition to care for elderly/ill family member.
2. Will be in line with existing wall of main dwelling which preceded present code.

7. Application of Jay Diedreck, owner; 31 Stover Road, Rochester, New York 14624 for

variance to erect a gazebo to be 18' high (12' allowed) and 48' from front lot line (60' req.) at property located at 31 Stover Road in R-1-15 zone.

Jay and Alisha Diedreck were present to represent the application. Mr. Diedreck stated he is not the owner of the house; his wife is.

Mr. Diedreck stated they would like to put a gazebo on the front of the house, coming off the front portion by a short ramp that will be 4 ft. long. He stated the reason for the ramp is so the roof lines don't clash between the house and the gazebo. Beverly Griebel asked if the ramp would make it be lower or higher. Mr. Diedreck stated it would be level with the front porch. He stated the ramp is just for distance sake. He stated it would not raise or lower it.

Beverly Griebel asked if the peak of the gazebo would be lower than the roof of the house, and Mr. Diedreck indicated it would be lower. He stated the peak of the gazebo would be level with the gutters, the second floor gutters.

Ralph Barbaro asked if the floor level of the gazebo would be level with the porch. Mr. Diedreck stated the floor level of the gazebo would be the same as the porch, about a foot off the ground. Ralph Barbaro commented the applicant's property slopes to the front, and Mr. Diedreck indicated that was correct. Ralph Barbaro asked if the floor of the gazebo would be somewhat higher than a foot off the ground at that point then, and Mr. Diedreck indicated that was correct.

Ralph Barbaro asked if the walkway from the porch would be level directly from the concrete pad of the porch to the wood floor of the gazebo. Mr. Diedreck indicated it would be a level walkway.

Ralph Barbaro asked where in the front yard this would be going. He asked if the centerline of the gazebo would be close to being in line with the southern end of the porch. Mr. Diedreck indicated that was correct. Mr. Diedreck commented he did not want to have the gazebo smack in the middle of the front door for aesthetic reasons. Mr. Diedreck indicated he would have the gazebo built so it is angled off just slightly a little towards the three tiered windows.

Ralph Barbaro asked if the small tree would have to be taken down, and Mr. Diedreck indicated he would miss that. Mr. Diedreck stated the bushes would have to go. Ralph Barbaro asked the applicant if he would be building this himself, and Mr. Diedreck indicated he would. Mr. Diedreck indicated he has built one of these in the Village of Spencerport, which was scratch built, as well. Ralph Barbaro asked if the gazebo was a plan of Mr. Diedreck's, or did he purchase the plan. Mr. Diedreck stated 60 percent of the design was from a blueprint that he purchased from a catalogue, and the other portion is his own design. He stated he would basically be modifying the slope of the roof and the dimensions.

Ralph Barbaro asked why there is going to be a 10 ft. peak when that is what throws them in the need of a variance. He further questioned why they have designed it like that when their home has a relatively flat roof design like the other homes in the neighborhood. Mr. Diedreck stated he felt the gazebo would look squatty if it were under 12 ft. Mr. Diedreck stated he would like to get away from the pre-fab look.

Ralph Barbaro commented most people put gazebos in their backyards. He questioned whether the applicant thought 10 ft. was a little high. Mr. Diedreck stated he did not believe it would be too high. He stated, however, if 9 ft. would fly instead of 10 ft., he would go with 9 ft. if he had to.

John Castellani asked why they want the gazebo in their front yard. Mr. Diedreck stated he felt it would look very dignified in their front yard. He stated their front yard is nicer than their backyard. Larry Smith commented two variance requests have been granted for front yard gazebos in the last four years.

Ron Popowich asked if Mr. Diedreck is in the gazebo building business part-time. Mr. Diedreck indicated he is not. Ron Popowich asked if this gazebo would be used for advertising purposes,

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and Mr. Diedreck indicated it would not. Mr. Diedreck stated he builds the gazebos for his own personal enjoyment, not for a part-time business. He stated he is a Health Inspector for the County and hopes to retire that way. He stated he is too busy to have a part-time job.

ANYONE IN FAVOR OR OPPOSED: No one.

Larry Smith commented one of the questions on the application was incorrectly circled in light of the fact that the applicant is a County employee. Mr. Diedreck indicated he would like to amend the application to correct that.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. An attractive addition to house to enhance character of neighborhood.
 2. Height of gazebo will not exceed overall height of house.
8. Application of Kenneth Sehm, owner; 36 Brian Drive, Rochester, New York 14624 for variance to allow existing utility shed to be 4' from rear lot line (8' req.) at property located at 36 Brian Drive in R-1-15 zone.

Joan and Kenneth Sehm were present to represent the application. Ms. Sehm stated her husband and herself are asking for a variance to keep their shed where it is right now. She stated they have three children and have been living at this property for less than two years. She stated they bought the property and dwelling in good faith not knowing that the shed was not in the proper spot. She stated they would like to remedy the situation.

Ms. Sehm stated the shed was erected on a concrete slab which would make it hard to move and would be very expensive. She stated the shed is sided to match their house and is not an eyesore to anyone in the neighborhood. Ms. Sehm stated the shed was erected approximately ten years ago. She stated most of the surrounding neighbors have lived in the neighborhood for over ten years with the exception of one who has been there for at least five years. She stated they feel their neighbors have had ample time to make a complaint to the Town or to the previous owners to have the shed moved at that time or to get a variance at that time.

Ms. Sehm stated they were told by the Building Department when they were researching the matter that this discrepancy should have been caught by their attorney. She stated it was not and added they do not feel they would be financially able to pay for someone else's mistake.

Beverly Griebel asked if the back property is in a right-of-way of any kind. Larry Smith stated there is nothing that shows on the instrument survey. He stated there are no easements there. Ralph Barbaro indicated he was not too sure of that. He stated he thought there was an easement all along Brian Drive. Ralph Barbaro asked if this property backs up to the Roberts Wesleyan College property, and Ms. Sehm indicated it does not.

Ron Popowich asked if the 4 ft. strip behind the shed is grass that they mow, and Ms. Sehm indicated it is. Ron Popowich asked if there is any junk stored there. Ms. Sehm stated they have nothing stored back there.

John Castellani asked what brought the applicants in for a variance. Ms. Sehm stated someone complained. Larry Smith stated there seems to be a neighbor problem there that is none of the Town's business.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Pre-existed present homeowner.
 2. Unreasonable hardship to move structure.
9. Application of Scott Alexander, owner; 4350 Union Street, North Chili, New York 14514 for variance to allow existing dwelling to be 48' from side lot line (50' req.) and 40' from rear lot line (50' req.) at property located at 4350 Union Street in RA-20 zone.

Scott Alexander and Chuck McCorski, the contractor who built the house, were present to represent the application.

John Castellani asked if this is the new house by the golf course, and Mr. McCorski indicated it is. Mr. McCorski stated the lot is triangular and when they measured the distance across to get the 50 ft. on each side, they took a tape and measured diagonally across, not taking into consideration the corners of the house angled back. He stated when they came to get the certificate of occupancy, they found out they were too close to the lot lines. He stated it was a mistake.

Ralph Barbaro asked if there is a requirement that the striping or the layout of the foundation has to be checked before the structure is built, and Larry Smith stated there is not such a requirement. Ralph Barbaro asked when the first inspection is done on a structure. Larry Smith stated the first inspection is done when the footing is being done. He stated, however, the Town does not measure. Larry Smith stated it is the builder's responsibility to make sure he places the house in the right spot. Larry Smith stated he personally would never use a tape location map, but he stated apparently someone here did.

Ralph Barbaro asked if an instrument survey was ever done on this property, and Mr. Alexander indicated one was not done until after it was started. Larry Smith stated the instrument survey was included in the application. He stated an instrument survey is required before the Town gives a C of O.

Beverly Griebel commented it appears they angled the house on the lot for visual appeal and then the corners hung over. Bill Oliver stated it is frustrating that so many builders come in saying they have made a mistake.

ANYONE IN FAVOR OR OPPOSED:

Dorothy Borgus - 31 Stuart Road

She stated the Building Inspector should probably measure these before they get too far. Larry Smith stated he is not a licensed surveyor and will not locate a house. Ms. Borgus asked if anyone can subdivide in Chili without an instrument survey. Larry Smith indicated an instrument survey is needed to subdivide property. Larry Smith stated people can deed off whatever they want without a survey, though.

Ms. Borgus stated it seems whenever she comes to Zoning Board meetings, invariably there are one or two of these requests.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

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1. No impact on surrounding neighborhood.

The meeting ended at 9:45 p.m.



CHILI ZONING BOARD

June 28, 1994

A meeting of the Chili Zoning Board was held on June 28, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson, Ralph Barbaro 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. 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.

Chairperson Beverly Griebel stated all applications were not required to be submitted to the Monroe County Department of Planning for their review, except for Application 4.

Beverly Griebel asked if anyone was present to represent Donnelly Automotive. No one responded. Beverly Griebel stated that application would be postponed until next month.

1. Application of Daniel Doherty, owner; 84 Parkway, North Chili, New York 14514 for variance to allow existing 8' x 12' utility shed to be 2' from east side lot line (8' req.) and 2' from dwelling (8' req.) with the north face of the shed being aligned with the southern face of the structure, not including sunroom, at property located at 84 Parkway in R-1-15 zone.

Kenneth Albert, attorney for the Dohertys, was present to represent the application. Mr. Albert stated Mr. Doherty has appeared a number of times before concerning the ability to maintain the existing shed. Mr. Albert stated Mr. Doherty has taken some photos of his property. Mr. Albert presented those photos to the Board, showing the shed's current location.

Mr. Albert stated when Mr. Doherty first made application to the Board, it was suggested the shed be moved forward a little bit because of the concern of the shed's proximity to the chimney located on the same side of the residence. Mr. Albert stated the shed as it is currently placed is to the side of the brick chimney. He stated there is nothing in the shed that is powered by electric, nor is there anything combustible in the shed.

Mr. Albert showed the Board a picture indicating where the shed would be if the shed were moved. Mr. Albert stated Mr. Doherty has no problem in moving the shed in that location. Mr. Albert pointed out to the Board, however, the close proximity of a tree that is located where the pipe is shown in the photograph. Mr. Albert stated they would need to build up the proposed location of the shed to make sure it is on a level footing. He stated in order not to kill the tree, the shed would have to be moved closer to the east lot line than the original recommendation by the Board. He stated the shed would then come within inches of the fence that is located along the east lot line of Mr. Doherty's premises.

Mr. Albert stated in the conversation Mr. Doherty had with the Fire Marshal, he was told there was no problem with the shed remaining where it is. Mr. Albert stated in view of the fact that the house is also rather close in proximity to the chimney being attached to it, and the way the chimney is constructed, any heat that rises in the fireplace is protected by the brick insulation.

Mr. Albert indicated they have attempted to outline in red on an instrument survey of the property the exact new location of the shed. Mr. Albert stated to locate the shed in any other location on the property would severely impact the property from an aesthetic standpoint. Mr. Albert stated the Doherty's home is a credit to the Town the way it has been maintained. Mr. Albert stated if

they were to move and angle the shed further into the backyard, it would block the view the Doherty's have from their sun porch. Mr. Albert showed the Board a photograph that shows what would happen if the structure were placed in any other place and how the impact would occur to the visual effect created by having the sun porch out there.

Mr. Albert stated the rest of Mr. Doherty's property is heavily covered with gardens and plantings. He further stated by definition, Mr. Doherty really does not have a backyard. He stated the Dohertys are located on a corner lot.

Beverly Griebel stated she understood from the last hearing that the shed has to be 4 ft. from the chimney. Larry Smith stated according to the State Code, combustible walls have to be 4 ft. from each other. Mr. Albert asked if there was anything they could do to make the walls of the shed non-combustible. Larry Smith stated both the house and shed walls would have to be non-combustible.

Beverly Griebel asked if the proposed location is 4 ft. from the chimney. Mr. Doherty, also present to represent the application, stated the original proposed location he worked out with Mr. Smith brought the north end of the shed to the south end of the house. He stated what happened with that was there was a big tree right in the way. He stated he would have to move the shed to the east and then forward. He stated he would have to bring it up to clear the chimney. He stated in the proposal they have right now, it would be 3 ft. something away from the chimney. He stated it could be moved 4 ft. away.

Beverly Griebel asked if the piece of the wall in the backyard, not including the sunroom, is 4 ft. away from the shed. Mr. Doherty stated it is close to 4 ft. There was discussion amongst the Board about one of the drawings submitted showing the rear of the shed actually forward of the rear of the house. Beverly Griebel stated the sketch plan the Board received showed the shed even with the back wall of the house. Mr. Albert stated that was the sketch plan they were using.

Ralph Barbaro commented Mr. Albert gave the Board a couple of photographs showing a couple of stakes and a white tape. He asked if the distance between the stakes is the same width as the shed, and Mr. Albert indicated it is. Ralph Barbaro asked if they are moving the shed forward and to the side to accommodate the tree. Mr. Albert indicated that was correct. Ralph Barbaro asked if the back of the shed would be flush with the back of the house, and Mr. Albert indicated that was correct.

Ralph Barbaro asked who owns the fence that is on the property, and Mr. Albert stated that is Mr. Doherty's fence. Ralph Barbaro asked how far the shed would be from the fence, and Mr. Albert indicated it would be within inches. Ralph Barbaro commented that would make it nearly impossible to maintain that area. Mr. Albert stated he did not think the fence was of a construction that requires maintenance. He stated it is a cedar fence.

Beverly Griebel asked if they would be amending the application to be within inches of the east side lot line instead of 2 ft., and Mr. Albert indicated that was correct.

Ralph Barbaro stated the Board should have a document evidencing the exact location of the shed. Mr. Albert stated they could get that. He stated, however, at this point it was hard to tell where exactly the shed would be positioned due to the root structure of the tree. He stated they are probably going to be within 6 inches of the shed. Mr. Albert stated they would not move the fence closer to the property line.

Ralph Barbaro asked what is going to be stored in the shed. Mr. Doherty indicated he has bicycles, ladders, lawn equipment and a lawn mower that he is meticulous about draining the gas from. Mrs. Doherty, also present to represent the application, stated she also stores garden furniture and a bird bath in there in the wintertime.

Ralph Barbaro asked if the only thing that potentially would be flammable would be the fuel tanks on any of the lawn and garden equipment, and Mr. Doherty indicated that was correct. Ralph Barbaro asked if any fertilizer would be stored in the shed, and Mr. Doherty indicated there would

not be any fertilizer stored there. Larry Smith stated the State says up to six gallons of gasoline can be stored in a shed.

Beverly Griebel asked if once the 4 ft. is measured, might the shed be further into the backyard than flush with the house, and Mr. Albert indicated that was correct. Mr. Albert stated he would like to amend the application to have the storage shed located with the rear of the shed no closer than 4 ft. from the chimney and within 1 inch of the existing fence. Ralph Barbaro commented it should be 4 ft. from the nearest point of the building and the chimney, not the other side of the chimney. The application was amended in that regard.

Larry Smith indicated the neighbors at 86 Parkway have indicated they have no objection to the shed in the new location. Gerry Hendrickson asked if the fence is right on the line, and Larry Smith indicated it is not. Mr. Albert indicated the fence is .7 ft. from the east lot line.

ANYONE IN FAVOR OR OPPOSED: No one.

John Hellaby pointed out the shed should be referenced by the property line and not the fence in case the fence is ever removed. Keith O'Toole indicated they were referencing the survey, and he stated the survey would become part of the record.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich 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 findings of fact were cited:

1. Meets State code regarding proximity to chimney.
 2. No change in character of neighborhood.
 3. Shed will be in a desirable location on a corner lot.
2. Application of Paul Dash, owner; 29 Clifton Road, Clifton, New York 14431 for variance to erect a 24' x 24' detached garage to be 3' from side lot line (30' req.) and 25' from rear lot line (50' req.) at property located at 29 Clifton Road in RA-1 zone.

Paul Dash was present to represent the application. Mr. Dash stated he wants to build a two-car detached garage, 24' x 24', single-story garage with a 4/12 pitch. He stated the roof would be 20 to 25 year fiberglass or asphalt roofing shingle. He stated from the back of his house to the back of the garage would be probably 15 to 20 ft. He stated the garage would not be directly behind the house but would be at an angle.

Beverly Griebel asked if the property line is where the light pole is. Mr. Dash stated his property line ends about where the northwest boundary of his driveway is. He stated he has widened the driveway about a foot and a half so the end of the driveway is pretty much the end of the lot line. He stated he wanted the end of the garage right on the end of the driveway, but he stated since it was right on the boundary line, he decided to bring it in a few more feet and will stagger the garage. Mr. Dash stated the light pole is just to the left of his boundary line.

Ralph Barbaro stated the adjoining property is a driveway to a home that sits in the rear, and he stated there would not be any intrusion by the garage being that close to the property line. He stated there are also two wells on the property immediately behind the house. He stated if the driveway were moved over, it would end up running across the water wells.

Bill Oliver asked why they would put the garage so far back, and Mr. Dash indicated he did not want to disturb the garage.

Beverly Griebel asked what kind of siding the garage would have, and Mr. Dash indicated either

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Texture 1-11 or vinyl siding. Beverly Griebel asked the applicant if he would be building the garage, and Mr. Dash indicated someone would be building it for him. Ralph Barbaro asked what the house is sided with now, and Mr. Dash indicated it is 8-inch aluminum siding. He stated he did not think the garage would be sided with that since that is hard to find.

Keith O'Toole commented the application states the garage could be put in the middle of the property. He asked the applicant if it is his argument there is a hardship to placing the shed there because of the existing wells and the location of the driveway. The application was amended to reflect the applicant's feeling that there is a hardship associated with the property.

Gerry Hendrickson commented the reason why that house and driveway are so close is there used to be a roadway up there. He stated there used to be a schoolhouse there.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ralph Barbaro 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 findings of fact were cited:

1. Pre-existing wells and slope dictate location and act as hardship.
2. Pre-existing, non-conforming lot in RA zone.
3. Application of Playcare Daycare, 65 Hoover Drive, Rochester, New York 14615 property owner: Harts Meadow Development Corporation; for variance to erect a 4' x 3' double-faced freestanding sign, variance to allow more than 20% for pictorial design at property located at 4201 Buffalo Road in N.B. zone.

Beverly Griebel asked if anyone saw a sign for this application, and Gerry Hendrickson indicated he did.

Joanne Gable was present to represent the application. She stated the sign would be 35 ft. from the property line, 45 ft. from the building through the center of the sign, 130 ft. from the police station and 85 ft. from the corner of the building. Beverly Griebel asked if the sign would be illuminated, and Ms. Gable indicated it would not be. Ms. Gable stated the sign would have a yellow background, white posts and black lettering.

John Hellaby asked if they would put shrubs around the sign, and Ms. Gable indicated she could do that if required. John Hellaby asked Ms. Gable if she owns any daycare operations anywhere else. Ms. Gable indicated she has the exact same sign at her other location. John Hellaby asked if they are occupying the whole 8,000 sq. ft. of the building, and Ms. Gable indicated they are. John Hellaby asked if there are plans for any wall signs or anything on the building. Ms. Gable stated they are not planning on having anything on the building.

Bill Oliver asked who would be doing the artwork for the sign. Ms. Gable indicated Signs of the Time would be doing the sign. Ms. Gable commented the artwork is their logo that they use on all their facilities.

Ralph Barbaro asked if the 35 ft. dimension is from the sign post closest to the road, to the property line at the road right-of-way. Ron Reidy, also present to represent the application, indicated that dimension is from the property line at the road right-of-way. Ralph Barbaro asked if that is the road right-of-way or the edge of the road, and Mr. Reidy indicated that was from the road right-of-way. Mr. Reidy indicated the 35 ft. is measured from the property line which is the edge of the road right-of-way. Ralph Barbaro asked if the dark line on the drawing to the leading edge for the sign is that dimension, and Mr. Reidy indicated that was correct.

Larry Smith stated before each Planning or Zoning Board meeting, he has a discussion with D.O.T., but this time D.O.T. just left an unclear message for him. He stated D.O.T. says the sign cannot go in the right-of-way. Larry Smith commented the sign would be 35 ft. away from that, though. He stated the D.O.T. has stated the road restoration has to be completed. Larry Smith asked if there is still work to be done on that. Mr. Reidy stated he was told to slope it the way he has. He stated everything was done two months ago. He stated he was waiting to have it hydroseeded until the State came down to look at it. Larry Smith indicated he would call the D.O.T. tomorrow to see what they were talking about.

Larry Smith asked when they plan on opening, and Ms. Gable indicated maybe July 11th. She stated that depends on the Department of Social Services. Larry Smith asked if the road topping would be done soon, and Mr. Reidy indicated it would be done tomorrow.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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. Sign needed to identify business on busy road.
4. Application of Nick's Imports Inc., 1098 Chili Center Coldwater Road, Rochester, New York 14624, property owner; N. Bellone; for variance to erect a second wall sign (10' x 3') at property located at 1098 Chili Center Coldwater Road in G.B. zone.

Beverly Griebel asked if anyone saw a sign up for this application, and Gerry Hendrickson and Ron Popowich indicated they saw a sign.

Nick Bellone was present to represent the application. He stated he would like a variance to erect a second sign facing the south side of the building. He stated he would like the sign so he could be recognized from traffic going east and west on Chili Avenue. Mr. Bellone stated after the reconstruction of the road, he lost some of the traffic coming from Paul Road. He stated at one time Paul Road used to come right across from his store. He stated after the reconstruction, they rerouted Paul Road and took the traffic to his competition actually. He stated with Wegmans coming in, he has lost a percentage of his business. He stated the sign he has now only does him good for Coldwater Road, not Chili Avenue.

Beverly Griebel asked if this sign is going to look like the existing sign, and Mr. Bellone indicated the sign is going to look pretty much like the one in the front with the same logo. He stated the sign would be a vinyl facing, illuminated in the evening hours. Bill Oliver asked if the sign would be internally lit, and Mr. Bellone indicated that was correct.

Ron Popowich asked the applicant if he feels he has suffered some financial hardship now because of the reconstruction of the road and the general traffic pattern. Mr. Bellone indicated that was correct. Mr. Bellone stated there is also the competition from Olindos and Wegmans.

John Castellani asked if the sign would face across the Mobil gas station, and Mr. Bellone indicated that was correct. John Castellani commented the Mobil gas station is open 24 hours a day and has illuminated signs.

Ralph Barbaro commented prior to moving Paul Road, the Mobil station was rebuilt. He stated the old station used to block the view of the proposed sign location. He stated now with the Mobil station moved further to the east, there is an opportunity for Nick's Imports to be identified from that angle. Ralph Barbaro commented the need for identification has been magnified by the presence of Wegmans.

ANYONE IN FAVOR OR OPPOSED:

John Cross - 23 Solimar Drive

He stated he has been buying his meats and pizzas from Nick for about 15 years. He stated he can see Mr. Bellone's concern about the new traffic patterns. He stated as one comes down west on Chili or north on Paul Road, you really wouldn't even know that Nick's Imports is there. He stated he felt the sign was essential to the business.

Beverly Griebel stated this application came back from the Monroe County Department of Planning as a local matter.

Larry Smith stated Mr. Bellone never received a permit from New York State for his driveway. Mr. Bellone stated when it was built seven years ago, New York State was there. Mr. Bellone stated the State came out because he wanted to put in a second driveway for the dumpster pickup. He stated at that time he was told he could not have the second driveway because it would be too close to the Mobil gas station's driveway. Larry Smith asked the applicant to contact Jerry Schuman of the New York State Department of Transportation about this matter.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich 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. Road revision made existing sign less visible, making the need for an additional sign.

5. Application of Robert Ferris, owner; c/o Advent Remodeling, 641 Eaton Road, Rochester, New York 14617 for variance to erect a 9' x 5' open porch to be 55' from front lot line (60' req.) at property located at 44 Golden Road in R-1-20 zone.

Brian Sallerson was present to represent the application. He stated he is the contractor for the Ferrises. John Castellani commented the tape location map has Donald Taft's name on it. Mr. Sallerson stated he had no idea why that was written. Mr. Sallerson stated he knew it was a major problem for the applicants to get a tape location map for this property. He stated the map was mailed here from another bank in Ohio. Larry Smith stated Taft was probably the builder of the home.

Beverly Griebel asked if this would be an open porch, and she asked Mr. Sallerson if he had any pictures of the proposed project. Mr. Sallerson stated he had submitted the architect's drawing with the application. Beverly Griebel asked if the porch would replace the front steps, and Mr. Sallerson indicated it would. He stated there is a concrete open landing now that they would rebuild and would put a shed type roof over the top to protect it. Beverly Griebel asked how far out the steps come, and Mr. Sallerson indicated they come out 5 ft. He stated that is what is currently the concrete landing. He stated they would make the same thing out of pressure treated wood. He stated there would be three steps going down to the ground.

John Castellani asked if they would be coming out any further than the steps are right now, and Mr. Sallerson indicated they would not. Mr. Sallerson stated the porch will have similar roof material, similar vinyl siding on the two little sides.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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

findings of fact were cited:

1. Minimum variance needed to build porch.
 2. Improvement of property.
6. Application of Leo McKinney, owner; 513 Whittier Road, Spencerport, New York 14559 for Land Use Variance to allow a motor vehicle service station with fuel pumps and repairs at property located at 4210 Buffalo Road in N.B. zone.

Keith O'Toole stated there is pending litigation with regard to this matter. He stated he thought it was appropriate that the Board table the application pending the outcome of some progress in that litigation.

Beverly Griebel made a motion to table the application, and Bill Oliver seconded the motion. Keith O'Toole stated it may be appropriate to table the application until the next meeting of the Board. he stated if at that time there has been some progress, then the Board could hear the application.

Beverly Griebel amended the motion to table the application until the next meeting to see what progress has been made at that time, and Bill Oliver agreed to the amendment to the motion. All Board members were in favor of the motion.

DECISION: Unanimously tabled by a vote of 7 yes to table for the following reason:

1. Awaiting information in light of pending litigation.

Application will be tabled until the July 26th meeting and property will be posted advertising the next meeting.

7. Application of Ann Barbato, owner; 181 Varinna Drive, Rochester, New York 14618 for variance to erect a 6' high chain link fence in front setback area (200-300 ft. along frontage) where 3' is allowed at property located at 1861 Scottsville Road in L.I. & FPO zone.

No one was present to represent the application. John Castellani made a motion to table the application, and Bill Oliver seconded the motion. Ralph Barbaro suggested the Board give the applicant a chance to show up after the Board takes a short recess.

Larry Smith commented he would really like to see this fence go up because it would stop a lot of illegal dumping going on in the area. Larry Smith asked a man in the audience later identified as Frank Bonn of 28 Scott Cross Lane if he had anything pertinent regarding the application. Mr. Bonn stated he wanted to speak in favor of the application.

Beverly Griebel stated the application would be recalled after the break.

There was a recess in the proceedings.

After the recess, Beverly Griebel recalled the application, and no one was present at 8:54 p.m. to represent the application. John Castellani made a motion to table the application without prejudice, and Bill Oliver seconded the motion. All Board members were in favor of the application.

DECISION: Unanimously tabled by a vote of 7 yes to table for the following reason:

1. Applicant failed to appear for the hearing.

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Application will be heard at the July 26th meeting, with property being posted advertising hearing.

The meeting ended at 9:15 p.m.

CHILI ZONING BOARD

July 19, 1994

A meeting of the Chili Zoning Board was held on July 19, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson, Ralph Barbaro 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. 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.

Chairperson Beverly Griebel stated all items on tonight's agenda are exempt from review by the Monroe County Department of Planning as per the new regulations except for Application #3.

1. Application of Harold Kohl, owner; 34 Brian Drive, Rochester, New York 14624 for renewal of conditional use permit for a 45' high amateur radio tower at property located at 34 Brian Drive in R-1-15 zone.

Harold Kohl was present to represent the application. He stated he wants to renew the approval for the use of his antenna. Beverly Griebel asked if this approval would be for the same 45 ft. tower in the backyard, and Mr. Kohl indicated it would.

Ralph Barbaro asked if the tower would be in the same location as before, and Mr. Kohl indicated it would. Ralph Barbaro asked if anything has changed with regard to the guy wirings of the support structure since it was examined by the Building Department. Mr. Kohl indicated there have been no additions or deletions. Ralph Barbaro asked if the tower exceeds 45 ft. from the ground to the highest part of the tower, and Mr. Kohl indicated it does not.

Ralph Barbaro asked if there have been any discussions in regard to the transmissions from the antenna with the neighbors, and Mr. Kohl indicated there have not. Ralph Barbaro asked if there have been any complaints, and Mr. Kohl indicated he has not had any complaints. Ralph Barbaro asked if there has been any interference with tv sets or electronic appliances in the neighborhood, and Mr. Kohl indicated there have been no problems that he is aware of.

John Castellani asked if there have been any complaints, and Larry Smith indicated there have been no complaints. Larry Smith commented the tower is well built.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 the following conditions:

1. Granted for a period of three years.
2. One tower only on property.
3. Height of tower not to exceed 45' from base to top of antenna.

4. Owner to correct any problems to neighbors due to interference of electronic communication from broadcasting.

The following findings of fact were cited:

1. No complaints from neighbors.
2. Best location of tower on property.

John Castellani stated before the Board addresses Application #2, he had a question. Larry Smith read a letter dated 10/17/80 to Steve Chudyk from Carol O'Connor regarding a resolution passed by the Town Board limiting one driveway cut per residence. He stated the letter further indicated if more cuts are requested, they are to be reviewed by the Zoning Board. The letter is on file with the Building Department.

John Castellani questioned whether this next application should be a Land Use Variance so it could go with the land instead of the owner. He stated he thought it should be a conditional use permit at least. Keith O'Toole stated it should be a use variance or an area variance. Larry Smith recommended it be a Land Use Variance. Larry Smith stated he would ask the applicant to amend the application in that regard.

2. Application of Robert Bell, owner; 125 Humphrey Road, Scottsville, New York 14546 for variance to allow a second driveway cut at property located at 125 Humphrey Road in PRD & FPO zone.

Robert Bell was present to represent the application. He stated he bought the property, he put a mail box up on Humphrey Road and found out they do not deliver mail on Humphrey. He stated he would like a driveway going out to Brook Road. He stated he has cleared the front of the property to make most of it lawn.

Larry Smith asked the applicant if he would like to amend the application to be a Land Use Variance instead of a conditional use permit, and Robert Bell indicated he would. Larry Smith asked the applicant to initial the original application in that regard, and Mr. Bell did so.

Bill Oliver commented this is a large piece of property. Mr. Bell stated he has applied to the DEC for their Stewardship Program. He stated he has approval to put trails through the woods. He submitted the Forest Stewardship Proposal information to the Board. The information will be on file with the Building Department.

Beverly Griebel asked what the driveway surface would be, and Mr. Bell indicated the first year it would be stone until it settles, and then he would probably asphalt it.

Ron Popowich commented the property is nice now that it has been cleared out.

John Hellaby asked if the Highway Department has to approve this. Larry Smith indicated it does not according to the resolution. John Hellaby questioned the culvert size, and Larry Smith stated the Highway Department does have to approve that.

Gerry Hendrickson stated the property has been dressed up. He commented it used to be an eyesore.

ANYONE IN FAVOR OR OPPOSED:

John P. Drago - 220 Humphrey Road

He stated he was also speaking for Lester Frear on Brook Road. Mr. Drago stated he was happy to have Mr. Bell as a new neighbor. He stated Mr. Bell is improving the area. He stated Mr. Bell has opened up the area by taking down all the brush. He welcomed Mr. Bell to the neighborhood.

Dario Marchioni

He stated the property is becoming beautiful.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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 findings of fact were cited:

1. Improvement of property.
2. Applicant demonstrated need for additional access for large lot.
3. Application of Earl Fuller, owner; 49 Everett Drive, Rochester, New York 14624 for variance to erect an 8' x 10 1/2' addition to house to be 26' from rear lot line (90' req.) at property located at 49 Everett Drive in R-1-20 zone.

Scott Ingerick and Coreen Fuller were present to represent the application. They stated they want to extend the existing breezeway out a little further to make it a little more useful space. Mr. Ingerick stated the addition would go out 3 ft. past where the garage is.

Beverly Griebel asked if the brick work on the ground would be extended, and Mr. Ingerick indicated the foundation would be concrete piers. Beverly Griebel commented there is a step there. She asked if the addition would extend beyond that. Mr. Ingerick indicated it would.

John Castellani commented this is an odd-shaped lot. He commented the property is not in conformance currently.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and 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 stated this came back from the Monroe County Department of Planning as a local matter.

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

1. Lot size is pre-existing, non-conforming.
4. Application of Donna Whitney, owner; 4 Charles Avenue, Rochester, New York 14623 for variance to erect a 12' x 12' utility shed to be 3' from rear lot line (8' req.) and 2 1/2' from side lot line (8' req.) at property located at 4 Charles Avenue in RA-20 & FPO zone.

Donna Whitney was present to represent the application. She stated she wants to erect a 12' x 12' shed 3 ft. from the rear lot line and 2 1/2 ft. from the side lot line.

Beverly Griebel asked if this would replace the existing shed, and Ms. Whitney indicated it would. She stated she would tear down the existing shed. She stated she is looking for a pre-constructed wooden shed. Beverly Griebel asked if the new shed would be larger, and Ms. Whitney indicated it would be a little larger. Beverly Griebel asked if the shed would be on the same foundation, and Ms. Whitney indicated it would.

Ron Popowich asked why the applicant wants the shed 2 1/2 ft. from the side lot line. Ms. Whitney stated the lot is so small, only 50 ft. wide x 120 ft. deep, that if they move the shed out 8 ft. from each lot line, the shed would be in the middle of the yard and wouldn't leave any room in the yard for anything else.

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John Hellaby asked if the house presently has a garage, and Ms. Whitney indicated it does not. John Hellaby asked if this would be the only outside storage then, and Ms. Whitney indicated that was correct.

Bill Oliver asked if any gas would be stored in the shed, and Ms. Whitney indicated just for the lawn mower. Larry Smith stated a person is allowed up to six gallons of gas storage in a shed.

John Castellani commented this property is right by the sports bar in the area. He stated the property is fenced in all the way around by a 6 ft. high fence.

Ralph Barbaro commented the drawing is not to scale. He stated it shows the garage to be actually larger than it will be.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and John Castellani 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 findings of fact were cited:

1. Essentially replaces existing shed.
2. Minimum variance required.
3. Small lot size dictates need for variance.

5. Application of Noel Bateman, c/o Finnegan Construction, 129 Pease Road, Spencerport, New York 14559 for variance to erect a 355 sq. ft. open porch to be 58 1/2' from front lot line (75' req.) at property located at 1042 Chili Center Coldwater Road in R-1-12 zone.

Noel Bateman was present to represent the application. He stated they raised the roof on the house a few years ago. He stated he would like a porch across the front of the house and down the side going into their garage. He stated it would enhance their home. He stated now with the sidewalks in, there is a lot of pedestrian traffic they could enjoy from the proposed porch. Beverly Griebel asked if the proposed porch would replace the existing sidewalk in front of the house, and Mr. Bateman indicated it would.

Ralph Barbaro commented the porch is only 7 ft. wide. He stated the house is 65 1/2 ft. from the road right-of-way, which in most residential neighborhoods is more than what is required.

Bill Oliver asked the applicant if he would build this himself, and Mr. Bateman indicated Finnegan Construction would build it. Bill Oliver stated he did not have any information on how this would be constructed. Mr. Finnegan, also present to represent the application, presented the Board with some drawings.

John Hellaby asked if this would be built with pressure-treated materials, and Mr. Bateman indicated it would be concrete. He stated he would paint the railings and columns.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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 findings of fact were cited:

1. Improves appearance of property.
 2. Pre-existing, non-conforming lot.
 3. No change in character of neighborhood.
6. Application of Faber Construction Co., 80 W. Main Street, Rochester, New York 14614 for variance to allow 21 apartment buildings consisting of 16 units each (14 units granted in previous variance) at property located at 117 Old Chili Scottsville Road in RM zone.

John Hellaby stated before the Board would hear this application, he wanted something clarified. He stated the applicants have stated this was approved in a previous application, but he questioned whether this was granted in a subdivision approval by the Planning Board. Larry Smith stated it is not a 278 now. John Hellaby asked if the original variance was granted by the Zoning Board, and Larry Smith indicated it was, for 14 units.

Bernie Iacovangelo was present to represent the application. He stated on October 26, 1989 the variance was granted unanimously by the Zoning Board. He stated there was a 10 ft. front setback on interior roads variance allowed where 40 ft. are required. He stated there was a variance approved for 10.23 units per gross acre where 8 units are required. He stated the application was amended at the public hearing to include a variance to allow 22 14-unit buildings where no more than 14-unit buildings were allowed. He stated they originally had come in with an architectural design group out of Florida on that.

Mr. Iacovangelo stated subsequently due to the economic conditions, the project was placed on hold and they started going in for HUD financing. He stated this would still be a luxury apartment complex and they have received the financing.

Mr. Iacovangelo stated during February of 1992, they went before the Planning Board with this project. He stated they revised the buildings a little bit because with the type of loan that they went through for HUD, a funding driven type of mortgage. He stated they have just changed the design of the buildings a little. He stated they were approved for 336 units, where according to the variance, they would have been allowed almost 350 units on the project. He stated they went to 21 buildings with 16 units in each building. He stated they have maintained all the setbacks and all the other requirements of the other variances that were required.

Mr. Iacovangelo stated during this whole process, the DEC and the Army Corps of Engineers wanted a little less impact on the wetland area, so they went with 21 buildings so that the density is in keeping with the original approval. He stated it is still less than what was granted.

Mr. Iacovangelo indicated they have been through the whole funding process and have been approved. He stated the mortgage loan was concluded. He stated the DEC and the Army Corps of Engineers were pleased with the fact that they reduced the one building out of the scheme. He stated they were present this evening to ask for approval to have 21 buildings with 16 units each.

Larry Smith commented the approval was the 24th of October, not the 26th.

Beverly Griebel asked if the number of units per building would change from 14 to 16, and Mr. Iacovangelo indicated that was correct. Beverly Griebel asked if this fits in better with the wetland configuration, and Mr. Iacovangelo indicated it does. He stated they would be encroaching the wetlands less.

Gerry Hendrickson asked how much wetlands would they be taking, and Mr. Iacovangelo indicated none. Ralph Barbaro commented there is an area behind the wetlands that is probably buildable. Mr. Iacovangelo indicated they could not build there, and he further indicated on the drawings the extent of the wetlands.

Ralph Barbaro asked if the building sizes would be getting bigger, or would the units inside be becoming smaller. Mr. Iacovangelo indicated the unit size has stayed the same. He stated the

building has gotten a little more rectangular in shape. He stated the buildings have gotten a little longer and not as deep. Bill Oliver asked if the square footage has stated the same, and Mr. Iacovangelo indicated it has.

Ralph Barbaro asked if every unit is essentially the same. Mr. Iacovangelo indicated every two-bedroom unit is going to be the same. He stated they have some one and three-bedroom units. He stated all units on the first floor will be handicapped adaptable. Beverly Griebel asked if that is a HUD requirement, and Mr. Iacovangelo indicated it is a HUD and State requirement.

Ralph Barbaro asked if these would be two-story units, and Mr. Iacovangelo indicated they would be. Ralph Barbaro asked if these would be rent subsidized since there is HUD financing involved, and Mr. Iacovangelo indicated there would be no subsidies. He stated they have a market loan that is market driven. He stated they had to go through a site and market analysis. He stated their one bedroom apartments with a fireplace and on the second floor will go for \$690 a month. He stated the rent will go up to \$900 a month for the three-bedroom units with two baths and a fireplace. He stated every unit will have a fireplace and 9 ft. ceilings. He stated there will be balconies on the second floor units. He stated every unit will have a master suite with its own bath and walk-in closet.

Ralph Barbaro asked if they have had to increase the number of parking spaces now. Mr. Iacovangelo indicated they have met all the parking requirements. Ralph Barbaro asked what the net result of the change is as far as the number of new units, and Mr. Iacovangelo indicated there will be 28 more new units. Mr. Iacovangelo indicated they did have to increase the number of parking spaces. Ralph Barbaro commented there is an increase in the area density then. Mr. Iacovangelo indicated there has been no increase in area density by the buildings. Mr. Iacovangelo indicated they were originally allowed to have 10.23 units per gross acre, which would allow for 350 units. Mr. Iacovangelo indicated this is really an improvement in area coverage, not a reduction in area coverage.

John Hellaby commented when he counts the buildings, he sees 22 buildings. Mr. Iacovangelo commented there is also a recreation building on the property. Mr. Iacovangelo and Larry Smith explained how many buildings there would be by use of the drawings. Larry Smith stated there would be 11 buildings done in Phase 1 and 10 buildings done in Phase 2.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQOR and made a determination of no significant environmental impact, and Ralph Barbaro 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 findings of fact were cited:

1. Negligible effect on overall plan.
2. Preserves wetlands.
7. Application of Blueberry Hill Associates, 80 W. Main Street, Rochester, New York 14614 for variance to erect three temporary 4' x 6' real estate development signs at property located at 117 Old Chili Scottsville Road in RM zone.

Bernie Iacovangelo was present to represent the application. He stated they would like approval to erect three temporary signs. He stated they would like one sign on Beaver Road, one at the corner of Beaver and Old Chili-Scottsville Roads and one on down on Old Chili Scottsville Road.

Mr. Iacovangelo stated they have started the project and would like to get some applications for rentals. He stated without advertising they have already received 20 interested calls and have started a waiting list. He stated they intend to start occupancy in their first building in December. He stated they would like the temporary signs up while the construction is going on.

Beverly Griebel commented she has noticed a sign down on Beaver Road. Mr. Iacovangelo stated that is a temporary sign that is required by HUD on all federally sponsored programs wherein the federal minimum wage guidelines are stated. He stated the other notices they have to keep posted are their DEC and Army Corps of Engineers permits. He stated they have received a permit for that sign from the Building Department already.

Gerry Hendrickson asked if the sign up on the corner would interfere a little bit with the sight distance, and Mr. Iacovangelo indicated it would not. Gerry Hendrickson commented right now the road at that location is down in a valley.

John Castellani asked what time frame will they need the signs, and Mr. Iacovangelo indicated no more than a year. Mr. Iacovangelo stated the project has to be completed under their requirements with HUD by August of next year. Mr. Iacovangelo stated if they were allowed to have the sign until June of next year, that would not be a problem. Larry Smith commented that would be for this phase of the project only, though. Mr. Iacovangelo stated by the time they start the second phase, the permanent signs would be up then.

John Hellaby stated the application indicates the signs will be mounted on two 10 ft. 4x4s. He asked if these would be stilts with something strung 20 ft. up in the air. Larry Smith stated the sign cannot be over 12 ft. high.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 the following condition:

1. Temporary signage granted for a period of one year.

The following finding of fact was cited:

1. Applicant expressed need to advertise project.
8. Application of John Kellogg, owner; 92 Hubbard Drive, North Chili, New York 14514 for variance to erect an 8' x 24' addition to garage to be 2' from side lot line (10' req.) at property located at 92 Hubbard Drive in R-1-15 zone.

John Kellogg was present to represent the application. He passed out a tape location map to the Board. He stated the new tape location map that he handed out is a change from the original application in that they would like to also come forward from the front of the present garage area a distance of 8 ft. He stated the addition would still be further back from the front of the house, but it would be only 2 ft. back from the front of the house rather than the current 10' 5".

Beverly Griebel asked the applicant why he wants the extra room. Larry Smith stated there is no square footage variance required. Larry Smith asked how many square feet would the total garage be with the addition, and Mr. Kellogg indicated he did not know. Larry Smith indicated it would be less than 900 sq. ft., so no variance would be required for that.

Larry Smith asked if the addition would be for garage area, and Mr. Kellogg indicated it would be for another stall. Beverly Griebel asked what the area in back would be used for, and Mr. Kellogg indicated it would be used for storage.

Gerry Hendrickson asked how close the addition would be to the trees. Mr. Kellogg stated the hedge row is currently about 8 ft. from the side of the existing garage. He stated increasing the garage by 8 ft. would bring it to just about the center of the hedge that is there. Gerry Hendrickson asked if they would be removing the hedge row then, and Mr. Kellogg stated that current hedge row has been ruined by salt. Gerry Hendrickson asked how much room is there to

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the neighbor's property, and Mr. Kellogg indicated he did not know. Gerry Hendrickson asked if there was an emergency, could someone get down through the two properties, and Mr. Kellogg indicated they could.

Bill Oliver asked if the garage would be used for car repairs, and Mr. Kellogg indicated the garage will be for his personal use only. Mr. Kellogg stated he has a boat that he needs to store inside.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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. No commercial uses allowed.

The following finding of fact was cited:

1. Applicant showed need for additional storage.

The meeting ended at 8:45 p.m.

CHILI ZONING BOARD
July 26, 1994

A meeting of the Chili Zoning Board was held on July 26, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson,
Ralph Barbaro and Chairperson Beverly Griebel.

ALSO PRESENT: Tony Knope, Assistant 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. 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 stated Applications 2 and 3 did not have signs posted. She asked if any other Board members have seen the signs on those properties. Bill Oliver indicated he did not see any signs. Ralph Barbaro stated he did not look at Application #2. He stated there was no current sign for Application #3. He stated there was the old stand and the old sign up that was all washed out. He stated there was no sign advertising this meeting.

Keith O'Toole stated the Board has recently decided to require additional signage when an application is tabled. He stated the consensus of the Board has been the notices the Town has been sending out haven't been clear enough in the event an application is tabled. He stated there seems to have been some confusion as to whether they should put out new signs or retain the existing signs. He stated the Town Code does not require them to have a new sign because in the previous hearing, the public was notified when the new hearing would occur, and the application was also posted in the local newspaper. He stated his opinion was that the applications could be heard.

Beverly Griebel questioned how the Board felt on this matter. John Castellani concurred with Keith O'Toole. Bill Oliver made a motion that the Board hear these two applications this evening even though the signs for this hearing were not posted. Keith O'Toole stated it should be noted there was a previous posting. John Castellani seconded the motion.

Ralph Barbaro stated the Zoning Board has held a pretty firm policy for the last year and a half that any subsequent meetings need to be posted, yet now the Board is drifting away from that. He asked if the Board was changing its policy.

John Castellani asked if the Board should do a resolution that it makes a recommendation to the Town Board that they incorporate this into Town Law.

Keith O'Toole stated the Board could do that. He stated in the short term, the Board could instruct the Building Department to revise their notices of decision so that they are more clear in this regard.

Beverly Griebel stated she was in favor of having the signage be posted for each and every application. She stated the sign notifies the neighbors in the area. She commented not everyone gets the newspaper.

Ralph Barbaro stated Application #1 was carried over. He questioned whether Application #1 had a new sign posted. Beverly Griebel indicated they did. Ralph Barbaro commented the first applicant understood the procedure. Keith O'Toole commented Roberts Wesleyan tends to be more sophisticated having been to this Board before and other boards in the past. He stated the average citizen does not read a decision letter as close.

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Bill Oliver stated a notice was sent to the applicants that indicated their applications would be heard at the 7/26 Zoning board meeting with the property being posted and the hearing being advertised. He stated he did not believe there were any calls to the Town regarding this.

John Castellani commented he felt the motion should include a direction to the Building Department to clarify the notification of signage requirements. Bill Oliver stated he would adopt that addition to the motion. John Castellani seconded the motion as amended.

Keith O'Toole clarified the motion is that the Building Department would draft a new notice of decision which clearly indicates to the applicants that they have an obligation to repost their properties so the public can be informed of the new meeting. Bill Oliver commented that is one part of the motion. He stated the other part of the motion is that the Board would hear Applications #2 and #3. Keith O'Toole further clarified the motion would waive the sign requirement inasmuch as it is not required by Town Law.

Ron Popowich felt the motion should indicate these two applications were previously posted.

The vote on the motion was 3 yes to 3 no (Ralph Barbaro, Ron Popowich, Beverly Griebel). The motion dies for lack of a majority. Beverly Griebel stated the Board would follow its usual practice of not hearing unposted applications. She stated the applicants would have to post their properties according to the guidelines. Beverly Griebel stated the two applications would be tabled until the next meeting, August 23, 1994.

Ralph Barbaro stated the applicants have to obtain a new sign from the Building Department, free of charge. He stated the sign must be posted ten days prior to the meeting at which their issue is going to be heard.

Beverly Griebel stated most of the items on the agenda did not require submission to the Monroe County Department of Planning except for Application #4.

1. Application of Roberts Wesleyan College, owner; 2301 Westside Drive, Rochester, New York 14624 for variance to erect a 10' diameter satellite antenna on top of building (library) to be 26.10' from grade level at property located at 2301 Westside Drive in P.I.D. zone

Richard Greer was present to represent the application. He stated he is the Director of Buildings and Grounds for Roberts Wesleyan. He stated no alternate sites are available for the placement of the satellite dish because of the look angle that is required, a 5 degree angle to 39.5 degree look angle. He stated in relation to the surrounding area, it would be impossible to place the dish on the ground and get the 5 degree angle.

Ralph Barbaro asked if the 5 degrees to 39.5 degrees was from the vertical or the horizontal, and Mr. Greer indicated it was from the horizontal. Ralph Barbaro asked if they are looking at 5 degrees above the horizon then, and Mr. Greer indicated that was correct. Ralph Barbaro asked how many satellites are they looking at, the educational channels. Mr. Greer indicated they are looking at 40 satellites in that range.

John Kells, Media Coordinator for Roberts Wesleyan College, was also present to represent the application. He stated there are 40 satellites in that range as of May 1993. Ralph Barbaro asked how many satellites are there that cover those educational channels, and Mr. Kells indicated there is educational programming on almost all the channels, C-ban and KU.

Ralph Barbaro stated last time he asked for a supply of the angles from ground plane to the satellites that they would be looking at. Mr. Greer stated that is the 5 degree to 39.5 degree angles that they need in order to get the satellites they need. Ralph Barbaro asked if they would look at any above 39.5, and Mr. Kells stated there is nothing there. He stated that is the endpoint.

Ralph Barbaro asked if they had a diagram that shows the placement of an antenna in addition to various locations around that building that would be interfered with with an angle of 5 degrees. Mr. Kells stated there is a diagram on the back page that shows the radius in which they could

place the dish, and he stated it lists for each of the sides, north, south, east and west the barriers that would interfere with that. Ralph Barbaro stated he did not see a drawing to scale or anything that says that these buildings shown on this diagram would interfere with the placement of the antenna.

Ralph Barbaro asked if anyone has bothered to do a triangulation, and Mr. Kells indicated Davis Antenna of Holley has. Ralph Barbaro asked the gentlemen if they had that information with them, and Mr. Kells indicated he did not.

Mr. Greer stated they were supposed to supply the angle of ground plane to the satellite, and he stated they have provided that. Mr. Kells stated he did not know what else the Board would need. Ralph Barbaro stated the applicant was supposed to provide detail on the physical obstructions on the ground. Mr. Greer stated there is a detailed accounting of the obstructions that are in the way. Ralph Barbaro commented that was a matter of interpretation.

Mr. Kells stated their point is that there is no alternative. He stated they cannot put this unit on the ground. He stated if they do that, they are spending \$8,000 for a satellite dish that may be half effective, which is ridiculous. Mr. Kells stated this satellite dish is going to be used for educational purposes only. He stated it would not be used for entertainment.

Beverly Griebel asked if the dish were mounted on the ground, would it only pick up half of what they want, and Mr. Kells indicated half or less. Mr. Kells commented there is going to be another new building off to the south of the building that hasn't been constructed yet. He stated he was not sure how high that building was going to be. Beverly Griebel asked if that building would be near Cox Hall, and Mr. Greer indicated it would be kind of south of the Science Building. He stated that proposed building ranges in height from 45 ft. to 70 ft. depending on what area one is looking at.

Ralph Barbaro stated when he looks at the 200 ft. radius around that, if he exempted the property to the east which is a lower level than down on the playing field, and if he exempted most of the property to the south that is off the contour lines and sloping down towards the playing field and the road, there is still a significant amount of land there which an antenna could be placed on. Mr. Greer stated there is a significant amount of area that the dish could be placed in if one did not care where the dish were placed.

Mr. Greer stated if they took the 5 degree look angle and put it in those areas, they would not be able to pick up a 5 degree look angle with the trees and the buildings in that vicinity. Ralph Barbaro asked how high the quad residences are there, and Mr. Greer stated there is a two-story building there that is approximately 20 ft.

Ralph Barbaro asked how far it is from the grassy area in front of the left-hand side of the library as one is looking over toward the grassy plain to the residence hall. Mr. Greer indicated it could be approximately 150 ft. away. He stated if one were to put the dish in the back side of that area, you could get 300 ft. maybe. Mr. Greer commented, however, that area is a high pedestrian traffic area. He stated that would not be an ideal location to put the dish from the aspect of people walking past it, messing with it. Mr. Greer stated there would also be the visible aspect of a dish sitting right out in front of their main campus that would have to be taken into consideration.

Mr. Kells stated this dish can move. He stated if someone were to lean against the dish, they could get hurt. He stated they would be talking about almost 3,000 pounds of thrust on that actuator, and he stated that actuator would not stop for anyone. He commented there have been accidents throughout the country with actuators. Mr. Kells stated there have been accidents with people working on the actuator and it actually collapsing into them. He stated if the dish were on the roof, that would not happen.

John Castellani asked if the primary use for this dish would be the library, and Mr. Kells indicated that was correct. John Castellani asked, assuming 100 ft. of internal wiring, where in the 200 ft. circle could they put the dish if it wasn't on the roof. Mr. Kells indicated they could not put it

anywhere else. John Castellani asked if the satellite dish would be used for the residence halls, and Mr. Kells indicated it would not be.

Mr. Greer commented it would be easier for him to maintain if it were on the ground, but he stated there is no place to put it on the ground.

Ralph Barbaro commented doing a quick triangulation on a 5 degree slope from the horizontal over a 300 ft. distance would be about 24 ft. of clearance required for a free signal. He stated if those buildings to the west are higher than 24 ft., there would be an obstruction at 5 degrees from the horizontal. He stated there would be no obstruction from 5 degrees on up to 39.5 degrees.

Mr. Kells stated he would rather have the satellite on the ground for maintenance purposes, but he stated there is no physical way to do that. Ralph Barbaro stated he would like to see the numerical information that would prove that statement. Mr. Greer stated the only area that would give them that option of having the dish on the ground would be to put in in the northwest corner. He stated, however, that is one of their highest traffic areas. He stated that would not be a proper place to place the dish for safety, aesthetics and vandalism reasons. Mr. Greer stated there is also a planter and a plaque in that area that would be aesthetically affected by the placement of the dish in that location.

Beverly Griebel asked what the large X is on the plans shown in the upper left corner. Mr. Greer stated that is a future dormitory. Beverly Griebel commented the library and the dining hall are probably used every day by the resident students, and Mr. Greer indicated that was correct.

Ron Popowich asked if young children visiting their siblings on campus could have access to the dish if it were placed on the ground in the northwest corner, and Mr. Greer stated they would. Mr. Greer also stated they have a 4-H fun camp on the campus in the summer where they have children ranging in ages from 8 to 13, and he stated they use all those areas. Mr. Greer stated the campus hosts a super basketball camp with 250 junior high and senior high girls in the summer. He stated there are not just students that use the campus, but there are people there all year long. Mr. Kells commented the area in question is also heavily traveled at night by the continuing education students.

Ron Popowich asked if there is any harm someone can suffer from touching a satellite dish. Mr. Kells indicated they would not be hurt or burned by just touching the dish.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Placement of satellite antenna on roof will enhance public health and safety.
 2. Placement of antenna in P.I.D. zone will not interfere with aesthetics and enjoyment of abutting properties.
 3. Proposed site of antenna, due to its extreme distance from abutting properties, will not alter the character of those properties.
 4. Present and future use shall not be in violation of local cable franchise agreements of the Town of Chili.
2. Application of Ann Barbarto, owner; 181 Varinna Drive, Rochester, New York 14618 for variance to erect a 6' high chain link fence in front setback area (200-300 ft. frontage)

where 3' is allowed at property located at 1861 Scottsville Road in L.I. & FPO zone.

DECISION: Application was tabled for the following reason:

1. Applicant failed to post signs advertising the hearing. Application to be heard at the August 23rd meeting. Applicant to obtain new signs at the Building Department and post as per Town guidelines.
3. Application of Leo McKinney, owner; 513 Whittier Road, Spencerport, New York 14559 for Land Use Variance to allow a motor vehicle service station with fuel pumps and repairs at property located at 4210 Buffalo Road in N.B. zone.

DECISION: Application tabled for the following reason:

1. Applicant failed to post signs advertising the hearing. Application to be heard at the August 23rd meeting. Applicant to obtain new signs at the Building Department and post as per Town guidelines.
4. Application of United Refining, c/o Hiram Colwell, P.O. Box 599, Warren PA 16365 for variance to relocate existing 10' x 5' double-faced freestanding sign including a 3' x 6' addition to be 3' from front lot line (20' req.) at property located at 3215 Chili Avenue in G.B. zone.

Bob Pacer was present to represent the application. He stated United Refining operates the Red Apple Kwik Fill in the Rochester area. He stated they are asking to be able to relocate their sign 8 ft. from its present site, to the south towards the building. He stated they would like to put on a 3 ft. by 6 ft. price sign, illuminated price sign, 18 sq. ft. per side.

John Castellani asked why they are moving the sign. Mr. Pacer stated the sign is on the right-of-way right now for the State DOT. John Castellani asked if the price sign would indicate the different grades of gas, and Mr. Pacer indicated it would. John Castellani asked if the sign would have changeable type numbering, and Mr. Pacer indicated it would. Mr. Pacer commented this is the exact sign that the Board gave them permission to put up at their Buffalo Road store in North Chili within the last two months.

Ron Popowich asked if this would be the same sign, just moved back, and Mr. Pacer indicated that was correct. Ron Popowich asked if the price sign would be illuminated, and Mr. Pacer indicated it would. Ron Popowich asked if the business is open 24 hours a day, and Mr. Pacer indicated it is.

Ralph Barbaro stated he saw no problem with the request for the variance since they were asking for the same sign to be placed in a safer location.

ANYONE IN FAVOR OR OPPOSED: No one.

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

Beverly Griebel stated this application came back from the Monroe County Department of Planning as a local matter.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Reconstruction of Chili Avenue requires move of sign from right-of-way.
5. Application of Joseph Berardicurti, owner; c/o Intertech Satellite, 1178 W. Ridge Road, Rochester, New York 14615 for variance to allow existing satellite antenna to be mounted on roof at property located at 196 Hillary Drive in R-1-15 zone.

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Joseph Berardicurti was present to represent the application along with Don Ferling of 1178 Ridge Road West. Mr. Berardicurti stated at their first appearance they were not denied. He stated at that time they were tabled for more information. He stated he left it up to Mr. Ferling to bring the information, which he understood was done.

John Castellani stated it was his understanding the applicant tabled the application pending further information and that the applicant failed to show with that information. He stated he then understood the applicant received a subsequent letter of denial. Mr. Ferling indicated in essence that was true, but he stated there was more to it.

John Castellani asked why the antenna is still up there. He commented this matter was addressed almost two years ago. Mr. Ferling stated when he brought the information in that was required there was notice given to a secretary that they could not make the meeting that night. He stated this has been documented with counsel. He stated the information was given to Larry Smith and to counsel. He stated he was told they were going to look at it and let them know what would happen. He stated that is the last they heard about this.

Beverly Griebel asked the applicant if they received a notice in the mail at that time. Mr. Berardicurti stated he did not receive a notice in the mail at that time. He stated the notice he got was in April saying that he had ten days to take the antenna down. Mr. Ferling stated they then went and refiled again.

John Castellani indicated he had a decision letter dated May 1, 1992 indicating the application was denied. He read the letter. The letter will be on file with the Building Department. Ralph Barbaro asked if there was any indication the applicant was notified to come back for other meetings. Ralph Barbaro stated the minutes from April 28th, the meeting just prior to the letter, indicate no one was present to represent the application. He read the minutes regarding this application. The minutes are on file with the Town Clerk. The minutes indicated Larry Smith had stated he got a call from the installation company stating they could not come up with the requested data of why it had to be on the roof. Larry Smith, at that time as indicated in the minutes, commented without approval, the dish would have to come down. The minutes indicated the application was then denied.

Ralph Barbaro asked Mr. Ferling if he did call Larry Smith and say that he did not have the data as to why the antenna could not be on the ground, and Mr. Ferling indicated that was correct. Mr. Ferling stated that information had to be sent from the dish manufacturing company. He stated the information was delayed but finally came in in May. Ralph Barbaro asked if Larry Smith understood that at the time, and Mr. Ferling indicated he did.

Ralph Barbaro asked if the applicant was notified in the mail that the application was denied, and Mr. Ferling indicated they were. Ralph Barbaro asked what next happened. Mr. Ferling stated he had told the secretary to cancel the meeting that they were supposed to bring the information to. He stated they gave Larry Smith and counsel the information they requested the day after the meeting. He stated Larry Smith told him he never got the message requesting the application not be heard that evening. Mr. Ferling stated at that point they just decided to wait to see what would happen.

Ralph Barbaro asked if either Mr. Berardicurti or Mr. Ferling came back to follow up in June or July of 1992 when they had not heard anything. Mr. Ferling stated they were waiting for a letter, and then it just slipped their minds. Ralph Barbaro commented it is now 1994. Mr. Ferling stated nothing was done intentionally. He stated they are not trying to break the law. Ralph Barbaro commented the applicant did not do anything on this matter even though there was a letter of denial. He commented the applicant did not come in and question any further action that they might take or any further action that the Town might take, for two years. He commented the applicant did not do anything until they got a reply from the Town which told the applicant to take the antenna down because they were in violation of the law. Mr. Ferling stated that was basically correct.

Ralph Barbaro commented the burden of seeing something to fulfillment is placed upon the

applicant. He stated the Town carried out its responsibilities under the law. He stated since the applicant had significant information, he could have reapplied. He stated, however, the applicant chose to do nothing, including not conforming with the decision to remove the antenna.

Mr. Ferling stated the application was denied, but he stated there were not orders to take the antenna down until he got it in the mail recently. Ralph Barbaro commented the order to take it down really was the denial letter. He stated an antenna was put up illegally without a permit, without any zoning variance being granted. He stated the antenna was up there illegally to begin with. He stated when they put the antenna up, they did not have a variance, a building report or an engineer's report on the structure loading on the roof. He commented if Mr. Ferling is in the antenna business, he probably knew they were in violation of the law. Ralph Barbaro asked the applicant if he knew he was in violation of the law for the last two years, and Mr. Berardicurti stated, "That's what it looks like."

Ralph Barbaro stated now it comes down to the question, does the Zoning Board hear a request for someone who has been in violation for a period of two years. John Castellani stated the applicant is well within his rights to come in even after a year. He stated he thought the Town bears some enforcement responsibility around this that they failed to exercise. He stated he thought the application ought to be heard. He stated it should be duly noted there was willful disregard for the denial, and he stated that will play very heavily in the Board's decision this evening.

Ralph Barbaro asked the applicant if he had any technical data that supports why the antenna has to be so high off the ground. Mr. Ferling asked if the Board had the pictures, and Ralph Barbaro indicated he had some pictures of the back of the house. Beverly Griebel commented that is not very technical data. Mr. Ferling stated all the technical data has been provided. He stated it was turned in with the application. Tony Knope indicated he had the information.

Ralph Barbaro asked where the satellites are that the applicant is looking at. Mr. Ferling indicated they are in the west. He stated the lowest one they want is 15 degrees above the horizon. Ralph Barbaro asked if the satellites are directly west, and Mr. Ferling indicated they go to the west, to the south just one degree below south. Ralph Barbaro asked if they would be looking from 270 degrees down to 179 degrees, and Mr. Ferling indicated just about that.

Ralph Barbaro asked if 15 degrees is generally as low as they would get. Mr. Ferling indicated there are a couple of educational satellites that are below that. He stated those have very limited use, and he stated those are not what the applicant's family would be interested in. John Castellani asked what the use of this antenna is, and Mr. Berardicurti stated they are able to look at NASA, all the space shuttles and their programs. John Castellani asked if this antenna would be used for entertainment then, and Mr. Berardicurti stated that was correct if NASA is entertainment.

Mr. Ferling stated one of the applicant's sons is a volunteer fireman. Mr. Ferling stated there is a station on KU band, K7 Channel 24 that is called FETN, Fire Emergency Training Network. Bill Oliver asked if the applicant had a bear scanner, and it was indicated the son does. Mr. Ferling indicated many of the fire companies use FETN for training. Beverly Griebel questioned the kind of training. Mr. Ferling indicated it is training for how to fight fires, emergencies, et cetera. He stated when a volunteer fire company buys a dish, it is very educational.

Ralph Barbaro asked if an engineer has reviewed the structure of the house and the effect of the wind loading. He stated he noticed that the horses get up to 3,600 pounds in one case and 7,400 pounds in another. Mr. Ferling indicated the antenna has not moved an inch in two years. Mr. Ferling stated as far as an engineer looking at the antenna and its location, no, they have not had that done. Ralph Barbaro asked if the Building Inspector has looked at the figures, and Mr. Ferling indicated he has and has stated everything is beautiful and it was the most detailed report he has ever received. Ralph Barbaro asked Tony Knope if Larry Smith has said anything to him in regards to the technical data, and Tony Knope indicated Larry Smith did not say anything to him about this.

Mr. Ferling stated if there was any way they could have put the antenna on the ground, they

would have. He stated antennas on the ground are easier to maintain and are easier to install. Mr. Ferling commented the applicant even had to trim some trees for the antenna to get a proper signal from the roof mount.

Ralph Barbaro asked if the only obstructions from the backyard to the south would be the roof top of the house, and Mr. Ferling indicated there are trees there that also obstruct the signal. Ralph Barbaro asked what the highest angle is that they would aim this, and Mr. Ferling indicated if they start it out at 15, it can go up to a 45 degree angle.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver seconded the motion. The vote on the motion was 5 yes to 1 no (Ralph Barbaro abstained.)

Beverly Griebel read a letter from Frank Agoniece of 4 Bayman Drive indicating he had no objection to the antenna but would not like it placed on the house. The letter will be on file with the Building Department.

DECISION: Denied by a vote of 3 no to 2 yes (Bill Oliver, Beverly Griebel) with one abstention (Ralph Barbaro), and the following findings of fact were cited:

1. Placement of satellite antenna on roof in residential area will alter esthetics of abutting properties.
 2. Satellite antenna on roof in such a densely populated neighborhood is not in keeping with neighboring properties.
 3. The opinion of the Board is that roof satellite antenna would affect public health and safety.
6. Application of Thomas Krenzer, owner; 2380 Scottsville Road, Rochester, New York 14546 for variance to create an undersized lot to be 1.33 acres (20 acres req.) with a lot width of 200' (700' req.) at property located at 2437 Scottsville Road in RA-20 & FPO zone.

Thomas Krenzer was present to represent the application. Mr. Krenzer stated they would like to build a new house at the north end of this property. He stated he presently lives across the road from the site. Beverly Griebel asked Mr. Krenzer if he owns all of that land, and Mr. Krenzer indicated he does. Beverly Griebel asked if they are making a smaller lot to put the home on, and Mr. Krenzer indicated they are cutting one corner off the north end to put a home on.

John Castellani asked who the new home would be for, and Mr. Krenzer indicated for himself and his wife. John Castellani asked what would happen with the existing homestead. Mr. Krenzer indicated his son would be moving into it. Ralph Barbaro asked Mr. Krenzer if he would be selling the home to his son, and Mr. Krenzer indicated he would not be selling it to him. Ralph Barbaro asked Mr. Krenzer if he would still be the registered owner of that property, and Mr. Krenzer indicated that was right.

Ralph Barbaro asked the applicant why they could not cut out a larger piece of land for themselves. Mr. Krenzer commented what they are applying for is larger than they need. He stated they would like to put up a ranch house with a garage on the north end. Ralph Barbaro commented the zoning requires a much larger lot size. He further commented there are not a whole lot of smaller lots there in the area. He asked the applicant if there would be any hardship that would prevent them from making that lot larger. Mr. Krenzer stated there was no hardship he could think of.

Anna Krenzer, also present to represent the application, stated they are in a double-story house now. She stated she cannot climb stairs. She stated she is not able to maintain the lawn now that

they have. Ralph Barbaro asked if the property around their lot is currently being farmed, and Mr. Krenzer indicated it is. John Castellani commented there is a hardship by virtue of health reasons for a smaller property and smaller house, and Mrs. Krenzer agreed with the comment.

ANYONE IN FAVOR OR OPPOSED: No one.

Mr. Krenzer stated when they started this subdivision, they were misled a little bit by their engineer. He stated they were told by the Planning Board that the rest of the farm would be an illegal subdivision. He stated they are going to come back to the Board probably in the winter for a two-lot subdivision. He stated he has one son who would really like to buy the house that is on the farm (not the house Mr. Krenzer is living in now).

There was a discussion amongst the Board regarding land subdivisions, and Keith O'Toole stated multiple-lot subdivisions should go before the Planning Board.

Ralph Barbaro asked if the present farm house that the applicant has lived in for 37 years is going to be sold to his son, and Mr. Krenzer indicated that was incorrect. Mr. Krenzer stated he lives on the east side of the road. He stated the property they are talking about is on the west side of the road. He stated on the south end of this farm that they are talking about, there is a house and a barn. He stated that probably will be sold. Ralph Barbaro asked how big a lot do they plan on cutting out of that piece, and Mr. Krenzer indicated a lot big enough for a house and a barn, probably 400 ft. wide and the same depth as the subject lot. Ralph Barbaro asked if that house address is 2437, and Mr. Krenzer indicated that was the house.

Ralph Barbaro commented the Krenzlers would end up with two undersized lots cut out on Scottsville Road, and Mr. Krenzer stated that was correct. Ralph Barbaro asked if there are any future plans for the rest of the back lot, and Mr. Krenzer indicated there are no other plans. Ralph Barbaro asked if there are any future plans for the remainder of the frontage on Scottsville Road, and Mr. Krenzer indicated there are no plans at this time. Ralph Barbaro asked if there were any future plans with the existing house to cut out a lot, and Mr. Krenzer indicated that is too close to build.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited.

1. Self-described medical hardship stated by applicant.
 2. Lot would be consistent with the area.
7. Application of Daniel Doherty, owner; 84 Parkway, North Chili, New York 14514 for variance to erect a gazebo to be 20' from side lot line (55' req. abutting a street) at property located at 84 Parkway in R-1-15 zone.

Ken Albert was present to represent the application. He stated this application was really in the alternative. He stated they have made an application for an area variance, but he stated in the addendum to the application, he has indicated to the Board that he disagrees with Mr. Smith's interpretation of the zoning ordinance.

Mr. Albert stated the Dohertys are looking to erect a gazebo. He stated the Board has an instrument survey map and a proposed landscaping plan for the gazebo, together with a photograph of the proposed gazebo.

Mr. Albert stated under Section 115-41, which is the basis of the application if one were to agree with Mr. Smith, it says accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter, and shall comply with the following cited

limitations. Mr. Albert stated Mr. Smith interprets Section B to create a 55 ft. setback requirement for accessory structures. Mr. Albert stated he does not read that section the same way.

Mr. Albert stated as it relates to accessory structures, if one were to follow the intent of that section, A indicates that the accessory structure shall not be located within 8 ft. of the principal use, existing or under construction. He stated B says that in a residential district, a side or rear yard may be reduced to 8 ft. for an accessory structure erected more than 55 ft. from any street.

Mr. Albert stated in going back to the setback requirements, the rear and side line setback requirements are 10 ft. He stated in effect what B is saying is that if someone were to erect an accessory structure more than 55 ft. from a street, then he would be permitted automatically to reduce his side line and rear line setback requirement to 8 ft as opposed to the required 10 ft.

Mr. Albert stated his question to Mr. Smith was what would happen if someone were to erect an accessory structure less than 55 ft. from any street. Mr. Albert stated he would suspect that the ordinance would require that if it erected less than 55 ft. from any street, that the 10 ft. side or rear yard line setback must be maintained. Mr. Albert stated although he has been told by Mr. Smith the Town has utilized this 55 ft. requirement for accessory uses and has created a setback requirement of 55 ft. for it, he was not sure that that is in his opinion an accurate interpretation of that particular section.

Mr. Albert pointed out going down further in the section the code limits what a person can do as far as accessory structures, and he mentioned it talks about greenhouses provided that there are no sales, and guest houses provided there are no cooking facilities. Mr. Albert stated that is not a setback section. He stated that is really a limitation section as it relates to accessory structures.

Mr. Albert stated when the applicant's house was constructed many, many years ago, the house was constructed on the corner of Mapleton and Parkway. He stated on the Parkway side, the house has approximately 66 ft. of setback from the street at one point and a minimum of 62.6 ft. from the northwest side of the property line, only because it is on a curve. Mr. Albert stated on the Mapleton side, the setback is only 19.9 ft.

Mr. Albert stated when the house was built, there probably was not a requirement for corner lots at that time. He stated if there was a requirement, this house was built in violation. He stated since a Certificate of Occupancy was issued, they have to assume there was no requirement. He stated under those circumstances, the house is then in compliance with the existing zoning ordinance in effect at that time.

Mr. Albert indicated the first paragraph of the section indicates accessory uses shall comply with all requirements of a principal use, which he stated is exactly what they are proposing to do because the gazebo in its intended location is not any closer to the Mapleton side than the garage. He stated they will not infringe on that setback of 19.9 ft., and he stated the gazebo will be in line with the garage.

Mr. Albert stated he also thinks the section as it relates to non-conforming uses applies because this would be for the principal use, a non-conforming use. He stated it was clear under Section 115-47 that a non-conforming use may be extended if the alteration or extension does not deviate from the standard of the non-conforming use section.

Mr. Albert stated he would now argue their point on the need for the variance if the Board finds, in fact, that a variance is even required. Mr. Albert stated the Doherty property is a corner lot. He stated it is heavily landscaped. He stated if they were to comply with the ordinance and provide the accessory use gazebo 40 ft. from the Mapleton right-of-way, the gazebo would probably be partially in the sunroom or at least abutting up to the sunroom. He stated it would really defeat the entire purpose of the gazebo. He stated there is no other place on the property that would create the esthetics necessary to maintain the gazebo and certainly not infringe on the other attributes of the property from the respect of utilizing the sunroom and enjoying the extensive landscaping.

Mr. Albert indicated there would be a stone patio directly behind the garage which would lead to the gazebo. He passed around a photograph of the intended gazebo that would have a hot tub inside. He stated they are not going to be infringing in any way on the traffic sighting for the corner because the garage is already there, and he stated the gazebo would be further behind the garage.

Mr. Albert stated under the circumstances, there is a practical difficulty from the standpoint of locating this gazebo any other place, and he stated it is a substantial investment that the Dohertys are making to the property. He stated the gazebo will certainly enhance the property and increase the value.

John Castellani commented regardless if the Board agrees with Mr. Albert, he is basing his case on non-conformity, and Mr. Albert indicated that was correct. John Castellani commented the existing structures are not in conformance with the code right now, and he asked if the gazebo would be any closer to the road than the current structures. Mr. Albert indicated the gazebo would not be any closer.

Ralph Barbaro commented he would tend to agree with Mr. Albert's interpretation of that section of the code.

Mr. Albert stated the gazebo would not be over 12 ft. tall. He stated originally they proposed it be placed on a wooden deck and the wood deck with the height of the gazebo would have exceeded the 12 ft. requirement, so that has been modified to bring it down to ground level.

Ron Popowich commented the application asks for 20 ft. from the side lot line. He stated the instrument survey says the gazebo is going to be in line with the garage, and he stated the garage is at 19.9 ft. John Hellaby pointed out 20 ft. brings the gazebo inside the garage. He asked the applicant if that was their intention. Mr. Doherty, also present to represent the application, stated the application shows the gazebo to be one inch inside. Mr. Albert stated the application was rounded. He stated they would not be closer to Mapleton; if anything, they would be further away.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Home is pre-existing, non-conforming and gazebo will be no closer to property line than present garage wall.
8. Application of Khym Kaupelis, owner; 110 King Road, Churchville, New York 14428 for extension of Land Use Variance to erect a 36' x 60' and 18' x 30' structure to be used as a cabinet/carpentry business at property located at 110 King Road in R-1-15 zone.

No one was present to represent the application. Beverly Griebel stated the Board would recess and would recall the application once it returned.

There was a recess in the proceedings.

Beverly Griebel recalled Application #8. Khym Kaupelis was present to represent the application. Mr. Kaupelis indicated he would like to operate a carpentry business out of a barn on his property. He stated he already has a variance to run a business out of an existing building on the property.

Mr. Kaupelis stated the barn was burned to the ground in March of 1993. He stated he would

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like to replace the barn with something similar in design and character.

Beverly Griebel asked if the structure would be barn-like, and Mr. Kaupelis indicated it would. Mr. Kaupelis stated when the sewers come in some day, he would like to convert the barn into a home, and he stated he would build the building now in such a way that he would convert it easily at a future date. Mr. Kaupelis indicated the land all around him is being developed into single-family homes.

Beverly Griebel asked if the only thing left after the fire is the foundation, and Mr. Kaupelis indicated that was correct. Mr. Kaupelis stated he has to take the foundation down because it is not suitable for building. Bill Oliver asked if the fire was intentional, and Mr. Kaupelis indicated it was not. Beverly Griebel asked how old the barn was before it burned, and Mr. Kaupelis indicated it was from the mid 1800s. Beverly Griebel asked the applicant if he lives in the main house, and Mr. Kaupelis indicated he does.

Beverly Griebel questioned the use of the concrete block, and Mr. Kaupelis indicated that is used in his business. Mr. Kaupelis indicated the major use of the barn would be partially for recreation. He stated the existing pool is right there, too. He stated he is a collector of antique cars and would like to store his cars in there as well. He stated he would also like to store some of his construction business equipment inside.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Replaces structure destroyed by fire.
2. Will allow storage of vehicles and equipment which could suffer weather damage and will clean up property by putting items under cover.

The 6/21/94 Zoning Board meeting minutes were approved as modified.

The meeting ended at 10:05 p.m.

CHILI ZONING BOARD

August 16, 1994

A meeting of the Chili Zoning Board was held on August 16, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson 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. 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 stated she was out last Sunday and did not see any sign on College Greene's property regarding the application. Gerry Hendrickson stated he saw it on the 12th. The general consensus was the Board would heard the application.

Beverly Griebel stated Applications 1, 2 and 4 were submitted to the Monroe County Department of Planning. She stated the rest of the applications on tonight's agenda did not require submission.

1. Application of Chili Gardens Apartments, c/o Michael Iacovangelo, 80 W. Main Street, Rochester, New York 14614 for variance to erect two 4' x 8' freestanding signs at property located at 2660 Chili Avenue in R.M. zone.

Michael Iacovangelo was present to represent the application. He stated their original signs were the exact same size. He stated there was vandalism done to the one sign on Chili Avenue. He stated the signs were knocked down. He stated the signs could not be repaired; they had to be replaced. He stated he ordered the two new signs, one for Chili Avenue and one for Westside. He stated the signs would be the exact same size but a different color. He stated the signs would be blue and gray instead of orange.

Mr. Iacovangelo stated they put the signs up without thinking they would have to get a new variance to replace the signs. He stated they got the notice on 6/24 that they needed to have a variance. He stated the signs have been up since June.

John Castellani questioned what the sign variance was based on since there is no change. Larry Smith stated the signs are different. Mr. Iacovangelo stated the signs say the same thing but the color is different. Larry Smith stated there is a logo now on the one sign.

John Hellaby commented they are asking for a variance on 4' x 8', but he stated the sign does not seem that big. Mr. Iacovangelo stated the sign is not 4' x 8'. John Hellaby asked if the sign is 8 ft. from the ground height, and Mr. Iacovangelo indicated it is. John Hellaby asked if the sign itself is 4' x 5', and Mr. Iacovangelo indicated it is. Beverly Griebel asked Mr. Iacovangelo if he wanted to amend his application in that regard, and Mr. Iacovangelo indicated he would amend it for a 4' x 5' sign.

John Hellaby asked if the signs are in the same location as the other ones, and Mr. Iacovangelo indicated they are. John Hellaby asked if there would be ground lighting on the signs at night, and Mr. Iacovangelo indicated there would be lighting.

ANYONE IN FAVOR OR OPPOSED:

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determination of no significant environmental impact, and Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Signs needed to advertise property.
 2. Replaces previous signs with some small changes.
2. Application of Sandra Cornell, owner; 43 Jemison Road, Rochester, New York 14623 for conditional use permit to allow a beauty shop in home at property located at 43 Jemison Road in RAO-20 zone.

Sandra and Carl Cornell were present to represent the application. Mrs. Cornell stated what she had on Paul Road she would like to transfer to this address. Beverly Griebel asked when they moved, and Mrs. Cornell indicated the end of June.

Beverly Griebel asked where the customers would park. Mrs. Cornell indicated they would park in the back. She stated the driveway becomes very wide in the back. Beverly Griebel asked if there would be enough room to turn where the camper is. Mrs. Cornell indicated there is enough room. Beverly Griebel asked if the family cars would interfere with the parking, and Mrs. Cornell indicated they would not since she can put her car and the camper in the garage.

John Hellaby asked the applicant what she would think if the Board were to grant this for one year since she has transferred to a new neighborhood with new neighbors that might have different concerns. Mrs. Cornell indicated she would have no problem with that. Mr. Cornell stated they have talked to their neighbors next door and they do not have a problem. He stated the people across the street do not have a problem with it either.

John Hellaby asked if the same hours of operation would apply, and Mrs. Cornell indicated everything would stay the same.

Gerry Hendrickson asked the applicant how her clients are able to find her now. Mrs. Cornell stated she has not advertised yet. She stated she has only done a couple people while she was awaiting approval at this location. Gerry Hendrickson asked if there would be enough parking, and Mr. Cornell indicated there was enough parking.

Beverly Griebel asked the applicant if she would still be working by appointment no more than two customers on the premises at a time. Mrs. Cornell indicated she would still operate that way. Beverly Griebel asked Larry Smith if the Building Department has received any complaints on this operation at this location, and Larry Smith stated the only problems he ever had with the operation at the old location is the neighbors. He stated no one from the new neighborhood has contacted the Building Department.

ANYONE IN FAVOR OR OPPOSED:

Kathy Peck - 34 Grayson Road
She stated she has been a resident of the Grayson Road area for 12 years. She stated everyone in the area is in favor of this. She stated Mrs. Cornell is a family-oriented person which is what the neighborhood needs.

Larry Smith commented a conditional use cannot be transferred to another location. He stated this was, in effect, a brand new application.

Beverly Griebel indicated this application came back from the Monroe County Department of Planning as a local matter.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a

determination of no significant environmental impact, and John Castellani seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Approved for a period of one year.
2. No on-street parking pertaining to the business.
3. No more than two customers at a time allowed on the property.
4. Business will be conducted on an appointment only basis.
5. Subject to proper New York State licensing and inspections.
6. Subject to Building Inspector and Fire Marshal inspections as needed.
7. Hours of operation: Monday, 9:00 a.m. to 1:00 p.m. and 2:00 p.m. to 8:00 p.m.; Tuesday, 9:00 a.m. to 2:00 p.m.; Wednesday, 9:00 a.m. to 1:00 p.m. and 2:00 p.m. to 8:00 p.m.; Thursday, 11:00 a.m. to 4:00 p.m.; Friday, 12:00 p.m. to 6:00 p.m.; Saturday, 9:00 a.m. to 1:00 p.m.
8. No advertising on premises.
9. House numbers per Town Code (minimum of 4/12" high).
10. Applicant to obtain building permit for construction.

The following finding of fact was cited:

1. Customary home occupation.
3. Application of Daniel Mulhern, owner; 2 Hunt Hollow, Rochester, New York 14624 for variance to allow existing deck to be 6" from side lot line (5' req.) at property located at 2 Hunt Hollow in PRD zone.

Daniel Mulhern was present to represent the application. He stated his property borders a common area which then borders the street. He stated there is a sidewalk in between the two. Mr. Mulhern stated the street light is right on the borderline.

Beverly Griebel asked if the deck was built when the house was built or was it added on later. Mr. Mulhern stated it was added on this year.

John Hellaby asked if the lower deck towards the rear of the house would eventually have railings around it. Mr. Mulhern stated they planned on having it done the way it is. He stated he was told it is not required to have railings because of the level it is off the ground. Larry Smith stated if a deck is under 18 inches of the ground, it does not need to have railings. John Hellaby asked if this was a model home, and Mr. Mulhern indicated it was not.

Bill Oliver asked the applicant why he was coming in now that the deck is already built. Mr. Mulhern stated he was notified he had to come in.

ANYONE IN FAVOR OR OPPOSED:

Carol Mulhern - 627 Post Avenue

She stated she lives in the city and is the applicant's mother. She stated she helped build the deck. She indicated she was in favor of the application.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Minimum variance.
 2. No infringement on neighboring property.
 3. No change in the character of the neighborhood as deck is adjacent to common area.
4. Application of Russell's Ice Cream, c/o Michael Russell, 464 Old Beahan Road, Rochester, New York 14624, property owner: Colombini Development; for variance to erect a 4' x 2' double-faced addition to freestanding sign at property located at 3193 Chili Avenue in G.B. zone.

Mike Russell was present to represent the application. He stated there is a sign there now that says it is a custard place. He stated they are not a custard place. He stated they are Russell's Ice Cream. He stated he just wants to change the name on the sign. Beverly Griebel asked the applicant if he has just acquired this property because someone came in recently to change the sign to custard. Mr. Russell indicated he just acquired it July 1st.

John Castellani asked the applicant if the variance was for the pole sign, and Mr. Russell indicated it was and added he has already changed the building sign. Beverly Griebel asked the applicant if he is just going to insert a new name plate, and Mr. Russell indicated that was correct. John Castellani asked if the sign would be the same size, and Mr. Russell indicated that was correct. John Castellani asked if the sign would be back lit at night, and Mr. Russell indicated it would.

Bill Oliver asked if Colombini Development has sold the property to Mr. Russell, and Mr. Russell indicated he is just renting the property. Gerry Hendrickson asked Mr. Russell if he is affiliated with the operation on Chili Avenue, and Mr. Russell indicated he is. Mr. Russell stated his father owns one ice cream store and he himself owns two others. Beverly Griebel asked where the third store is, and Mr. Russell indicated it is in Henrietta.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel stated this came back from the Monroe County Department of Planning as a local matter. Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Gerry Hendrickson the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Applicant demonstrated need to identify business.
5. Application of Roy Moseley, owner; 88 Green Road, Churchville, New York 14428 for variance to erect a 10' x 15' deck to be 23' fro rear lot line (40' req.) at property located at 1355 Paul Road in R-1-15 zone.

Roy Moseley was present to represent the application. He stated he is the builder of the house on the lot. He stated this is one of the weirdest shaped lots he has ever built a house on. He stated he came in three weeks ago and talked to the Building Inspector about getting a building permit for a deck that was not applied for when he applied for the building permit for the house. He stated the Building Inspector then informed him that he would need a variance since the deck would not be 40 ft. from the rear lot line.

Beverly Griebel asked which room of the house does the deck go out from, and Mr. Moseley indicated it extends out from the dining and kitchen area. He stated there are sliding glass doors at that location. Beverly Griebel asked what is planned for that huge lot, and Mr. Moseley indicated nothing as far as he knew. Beverly Griebel asked if the lot next to the home belongs to them, and Mr. Moseley indicated that is owned by Dallas Davis. Beverly Griebel commented that lot is not developed, and Mr. Moseley indicated it is not and added it probably would not be developed since it is so heavily wooded. Gerry Hendrickson asked how thick the woods are there, and Mr. Moseley indicated they are very thick.

Beverly Griebel asked if the deck would be elevated up to the back of the house, and Mr. Moseley stated that part of the house is only two stories. He stated the deck would be approximately 7 1/2' off the ground.

Larry Smith asked if they got rid of the stumps yet, and Mr. Moseley indicated they're exposed. He stated they were up on top of the hill.

ANYONE IN FAVOR OR OPPOSED:

Marge Mattioli

She stated she is the future owner of the property. She stated she agrees this is a strange shaped lot. She stated they need the deck on the back of the home because of the drop off.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Hardship created due to odd shaped lot.
 2. No adverse effect on neighborhood as home backs up to wooded area.
6. Application of College Greene Associates, owner; 850 Clinton Square, Rochester, New York 14604 for variance to erect a 6' x 8' real estate construction sign to be 48 sq. ft. (32 sq. ft. allowed), variance for sign to advertise apartment project on another property (49 College Greene Drive), variance for sign to be placed on front and side lot line (20' req.) at property located at 3 College Greene Drive in P.U.D. zone.

Laurie Tones was present to represent the application. She stated they have asked for a larger sign because of the language they are required to have on there by the government agencies that are assisting in the funding of the project. She stated she is asking for the setback she has requested because of the downhill grading into the pond, as well as an attempt to keep it out of the stump area.

Ms. Tones stated she did not specify the color of the sign, and Bill Oliver stated the color was up to the applicant. Ms. Tones asked what the normal construction sign term allowance is, and Bill Oliver indicated it is usually up to a year. Ms. Tones commented she suspected they would be occupying this early next summer. Beverly Griebel asked if this were granted for a period of one year, would that be sufficient, and Ms. Tones indicated it would.

John Castellani asked if there would be an additional sign other than the sign required by the governmental agencies, and Ms. Tones indicated there would only be one sign for all the information. Larry Smith asked if the developer would like its phone number on there, and Ms. Tones indicated that should be added. Ms. Tones asked that the application be amended in that regard.

Larry Smith clarified for the Board that the applicant was asking for a square footage variance plus a variance allowing the sign to go on a different parcel. John Hellaby asked if they were

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asking for the signs to be placed on the front and side right-of-way lines, and Ms. Tones indicated that was correct. John Hellaby asked if they were looking for a variance from the 20 ft. that is required, and Ms. Tones indicated she was not sure of that. John Hellaby commented it is tough to picture where the right-of-way is and how high off the ground the sign would be. Ms. Tones stated if the Board had a recommendation on the height, she would be open to suggestion.

Larry Smith suggested the Board condition approval on the Traffic & Safety Committee's approval of the placement of the sign. There was some discussion regarding that suggestion, and Larry Smith suggested the Board condition approval on the Highway Superintendent's approval of the placement of the sign.

John Hellaby commented this project is being funded by the Division of Housing and Community Renewal, and Ms. Tones agreed. John Hellaby asked if the State mandates all the other agencies be listed on the bottom of the sign, and Ms. Tones indicated they do. John Hellaby asked if there is a size requirement as to the lettering on the sign, and Ms. Tones indicated there is not such a requirement. Ms. Tones indicated they got the design of the sign out of a spec book they were provided.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Granted for a period of one year.
2. Due to safety considerations, Chili Highway Superintendent to approve exact placement of the sign.

The following findings of fact were cited:

1. Sign needed to advertise new project.
2. Sign variances needed due to configuration of property and mandated wordage.

The 6/28/94 Zoning Board minutes were approved as is.

The meeting ended at 8:45 p.m.

CHILI ZONING BOARD

August 23, 1994

A meeting of the Chili Zoning Board was held on August 23, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson 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. 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 stated of the items on tonight's agenda, items 1, 3, 6 and 7 were submitted to the Monroe County Department of Planning for their review. She stated the others were not required to be submitted.

There was discussion over the red ink on the sign for Application #3 having had faded.

1. Application of Donnelly Automotive, 4411 Buffalo Road, North Chili, New York 14514, property owner: Hilton Oil, Inc.; for variance to allow an additional three wall signs (3' x 12' each) at property located at 4411 Buffalo Road in G.B. zone.

No one was present to represent the application. Beverly Griebel stated the application would be recalled again at the end of the meeting.

2. Application of Josephine Genovese, owner; 8 Scottcross Lane, Rochester, New York 14623 for conditional use permit to allow an office in home for a financial consulting business at property located at 8 Scottcross Lane in RM & FPO zone.

Josephine Genovese was present to represent the application. She stated she would like to have an office in her home. She stated she has a three-bedroom townhouse, and she stated she would convert one of the rooms into an office where she would prepare financial materials for seminars and would on occasion have clients come to her home. She stated people would come to the home a couple times a week.

Beverly Griebel asked if the hours of operation were correct, 2 to 3 a.m., for example. Ms. Genovese indicated the hours should be in the afternoon, in the p.m. Ms. Genovese asked that the application be amended in that regard.

Beverly Griebel asked how many customers would there be at any one time, and Ms. Genovese indicated one customer at a time.

John Castellani asked if there was sufficient parking, and Ms. Genovese indicated there is. Ms. Genovese stated she usually puts her car in the garage, and she stated her driveway can hold two cars. John Castellani asked if there would be anyone working there besides Ms. Genovese, and Ms. Genovese indicated there would be no one else but herself.

John Hellaby asked the applicant if she presently owns the townhouse unit, and Ms. Genovese indicated she does. John Hellaby asked the applicant if she was aware of any tract restrictions that would not allow this type of operation in this development, and Ms. Genovese indicated she did not know of any. John Hellaby asked Larry Smith if he was aware of any, and Larry Smith stated he was not aware of any.

ANYONE IN FAVOR OR OPPOSED:

Jean Bonadonna - 4 Great Meadow Circle

She stated if the applicant had read her prospectus, she would be aware that no business is allowed in the development under the development's bylaws. Ms. Bonadonna showed the Board a copy of the bylaws.

Beverly Griebel indicated the one section that was underlined indicates a restriction under the general covenants in regards to using property for wholesale or retail business or service occupations in conflict with applicable municipal laws and ordinances. She stated the other outlined section stated no wholesale or retail business or service occupation in conflict with applicable municipal laws and ordinances shall be conducted in or on any lot or other portion of the property without consent of the Association except by the sponsor in conjunction with the initial construction, development, lease and sale of lots.

Keith O'Toole stated it is not the Zoning Board's position to be ruling on the bylaws of the Homeowners' Association. He commented based on what was read, it does not sound like there would be a problem with this application because it says, "in conflict with applicable laws and ordinances." Keith O'Toole stated if the residents in the development have a problem with this matter, they should bring it to the attention of the Homeowners' Association.

Ms. Bonadonna stated once the door is open, they will have more businesses and offices in their development. She stated they live in strictly a residential area. She stated their homes are very expensive. She stated they already have parking and traffic problems. She stated sometimes there is not enough room for emergency equipment to get through.

Keith O'Toole asked Ms. Bonadonna if they have a Homeowners' Association, and Ms. Bonadonna indicated they do not yet because the developer is waiting until the fourth phase of the development is finished. Keith O'Toole indicated if there is not a Homeowners' Association, these concerns should be brought to the attention of the developer who is most likely acting as the Homeowners' Association at this point in time.

Bill Luchsinger

He stated he walks by this woman's property at least once a day and sees a car in the driveway. Ms. Genovese indicated that is her car. Mr. Luchsinger asked how many people would be coming to the property every day, and Beverly Griebel stated the applicant has indicated there would be one person there a day.

Frank Miller - 47 Overview Circle

He stated he felt this would set a precedent to allow other businesses to come into their development. He stated the streets are narrow in their development. He stated they already have parking problems.

Edna Coates - 35 Genesee View Trail

She questioned what the applicant meant by "seminar". Ms. Genovese indicated she does not do any seminars in her home. She stated she prepares materials in her home for seminars.

Ms. Genovese indicated her business would not have a lot of traffic coming into the area. She stated a lot of her business is conducted out of state, even, so she is often not even there.

Beverly Griebel asked the applicant how long she meets with someone in her home, and Ms. Genovese indicated a couple of hours at a time. Ms. Genovese indicated she is looking for a legitimate tax write-off.

Ron Popowich pointed out the application has hours listed as an hour a night. Beverly Griebel asked the applicant if she wanted to amend her application to include hours of operation from 2 p.m. to 5 p.m. to accommodate the two-hour sessions with her clients, and Ms. Genovese indicated she would like that amendment.

John Castellani asked Ms. Genovese if her corporate clients are the ones that come to her home, and Ms. Genovese indicated they are not. Ms. Genovese indicated people that have participated in seminars that want some follow-up are the ones that come to her home occasionally.

Christine Luchsinger - 5 Overview Circle

She commented when most people start a business, they want it to succeed. She questioned how much this business would grow. She stated they live in a residential neighborhood. Beverly Griebel stated any application of this type, if approved, is generally approved for one year, and then at the end of that one year, the application is brought back before the Board for review.

Ms. Genovese stated in relation to the comment about her business growing, one of the benefits of being retired is that she can dictate her time that she wants to work. She stated as far as she was concerned, this was a part-time effort.

Ms. Bonadonna asked why this application was not presented as a special use for just a certain period of time. Larry Smith stated Chili's zoning ordinance calls this a conditional use. Keith O'Toole stated a conditional use is another name for a special use.

Donald Riley

He stated he was present to represent Mark IV Construction. He stated when he got word of this, it was a little late for them to do any immediate research, but he stated he did take the offering plan and examine the pertinent sections of it. He stated the offering plan is very specific on signs, and he stated the only signs allowed by the offering plan that was prepared under the direction of the Attorney General is a shingle, which is a sign affixed to one's unit, and that it allows for the name of the person, a single name of the person and the occupation.

Mr. Riley stated he did not believe that any Association rules could countermand any laws that the Town of Chili has and enforces.

Mr. Riley stated there are some parking concerns in the development. He stated those concerns have been addressed to them by the Town. He stated the roads are Town roads. He stated the Town plowing equipment has asked the developer to notify the residents to keep their vehicles off the road during the winter.

Mr. Riley stated Mark IV would like to see the area kept residential in nature. He stated they do not have an opinion in the matter, however. He stated in the offering plan, in all fairness to the applicant, there is no preclusion subject to the Town's laws of her wanting to do this, as well as there are not preclusions for anyone having a home occupation as long as they abide by the Town's laws and restrictions and conditions.

Beverly Griebel stated the applicant is not applying for any signage.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Approved for a period of one year.
2. No on-street parking pertaining to business.
3. No advertising on premises.
4. One customer at a time and by appointment.
5. Hours as per application (amended at hearing to be 2:00 p.m. to 5:00 p.m. Monday through Friday).

6. House number per Town code (minimum 4 1/2").

The following finding of fact was cited:

1. Customary home occupation.
3. Application of Jeffrey Goole, owner; 56 Ballantyne Road, Rochester, New York 14623 for variance to erect a 9 1/2' x 13' utility shed to be 4' from garage (8' req.) at property located at 56 Ballantyne Road in RAO-20 and FPO zone.

Beverly Griebel stated this application was submitted to the Monroe County Department of Planning and they have determined it to be a local matter.

Jeff Goole was present to represent the application. Mr. Goole stated there was a shed on the property previously. He stated it fell down because of the snow, so he took it down. He stated he was in the process of putting up a new one and had a stop work order put on it. He stated the reason for that is because the shed is 4 ft. instead of 8 ft. from the garage. Beverly Griebel asked if the new shed was being put on the same spot where the prior shed was located, and Mr. Goole indicated it is on the exact same footprint.

John Castellani asked why this was not a pre-existing, non-conforming situation. Larry Smith stated if over 40 percent of a structure is replaced, it is considered new.

Ron Popowich asked what the shed is used for. Mr. Goole indicated he stores a garden tractor, tools and things in the shed.

John Hellaby stated the original application states that the applicant is building a 10'7" by 12' shed. He asked if the shed is that size, or is it 9 1/2 ft. by 13 ft. He asked if the new shed would be wider than the old shed, because if it is going to be wider, it would be closer to the property line. Mr. Goole stated the shed is not any bigger than it was. John Hellaby asked if it would be 9 1/2 ft. by 13 ft. then, and Mr. Goole indicated that was correct. John Hellaby asked if the new structure would be wooden, and Mr. Goole indicated it would. The applicant requested that the application be amended to read 9 1/2 ft. by 13 ft. shed.

Bill Oliver asked if there is a cement slab under the shed, or is it on a wood platform. He asked how it is anchored to the ground. Mr. Goole stated the shed was on pavement. Beverly Griebel asked if the applicant would build the shed on the residual concrete, and Mr. Goole indicated he would.

Keith O'Toole pointed out Question 10 on the application, a question asking whether any officer or employee of the State of New York, Town of Chili, County of Monroe have any interest in this, was not filled out. Mr. Goole stated he did not know of anyone. Larry Smith stated that question was checked "no" on the original.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Replaces pre-existing shed that will not change character or the neighborhood.
4. Application of Scott Lewis, owner; 2 Sesqui Drive, Rochester, New York 14624 for conditional use permit to allow an office in home for a computer consulting business at property located at 2 Sesqui Drive in R-1-20 zone.

Scott Lewis was present to represent the application. He stated this involves a computer consulting business. He stated he gets phone calls, people ask him what they need, what he can recommend. He stated he does set up spread sheets or databases for companies, private individuals, and he stated most of the work is done out of his home. He stated the work is done at his clients' sites.

Mr. Lewis stated if he were consulting on equipment, he would go to the manufacturer and then have the equipment shipped directly from the manufacturer to the end-user. He stated there would rarely be any clients coming to his home or delivery vehicles. He stated a lot of his client contact is done over fax modems.

John Castellani asked Mr. Lewis if he has a dedicated room in the house that he intends to do this in, and Mr. Lewis indicated he is redoing one of the bedrooms. Mr. Lewis indicated the office is basically his computer, a phone and a filing cabinet.

ANYONE IN FAVOR OR OPPOSED:

Daniel Minchen - 4 Sesqui Drive

He questioned Mr. Lewis being listed as the applicant/owner since he did not believe Mr. Lewis owns the home. He stated he believed Scott's mother owned the home or perhaps they are co-owners. Mr. Minchen indicated he was curious to know what the regulations are regarding the conditional use of a home by a non-owner, someone who just lives at the home. He stated Scott has only been in the home less than a year. Mr. Lewis stated he has lived in that home since it was built. He stated he is registered there. Larry Smith stated the customary home occupation use goes with the person residing at the home.

Mr. Minchen indicated he was present because he is concerned about the potential use of the property. He stated he was not concerned about Scott and his business. Mr. Minchen indicated they are concerned with the traffic that exists on the street currently. He stated they happen to be on an S-curve. He stated they have obtained yellow cones to put out in the street when their kids are playing. He stated the potential of having a business nextdoor is something they would take seriously if it is adjacent property.

Mr. Minchen indicated they have home value concerns about this matter. He asked if Mr. Lewis were to leave the property, would the use go with him, and Beverly Griebel stated Mr. Lewis is the one that is making the application for this use of the home. Larry Smith stated this use would not be permanent to the home. He stated the use is specific to Mr. Lewis. Mr. Minchen asked what would happen if Scott were to move, and Beverly Griebel indicated he would have to reapply if he wanted to operate at a new location in Town.

Mr. Minchen stated he did not understand why the permit was needed. He commented there are many people that have small home offices in their homes. Larry Smith stated when the Town finds out about those offices, they are sent notices. Mr. Minchen asked if it is a requirement of law that one must have a conditional use to work on a computer at home for a customer, and Larry Smith indicated it is Town law.

Mr. Minchen asked if this would be a part-time business, and Larry Smith stated that is not specified on the application. Mr. Minchen asked if the neighbors would be notified in a year's time when this application was reviewed, and Larry Smith stated the same procedure would be followed as was followed with this meeting. Larry Smith commented the Board could at the end of a year renew the conditional use for three years and then five years after that, with five years being the maximum renewal allowed.

Mr. Minchen questioned what conditions are put on such a use. Beverly Griebel explained some of the common conditions for a customary home occupation. She stated the conditions are put on to help control the use so it will not be a nuisance to the neighbors. Mr. Minchen asked if he could expect to see no significant changes to the residential character of the home other than perhaps a sign. Beverly Griebel commented there would be no sign. She commented as stated by the applicant, there may be an occasional customer or delivery.

Sandra Minchen - 4 Sesqui Drive

She asked if a conditional use permit is renewed even after it gets to the five-year level, and Larry Smith stated that is the maximum duration of the permit, five years. He stated it will never become permanent.

Mrs. Minchen asked if the Board would be changing the zoning on this, and Larry Smith indicated they are not changing the zoning. Larry Smith stated the conditional use stays with the applicant.

Larry Smith asked Mr. Lewis what his mother's first name is, and Mr. Lewis indicated it is Dorothy. Larry Smith indicated he would insert her first name in on the application.

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Approved for a period of one year.
2. No on-street parking pertaining to the business.
3. No advertising on premises.
4. Hours as per application (8 a.m. to 5 p.m., Monday through Friday).
5. House number per Town code (minimum 4 1/2" high).

The following finding of fact was cited:

1. Customary home occupation.
5. Application of Thomas Hebrock, owner; 560 Chili Scottsville Road, Scottsville, New York 14546 for Land Use Variance to convert existing barn into an antique shop at property located at 560 Chili Scottsville Road in RA-20 zone.
6. Application of Thomas Hebrock, owner; 560 Chili Scottsville Road, Scottsville, New York 14546 for variance to erect a 2 1/2' x 3'8" double-faced freestanding sign at property located at 560 Chili Scottsville Road in RA-20 zone.

Tom Hebrock was present to represent the application. Mr. Hebrock stated they want to open up an antique shop in an existing structure, a storage garage. He stated it is a metal garage, and there would be no change to the building. He stated they have been in the business for several years at another location. He stated they have since moved to this location and would like to open up a small shop.

Mr. Hebrock stated the second variance would be for putting a freestanding sign up. He stated they would put the sign out only when the shop is open. He stated the location of the sign would be in accordance with the property lines. He stated it would be 40 ft. from the road. Bill Oliver asked if the sign would be taken down every night, and Mr. Hebrock indicated that was correct.

Mrs. Hebrock, also present to represent the application, commented since the sign says, "Open" they would not need it out there unless they were open. Mrs. Hebrock stated they measured 40 ft. back from the road, and she commented with the road being on a curve right there, it is hard to discern where the center of the road is.

Beverly Griebel asked the applicant how long have they been at this address, and Mr. Hebrock stated they moved in in December two years ago.

Ron Popowich asked if this is a secondary income, the antique shop, and Mr. Hebrock indicated it is. John Hellaby asked if there would be any structural changes to the shop or any reconfiguration. He commented he seemed to remember the shop was awful hard to get at. He asked if there was a sliding door on the one end. Mr. Hebrock stated there is a little small shed

back there that they are not using. He stated they would be using the big metal building right in front. He stated there would be no changes to the building.

Larry Smith stated if this is approved, they will have to have accessibility for retail. He stated it would have to be inspected and everything.

Beverly Griebel stated when an applicant applies for a Land Use Variance, the applicant must show dollars and sense proof that the property cannot yield a reasonable return if used only for the purposes allowed in that zone. Mr. Hebrock stated the building is strictly storage right now, so there is no income off of that particular building. He stated the only time it would yield an income would be if they were allowed the variance. Mr. Hebrock asked if the Board was asking that they prove that the garage will not yield an income as a garage. Beverly Griebel stated they would have to show the property cannot yield an income.

Mr. Hebrock stated they own 20 acres. He stated they assumed the variance is only for the building. He stated they did not want to change anything on the rest of the property so to speak. John Castellani asked why they applied for a Land Use Variance and not a conditional use permit. Mr. Hebrock stated that is what the Town told them they needed to do. John Castellani stated this Board tends to look negatively on Land Use Variances because they never go away.

Larry Smith stated there is no provision in the ordinance for a conditional use for that type of business in that zone. Bill Oliver stated once a Land Use Variance is approved for, it would stay with the property. Mr. Hebrock asked if there was any other option to do what they want to do.

Beverly Griebel read from the code the permitted uses in a Rural Agricultural District. She stated the customary home occupation does not include an antique shop. Larry Smith stated that does not include an out building either. He stated the customary home occupation is within the walls of a home. He stated there was no other way they could come before this Board other than a Land use Variance for this type of shop. He commented he did not feel that it would be very detrimental to the area.

Bill Oliver questioned how this would fit in the master plan, and Beverly Griebel stated it does not. Keith O'Toole stated the law states for each and every permitted use under the zoning regulation for the particular district the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by financial evidence. John Castellani commented the applicant has never tried that, so there is no test case. Keith O'Toole stated the applicant would have to show he has explored all his options to make a buck off the property, and after he has found out that he cannot make a decent buck, then he can come before the Board.

Mr. Hebrock questioned how he could make a profit on the garage. He stated the only way he could make a profit is either to rent it to store a car in it or to use it as an antique shop. Keith O'Toole stated he understood what the applicant was saying. He stated, however, the statute states there are certain things they could do with the property such as general farming, animal husbandry, poultry ranching, sales of agricultural products grown such as farmstands, dairies, etc. Mr. Hebrock asked if that meant they could open up a farmstand but not an antique shop out of this building. Keith O'Toole stated they could open up the farmstand assuming that they raised the produce on the site.

Mrs. Hebrock commented she could sell nice tomatoes in very expensive baskets. Mr. Hebrock stated they could pack the produce in old furniture.

Larry Smith stated they have to prove they cannot make a profit off of the 20 acres. Mr. Hebrock stated they do not want to change the 20 acres, just the building. Larry Smith stated they could try to get a letter from some farm agency stating that the 20 acres is almost impossible to make a living off of. Mr. Hebrock stated the price of renting farmland is \$30 an acres. He stated they have four acres of lawn. Bill Oliver stated they could make \$480 profit off their land a year then. Mr. Hebrock commented that would not cover the taxes.

Mr. Hebrock stated it was his understanding they could have an antique shop in their house and

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not have to go through this. He stated that is what they were told by the Town as long as it doesn't occupy more than 25 percent of the space. Larry Smith stated essentially that was correct.

Gerry Hendrickson asked if the area around the home is being farmed, and Mr. Hebrock indicated it is. Gerry Hendrickson asked if they have been approached to rent their land, and Mr. Hebrock indicated they have been approached. Gerry Hendrickson asked what they are doing with the other barn, the one that is half knocked down. Mr. Hebrock stated they are going to rebuild the big barn.

Keith O'Toole stated they could have the application go to a vote tonight, or they could request to table it and come back with some more evidence as to why they cannot make a buck off this property the way it is. He stated how they want to present their evidence is up to them.

Beverly Griebel stated the purpose of the Agricultural District is to maintain those areas that are suitable for farm and agricultural uses, to protect them from any encroachment of any incompatible uses. Mr. Hebrock asked once the zoning is changed, could it be farmed. Larry Smith stated it could. John Castellani stated he did not know that that was true. Mr. Hebrock asked if someone could find that out. Keith O'Toole stated the Board and himself are not present to give legal advice to applicants. He stated the applicant may want to request a tabling so they could speak with legal counsel on how best to achieve what they want.

Larry Smith explained, if the application were denied this evening, they would have to wait another year to come back in with the same application. Mr. Hebrock asked that both applications be tabled. Beverly Griebel stated the applicant would have to obtain new signs from the Building Department for the next hearing this matter is heard at.

Beverly Griebel stated both applications were submitted to the Monroe County Department of Planning and were determined to be a local matter subject to the decision of the Zoning Board.

DECISION ON APPLICATION #5: Unanimously tabled by a vote of 6 yes for the following reason:

1. Tabled until the September 27th meeting.
2. Applicant to obtain more information.
3. **APPLICANT TO OBTAIN NEW SIGNS AT THE BUILDING DEPARTMENT AND POST AS PER TOWN GUIDELINES.**

DECISION ON APPLICATION #6: Unanimously tabled by a vote of 6 yes for the following reasons:

1. Tabled until the September 27th meeting.
2. Applicant to obtain more information.
3. **APPLICANT TO OBTAIN NEW SIGNS AT THE BUILDING DEPARTMENT AND POST AS PER TOWN GUIDELINES.**

7. Application of Leo McKinney, owner; 513 Whittier Road, Spencerport, New York 14559 for Land Use Variance to allow a motor vehicle service station with fuel pumps and repairs at property located at 4210 Buffalo Road in N.B. zone.

Lou Micca was present to represent the applicant. He stated this application is not in the ordinary course. He stated this is an appeal of an interpretation of the zoning code first and foremost. He stated in the event that an appeal is not successful, then and only at that point alternative relief of a variance is requested. John Castellani stated the application does not state this is an appeal. Mr. Micca stated there is no separate form for an appeal. He stated it has to be done by letter format. John Castellani asked Keith O'Toole if he reviewed such a letter, and Keith O'Toole indicated he has. He stated essentially the applicant is asking the Board review what the Building Inspector did.

Keith O'Toole explained the Building Inspector sent a stop work order to the applicant. He stated the applicant hired an attorney who has stated the Building Inspector was wrong, and he further stated the attorney for the applicant wants the Zoning Board to say just that. Keith O'Toole explained if the Board agrees the Building Inspector was right, they would move onto the Land Use Variance issue. He stated because of that, the applicant has submitted a Land Use Variance application, and he stated the applicant has also submitted a letter to the Town of Chili Zoning Board of Appeals dated May 24th, 1994 basically asking for the appeal, which the State law allows him to do.

John Castellani asked if there was a stop work order and associated tickets issued. Mr. Micca stated there are tickets that have been issued that are returnable in Town court. He stated those have not come up for resolution as of yet. John Castellani asked if the applicant was saying the Building Inspector was wrong for issuing those tickets, and Mr. Micca indicated he was not saying that. Mr. Micca stated he was saying that the letters of April 12, 1994 and April 26, 1994 from the Building Inspector are an incorrect interpretation of the Zoning Code.

Keith O'Toole told the Board what it decides here will have implications in the pending litigation because the Board tonight would be deciding whether it would stick with what Larry Smith stated in his letters.

Mr. Micca stated this property is currently subject to a conditional use permit. He stated that permit was granted April 15, 1992 permitting a service station with minor repairs on the unanimous approval of the Board. He stated all seven members were in attendance. He stated that was the Planning Board. He stated that conditional use permit does not expire until April 15, 1995. He stated that was the sixth renewal of the conditional use permit by the Planning Board since the Town Board granted the first permit on October 25, 1976.

Mr. Micca stated on December 11, 1992 preliminary site plan approval was granted for permission to change the use of the property in question to convert it to a convenience store with fuel pumps. He stated the preliminary site plan approval was granted subject to various approvals, including the approval of the Building Inspector and the Town Engineer. He stated the actual change of use to the convenience store never occurred. He stated the use of the property has remained constant and it was always conditioned and continues to be used under the conditional use permit as a service station with minor repairs.

Mr. Micca stated the preliminary site plan approval granted on December 11, 1992 did not ripen into final site plan approval since the applicant discontinued the process and never changed the actual use of the premises. He stated as a matter of fact, one of the requirements under that preliminary site plan approval was appropriate building permits and so forth which would then require inspection and ultimately granting of a Certificate of Occupancy.

Mr. Micca stated on April 26, 1994 by letter of the Building Inspector, it was indicated that due to the application for the preliminary site plan approval for the change of use, that application itself rendered the conditional use permit for a service station with minor repairs granted April 14, 1992 as null and void. He stated that is the action that the applicant believes is an improper interpretation of the Zoning Code.

Mr. Micca stated the Zoning Code at Section 115-24 specifically provides that a conditional use permit may be terminated in two fashions. He stated number one, it is stated a conditional use permit is void at the expiration of the permit itself. He stated it can also be terminated if the use should cease for more than six months for any reason. He stated so if the use of the property in question here stopped being used as a service station with minor repairs for more than six months, then the conditional use permit would automatically cease or at the end of its term, which is not until April of next year.

Mr. Micca stated the Zoning Board has the option on its own motion upon notification in writing from the Planning Board to revoke the conditional use permit. He stated the Board has the power to do that, to regulate the uses within the Town for non-compliance with permit conditions after first holding a public hearing upon notice. Mr. Micca stated he is not aware of any such hearing ever occurring. He stated the Zoning Board has never taken action to revoke the current conditional use permit that is in place.

Mr. Micca submitted to the Board for its review an affidavit of an employee of the premises establishing that the property has, in fact, been continually used as a service station with minor repairs throughout the relevant period of time. He stated the affidavit establishes the conditional use, the continuation of the use of the property for minor repairs and a gas station from prior to the December 11th application to change the use into a convenience store, and it continues to the present time. Mr. Micca stated the individual was an employee of the former tenant of the property.

Mr. Micca stated there has not been any action by the Zoning Board to revoke the permit that is in place. He stated come next April an application must be made for additional renewal of the conditional use permit. He stated that permit does not expire as of yet.

Mr. Micca stated in the Zoning Code Section 115-70 it provides that any building permit issued where construction is not commenced expires after 90 days. Although it may be that the prior applicant had actually obtained a building permit to change the structure into a convenience store, the structure as not, in fact, changed and the work was not commenced. He stated that building permit expired within 90 days. He stated therefore the conditions required on the preliminary site plan approval were not met. He stated since those conditions were not met, that preliminary site plan approval itself is now no longer valid. He stated that is not an open-ended invitation to change it at any time they want in the future. He stated no Certificate of Occupancy has ever been issued for the premises as a convenience store. He stated since the site plan approval for the change of this use was conditioned on all those items that were not fulfilled, the preliminary site plan approval for the change is null and void.

Mr. Micca stated in Section 115-24 it requires the only way in which by the code the conditional use permit that has been granted can either expire or be terminated, and he stated that has not occurred. Therefore, he stated the applicant asks very respectfully that the Board reverse the determination made by the enforcement officers and confirm that the existing conditional use permit controls through April 15th, 1995.

Mr. Micca stated only in the event that that application is not successful before this Board does the applicant request this Board to then consider an application for a variance on the property. He stated the elements necessary to establish a variance are four-fold. He stated one element is that no reasonable return can be used for the permitted uses. He stated the second element is that a hardship is unique to this property. He stated the third element is that if the variance is granted, the variance will not alter the character of the neighborhood. He stated the fourth element is that a hardship has not been self-created.

Mr. Micca stated first and foremost to converting the property to a permitted use, the DEC regulations require the removal of the gasoline storage tanks that are currently on the property. He submitted a quote for the Board's review for the cost of \$19,700 for removal of the gas tanks that are on the property. He stated he would also submit the DEC petroleum storage registration certificate, a copy of that showing there are three tanks on the property. He stated the oldest one is from 1978, and he stated the other two are from 1982.

Mr. Micca stated in addition to the expense of removing the tanks, then obviously the parking area would have to be repaved because most of it would have to have been torn up to remove the sizable tanks. He stated a quote has been obtained for the repaving expenses of \$6,800.

Mr. Micca stated there would be conversion expenses for the conversion of the building to any permitted use which are estimated to be in the range of \$20,000. He stated the building was built as a gas station with the appropriate two garage bay doors and a small office area. He stated the building is not suitable for any other permitted use on the premises.

Mr. Micca stated with all the expenses for conversion, the property cannot generate the necessary revenue to pay the expenses and realize any return on the taxes, the mortgage expense, etc. He stated, therefore, conversion to any other use would not allow a reasonable return to the owner at all.

Mr. Micca stated on the question of hardship in this situation, the hardship is grounded in the Town Board's original granting of the conditional use permit back in 1976. He stated that conditional use permit obviously pre-dated the three existing tanks on the premises. He stated this particular property has been a gas station since 1954 or 1955, and except for a brief period prior to 1976, it has been continuously used as such the entire time. He stated the three tanks on the property are of various ages and were installed in 1982 and 1978 both in reliance on the then existing conditional use permits to allow the use of the premises for the fashion it is currently being used for. He stated later on the conditional use permit was renewed again in 1981.

Mr. Micca stated if the conditional use permit were not granted, the owner would not have gone to the expense of installing the tanks in the first place because they could have been of no use to the premises. He stated the owner has relied on over 20 years of permission by the town to operate a gas station with repairs on the premises on this site. He stated he misspoke earlier in that the property has been used as a gas station with repairs since 1956. He stated the neighborhood has co-existed with the use for almost 40 years. He stated the use has been a continuous use and without interruption since 1976, almost 20 years ago. Mr. Micca stated clearly the character of the neighborhood would not change if the use was permitted to continue in the current form since it existed prior to the enactment of the Zoning Code.

Mr. Micca stated the owner of the current tenant, Mr. Mark O'Dell, is a long-time resident of the Town of Chili and has long wanted to located his business within the Town borders. He stated Mr. O'Dell returns a service to the Town and also employs individuals of the Town. He stated the services rendered at the station have been well received by many of the patrons of the station. He stated many people have expressed on many occasions to the Town they think it is nice to have a neighborhood business where they can have their cars repaired.

Mr. Micca stated in addition to automobile repair, Mr. O'Dell is also a factory-trained and certified motorcycle repair specialist. He stated there has been some concern from the area homeowners as to whether repair of motor vehicles such as a motorcycle brings with it any different type of character to this use.

Mr. Micca stated in order to prohibit or lessen the traffic by motorcycles in the area, the tenant on the property has purchased an extremely expensive piece of equipment called a dynameter. He stated the dynameter allows the motorcycle that has been repaired to be test run within the shop without having to test run the vehicle during repairs on the streets within the Town as is normally the case with any automobile repair that takes place in any small garage. He stated this is intended to relieve the traffic concerns so that when an individual who needs motorcycle repair comes to the premises, they can drop off the bike on the premises, it can be repaired on the premises, tested and then returned without having to be run repeatedly on the road for various adjustments to different components in the engine, et cetera.

Mr. Micca stated it has come to the property owner and the tenant's attention that various residents were concerned about the noise generated by the operations of the motorcycles on the premises. He stated the noise complaint came to the owner and the operator of the premises' attention after the letters that were issued by the zoning Building Inspector. Mr. Micca stated

when it was determined that this was a concern of some of the neighbors in the area, a number of different actions were taken to try to make this use as less intrusive as possible.

Mr. Micca stated there are two bay garages in this particular shop. He stated the dynamometer is in one of the bay garages. He stated the bike is situated on the dynamometer so that the rear of the bike, the exhaust points inward towards the back of the building. Mr. Micca stated since the complaints have been received, the dynamometer is not permitted to be run on the premises without the bay door closed completely to contain some of the sound. Mr. Micca stated the current tenant is also looking into what appropriate sound deadening devices or coverings there are that he can place on the back wall to minimize the rebounding of any noise from that back wall.

Mr. Micca stated the applicant has also purchased a decibel meter to try to measure and quantify to some extent the extent of the noise on the premises to see what effect these remedial measures have made. Mr. Micca stated to compare this noise to the background traffic on both roads, there is quite a bit of traffic on the roads fronting on the property. He stated the results of the dynamometer show the background traffic on the road actually exceeds the readings when a bike is actually on the dynamometer by some 15 to 20 decibels depending on whether it is a truck passing or some other louder vehicle.

Mr. Micca stated when the air-conditioning in the Town Hall meeting room kicks on, the decibel level is at 65. He stated when a bike is on the dynamometer, it reads anywhere from 60 to 70 decibels. Mr. Micca stated the noise of the bike on the dynamometer is different in that it is an unusual noise, and he stated that is why remediation efforts have been made to try to limit the use to the extent possible.

Mr. Micca stated the tenant refuses to allow the operation of the dynamometer in the hours past 5 p.m. to try to keep it to regular working hours, although the shop is open continually past that time. Mr. Micca stated it is also critical to note they have just passed the summer hours when the bike repair is at its peak. He stated that work is now tailing off dramatically as the cooler weather is arriving. Mr. Micca stated the motorcycle repair never exceeds more than 45 to 50 percent of the repair work done on the premises. He stated that work only occurs three months of the year. He stated there is less than one bike repaired and tested on that dynamometer in a two to four day period right now.

Mr. Micca stated in connection with the actual use of the premises, a petition has been available at the station for signatures by individuals who actually use the service station, and he stated the petition has been signed by 428 persons, of which 238 are residents of the Town of Chili. He read the petition. A copy of the petition will be on file with the Building Department.

Mr. Micca stated the variance requested is the least intrusive variance for the property. He stated if motor vehicle repairs are not permitted on the premises, the premises cannot return any return to the owner or operator of the premises. Mr. Micca stated the sales of gasoline alone are not sufficient to render a return on the property. He stated the gasoline sales on that actual property from the period of March 1, 1994 to June 1, 1994, a three-month period of time, equaled total revenues of \$137,751.72. He stated for the same time period, the cost of the gasoline sold on the premises was \$133,881.95, representing a gross profit of \$3,869.70 before the first worker is paid, before the first bill is paid, before taxes are paid, before rent is paid and so forth. He stated if that three-month period were extrapolated over a period of one year, it is not sufficient to render any return. He stated that would be a complete loss on the property if that were the sole income.

Mr. Micca stated if the Board believes the Building Inspector was correct in his determination, the applicant would wish to ask for the least intrusive variance. He stated the applicant would be willing to amend the application to provide reasonable conditions and is open to any suggestions that the Board may have in that regard so that this individual can continue in his livelihood.

John Castellani asked who received the conditional use permit. He stated according to the documentation, the applicant was Pal Oil Company. Mr. Micca stated Pal Oil Company is still the provider of the fuel on the premises. John Castellani asked if Pal is the tenant, and Mr. Micca

indicated they never were. John Castellani asked if the current tenant was the tenant at the time Pal Oil made the former application, and Mr. Micca indicated he was not the tenant at that time. John Castellani asked what capacity was Pal Oil acting in when they made their application, and Mr. Micca stated Pal Oil is the distributor of the gasoline for the Coastal station. He stated Pal Oil was not representing the tenant. He stated he would assume Pal Oil was representing the owner and not the tenant at that time.

John Castellani pointed out the application this evening for the conditional use permit was on behalf of the owner whereas other applications have been going through Empire State Energy, Pal Oil and so forth. John Castellani stated he thought if Pal Oil was not the owner at the time they made application, they were probably representing a tenant who was going to sell their gasoline. Larry Smith stated he believed Pal Oil was representing the tenant at that time. He stated he did not have the application in front of him, though.

John Castellani asked Larry Smith if he could look that up, because he stated he felt that would lead to the crux of the validity of this conditional use permit. John Castellani stated if Pal Oil was representing the tenant and the tenant is no longer there, the conditional use permit by itself goes with the tenant. John Castellani stated if they represented the owner, that is a different situation.

Mr. Micca stated the reasoning given by the Building Inspector that is subject to the appeal at this time did not include notice given to the current tenant or the owner that the reason for the request to stop the use was a change in designation either by owner or previous tenant. He stated the indication was that because of the preliminary site plan approval for the change in use, that terminated the conditional use permit. He stated that is the question as to whether it is correct or not.

John Castellani asked Mr. Micca if he realized the statement he handed to the Board was notarized by a person whose commission expired in February, when the document was notarized in June of the same year. Mr. Micca stated the date of the commission was probably not accurate, and he stated he would check on that. He stated in the event it is inaccurate, he would submit the document only as a signed statement. He stated the code does not require notarization.

John Castellani stated the Board has received numerous documents and petitions from residents that live around the area. He stated he knows they have not complained about this property as a service station. He stated obviously the cycle shop has caused a significant elevation in the noise level and the discomfort of the residents around there. Mr. Micca stated he has not seen those petitions yet. John Castellani showed the petition to Mr. Micca.

Beverly Griebel stated the petition received by the Board was a one-page document received 6/15/94 with 12 signatures on it from residents who live on Westside Drive, Watch Hill Drive and Miller Avenue. Mr. Micca stated the appropriate changes made by the tenant in trying to reduce any noise generated on the premises were done after the date of the petition. He stated he was not aware if there are individuals with continuing complaints. Mr. Micca stated he did not know how to address that since there is not an applicable noise zoning ordinance in effect for the premises. Mr. Micca stated the tenant and the owner want to work with their neighbors and the individuals that are going to be using the premises. Mr. Micca pointed out a number of residents on the petition in question are from Ogden. John Castellani commented those people still live in proximity to the station.

John Castellani asked what could be done to mitigate the noise concerns. Mr. Micca restated the bikes are now positioned with their exhausts facing the interior back wall. He stated the bay doors are now completely closed when the dynamometer is being used. He stated the dynamometer is not being used before 10 a.m. in the morning or after 5 p.m. in the evening. Mr. Micca stated the point is to try to have reasonable restraint on the operation of the business and still to allow the individual to make a living.

Mr. Micca commented with the doors closed when the dynamometer is running, a normal conversation can be had at the fuel pumps. Mr. Micca stated the readings for the passing by traffic was 90 decibels, whereas the noise from the dynamometer was at 65 to 70 decibels depending

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on the size of the bike. Mr. Micca stated the tenant is willing to experiment with sound deadening devices, too. He stated the only reason they have not done that yet is they do not know which devices would work best for the range of sound involved.

Beverly Griebel stated in looking at the petition provided by the applicant, there are a number of signatures from people that do not live in the immediate area as compared with the other petition that was mentioned. Mr. Micca stated 238 people on the petition they provided live in Chili.

Larry Smith stated his letter of April 26 to Mark O'Dell essentially said the conditional use for the service station with minor repairs granted on the 14th of April of 1992 is null and void. He stated that was based on the decision by the Planning Board of December of 1992 which granted site plan approval for conditional or for a change of use to allow a convenience store with fuel pumps. He stated based on that approval, a building permit was issued. He stated the code basically says that once a building permit is issued, that that conditional use is a legitimate use. Bill Oliver clarified, in other words, the conditional use is for the convenience store and the pumps. Larry Smith stated everything prior to that is no longer a permitted use.

Mr. Micca stated he was not aware of any provision in the code that requires upon the granting of a building permit a conditional use permit is terminated. He stated the code does have a section that allows the termination of a conditional use permit, but only on the stated reasons.

Larry Smith stated Section 115-24 lists the standards for conditional uses. Keith O'Toole indicated that was under Sub D. Larry Smith stated the conditional use shall be void one year after approval unless by conditions of the use permit greater or less time was specified as a condition of approval; or unless prior to the expiration of one year a building permit is issued.

Keith O'Toole commented the building permit in this case was issued June 2 of 1993. Larry Smith stated the conditional use permit for the convenience store was granted in December of 1992. John Hellaby asked who the permit was issued to, and Larry Smith indicated it was made out to Norstar Construction to remodel the interior for a Coastal convenience store.

Mr. Micca stated he understood the code to require that that building permit is null and void in 90 days if construction is not commenced. Larry Smith stated the code refers to the issuance of a permit and not how long. Mr. Micca stated he realized what Mr. Smith was referring to, but he stated that is limited by and unless the conditions of the conditional use permit provide a greater or less time as specified in the permit itself. He stated the first conditional use on a property is granted for a year and then is reviewed. Larry Smith stated that refers to the conditional use permit and not the building permit.

Mr. Micca stated at this time they are well into the eighth renewal of the conditional use permit that was granted back in 1976. He stated this particular conditional use permit was granted for a period of three years, although the Board had the power at that time to go to a five-year permit. Larry Smith stated there was a change of use that was approved by the Planning Board in December of 1992 that voided out the previous uses. He stated that took effect when the building permit was issued.

Beverly Griebel questioned why the gas tanks would have to be removed, if this were not granted, since the applicant has approval for a convenience store and gas tanks. Mr. Micca stated since the change was not actually changed to that, the preliminary site plan approval does not stay open forever. He stated the building permit as a condition was required under that as approval of the Building Inspector for the change, and the Town Engineer. He stated since those conditions were not met, that site plan approval is no longer valid. He stated there is not currently a permitted use as a convenience store with service pumps.

Mr. Micca stated because they no longer have a conditional use permit that would allow gas pumps, under the State Environmental Conservation Law they are required to remove the tanks as soon as the use is no longer permitted. Larry Smith stated the fuel pumps are not in question. He stated the fuel pumps are permitted. He stated the removal is not a hardship since they are permitted.

Mr. Micca stated the fuel pumps are permitted only if the property has a permitted use for fuel delivery and fuel service. He stated the only possible argument is the preliminary site plan approval is somehow still valid even though the various conditions have not been met and it has not been changed to the use of a convenience store. He stated since that is no longer the case, that preliminary site plan approval is no longer valid either under the code since the conditions required under that preliminary site plan approval were not met. Mr. Micca stated, therefore, the site plan approval for change of use to fuel pumps and convenience store is no longer valid, and if the argument is that the conditional use permit is no longer valid, then the fuel tanks must be removed.

Keith O'Toole asked if, in fact, the site plan is valid, wouldn't they still need the tanks, and Mr. Micca indicated there is no question they would. Mr. Micca stated if another application is made to resurrect that site plan approval and now to comply with the conditions required under that, obviously it was preliminary site plan approval and not final, and can only ripen into final when the conditions are met. He stated all conditions have not been met because there has not been an okay.

Keith O'Toole asked if the conditional use permit conditions have been met. He stated Larry Smith has issued a building permit, and he questioned if that means the conditions have been satisfied and the site plan has gone into effect. Beverly Griebel asked if it was being asked that since the building permit was issued, all the conditions of the conditional use permit had been met.

Mr. Micca stated it was also his understanding the Building Inspector must also inspect the changes made to the premises before a C of O can be rendered before the use can commence as a convenience store. He stated that clearly has not occurred since the changes were never made. He stated the approval of the Building Inspector requires him to make the final approval in issuance of a C of O as a requirement of that preliminary site plan approval.

Keith O'Toole stated he had a tax bill for tax number 132.14-1-3 showing the property is assessed to a Leo J. McKinney of 513 Whittier Road, Spencerport, New York. He stated the tax bill indicates the property is now within the Chili Consolidated Drainage District with an amount due of \$17.22 in the 1994 County tax year. He stated that condition as regards the drainage district has been satisfied.

Keith O'Toole stated condition number two of the letter dated December 11, 1992 from J. Donald Faso as Chairperson of the Planning Board indicates the approval was subject to approval by the Building Inspector. He stated there is a building permit dated June 2, 1993 which seems to indicate that the Building Inspector had approved of this. Mr. Micca asked if there has been a waiver of the requirement that the Building Inspector approve the change of the construction on the premises. Larry Smith stated he would not have issued the building permit unless that was done. Mr. Micca asked if there is also a requirement that the Building Inspector inspect the changes after they occur on the premises. Larry Smith stated that is a requirement of the building permit.

Mr. Micca stated a use cannot be permitted within the district without the Building Inspector's review of the construction changes and issuance of a Certificate of Occupancy. He stated if that was not generated in this situation, on the strength of the building permit, the changes were made, and then the Town was ignored at that point further, that would, in fact, be a loss of the use as a convenience store because they would not have complied with the approvals required by statute by the Building Inspector. He stated as a condition of the building permit, there has to be a final inspection before the use can change. Keith O'Toole and Larry Smith disagreed.

Keith O'Toole stated the building permit on his reading permits the applicant to build. He stated the reason that the building permit was issued is because the Building Inspector believed that the applicant had the authority to build. He stated, therefore, the Building Inspector approved of the site plan. Keith O'Toole stated the fact that the applicant may or may not have completed the work is analogous to his having a building permit to build a house in a residential zone. He stated in that situation, he may build half the house. He stated he would still be permitted to complete it, but he stated until he completes it, he wouldn't get a C of O. He stated it is a permitted use he

could live in a house on that piece of property but unless he actually completed the work, he could not have a C of O issued.

Keith O'Toole stated it was his understanding of the Building Inspector's position that he has issued the building permit and the applicant has not completed the renovations, and therefore, they are not going to open any business as a convenience store with fuel pumps. He stated the Town has conditions that benefit the Town of Chili, which in its view, have been satisfied.

Larry Smith stated when someone gets a building permit, they bring in drawings for what the project is that they are working on. He stated if it includes a site plan, that site plan has to be approved before the building permit is issued. He stated that is the approval that the Planning Board made as a condition pending the approval of the Building Inspector. Larry Smith stated if he did not approve it, he would not have issued a building permit. Mr. Micca stated he agreed with that portion of it.

Mr. Micca stated the question is, is there also an additional requirement of the owner for the protection of the Town that to allow a change in use, there must be a Certificate of Occupancy issued on the building changes to allow that change of use to occur. Larry Smith stated the change of use occurred when the building permit was issued.

Mr. Micca asked if a Certificate of Occupancy would have had to have been issued in order for the premises to be operated as a convenience store. Larry Smith stated as far as the State goes, yes. Mr. Micca asked about the Town of Chili in that regard. Larry Smith stated when the permit was issued, the convenience store was the permitted use. Mr. Micca asked if the Town requires any further inspection by the Building Inspector of the changes. Larry Smith stated as they occur, yes. He stated, however, that is a separate item than the building permit. Keith O'Toole stated that is not required as to preceding the change of use. He stated there are approvals for any building, whether it be customary home occupation or another.

Mr. Micca asked if the Building Inspector approved the plans. Larry Smith stated he was not sure if he signed off on the plans. He stated he issued the permit, so that was basically his approval on that. Larry Smith stated the Town Engineer and the Chairperson of the Planning Board signed off on the plans. He stated he was not required to sign off on the plans.

Keith O'Toole stated the Town Engineer signed off on the plans which satisfies requirement of Condition #3. He stated the plans have also been signed off on by J. Donald Faso as Chairperson of the Planning Board on January 20, 1993. He stated it was signed by Joe Lu on January 19, 1993. Keith O'Toole stated the Town Engineer is Joe Lu.

Mr. Micca stated it was his understanding from his client that the landscaping plans were never submitted to the Conservation Board for review and approval. He stated that approval has never been granted, so that is another condition on this application that before this can ripen into a final site plan approval, it must be satisfied. He stated because that condition has not been fulfilled, the preliminary site plan approval has not been timely brought into fruition, so to speak, and completed.

Keith O'Toole stated under Section 115-12, Neighborhood Business District, it outlines the permitted uses for properties located in that zone. He stated that section lists such permitted uses as grocery stores, barber shops and/or beauty shops, clothes cleaning pick up agencies including self-service cleaning establishments, which he stated he believes are laundromats. He stated drug stores including soda fountains are permitted.

Keith O'Toole asked if the applicant has made any inquiries as to the suitability of the premises to be used in any of those permitted uses. Mr. Micca stated he has done that and found that would require renovations to the building itself exceeding \$20,000 along with the removal of the tanks, costing \$19,700. Mr. Micca stated the parking lot would have to be repaved at a cost of \$6,800.

Keith O'Toole asked what the applicant has done to establish the value of the property. He asked if they have had it appraised. Mr. Micca stated they have not had it appraised. He asked why

they would have to have that for this application. Keith O'Toole asked what the purchase price was of the property, and Mr. Micca indicated he did not know. He stated he believed it was vacant land when it was purchased.

Keith O'Toole asked what is essentially on the property now. Mr. Micca stated there is a small building, the fuel tanks underground and the delivery pumps on top of the ground with the various curbing. Mr. Micca stated the parcel is a pie-shaped lot. Mr. Micca stated this is a corner property. Keith O'Toole asked if that parcel is on a heavily traveled road, and Mr. Micca stated the corner of Buffalo Road and Westside Drive is very heavily traveled.

Keith O'Toole commented corner properties tend to have more value. Mr. Micca indicated it would not be that valuable with gas pumps in the ground that cannot be used for a gasoline station. Mr. Micca stated depending on the outcome of the application, it will bear a dramatic impact on the value of the property. Keith O'Toole commented if the gas pumps were removed, there would be value to the property. Mr. Micca indicated there would be a value there net the cost of the removal of the tanks.

Keith O'Toole asked if the applicant has ever investigated with any other oil company or some other entity that might be willing to purchase the property and complete the renovations to the change of use that was in the Town's view given to the applicant in December. Mr. Micca stated that is impossible absent a variance. Keith O'Toole asked Mr. Micca why he would say that. Mr. Micca stated a conditional use in an N.B. district does not include fuel delivery. Mr. Micca stated any inquiry he made with regard to realtors concerning the value of the property had too much of a variable in it, that being what use is going to be permitted on the property or what they were going to find once they removed the tanks. He stated there was no ability to provide relevant data on value absent a determination of the Zoning Board; or if it is adverse and fuel delivery tanks were required to be removed, absent the actual removal of the tanks to find out what is in the ground. He stated there are certain liability issues regarding environmental clean up costs. He stated there is not a bank in the world that will finance a transaction on a former gas station because now there is mortgagor bank liability.

Keith O'Toole commented there are gas stations continually being upgraded in the community, so there must be some financing available for that type of situation. Mr. Micca commented those are permitted premises, though. Keith O'Toole asked if the applicant made some sort of inquiry as to whether that type of financing would be available for this location. Mr. Micca commented he would imagine some type of financing at some type of rate could be found for any project. Mr. Micca stated that was not the issue. He stated the issue was whether they could still use the property with new tanks in it or could they use the property with the existing tanks. He stated they feel why should they do any of that until they found out what use was permitted in the Town.

Keith O'Toole asked Mr. Micca if he was saying their application for the Land Use Variance is premature, that they haven't actually established through competent financial evidence that they have no reasonable return on the property. Mr. Micca indicated he disagreed. He stated he believed there is financial data available already in the record concerning the expense and revenues costs associated with this property with a use for gas delivery only. He stated if gas delivery only is still permitted but nothing else is, that no return whatsoever, not even a reasonable return would be generated to the owner, and he stated the owner would not have enough income to cover the taxes alone.

Keith O'Toole asked what the cost is to complete the renovations for the change of use assuming that the Building Inspector's view is correct. Mr. Micca stated he did not know. He stated the data provided in that regard was done back in 1992. Mr. Micca commented it is not a permitted use, anyhow. Keith O'Toole stated if the Building Inspector's contention is that they do not need a variance because they have a change of use and therefore it is now a permitted use under the site plan to have a convenience store with fuel pumps, he would then therefore ask how much would it cost to complete those renovations which are obviously envisioned under the building permit dated June 2, 1993. Mr. Micca stated he was only required to give competent financial data as to permitted uses in the zone.

Mr. Micca stated he was not aware of any determination by the Building Inspector saying that this property can still be used regardless of the outcome of tonight's hearing as a fuel pump and convenience store. He stated the preliminary site plan approval had a condition of landscaping plans to be submitted, and he stated that has not been done. He stated preliminary site plan approval no longer exists. He stated the only option is to get a change of variance. He stated it is not already a permitted use. He stated if the Building Inspector is making that determination that the preliminary site plan, even though the conditions have not been met and are somehow waived, and that the preliminary site plan approval is still in effect and is now generated into a final site plan approval, then he would hope that could be placed on the record this evening.

Beverly Griebel stated the regulation regarding an applicant applying for a Land Use Variance indicates the applicant must show the Board by a dollar and sense proof that the property cannot yield a reasonable return if used only for the purposes allowed in that zone. She stated they must show that their problem has unique circumstances which apply to the property and they must show that the proposed use will not alter the character of the neighborhood. Mr. Micca stated the only financial information he provided was the basis for the cost of converting the property for any of the uses listed in the code, which all would require the removal of the tanks. Mr. Micca stated if the Board feels there is insufficient data available for the Board's review on the variance application, the applicant will request the variance portion of the application be tabled for an additional month.

Keith O'Toole read a letter dated April 26, 1994 addressed to Mr. Mark O'Dell from Larry Smith. The letter will be on file with the Building Department. Keith O'Toole commented that letter gives evidence to the fact the hardship is self-created. Mr. Micca disagreed. Mr. Micca stated he was the individual that had contacted the office prior to the tenant's moving into the premises for the purposes of trying to establish whether the conditional use permit was still valid and in place. He stated he was advised that for some reason a preliminary site plan approval ultimately cuts off the previous conditional use permit and therefore it was invalid before his client ever showed up. He stated it was invalid as of December 1992. Mr. Micca stated he found that to be lacking in merit into the status of the law with regard to the interpretation of the statute.

Mr. Micca stated it is important to note that the applicant had no further options at this point in time with regard to the location of his business. He stated the previous location was no longer available for retail use.

Keith O'Toole asked who Mr. Micca's clients are. Mr. Micca indicated Leo McKinney, the owner of the property, and the tenant of the property, Tri-Mar Auto Cycle, Inc. Keith O'Toole stated Leo McKinney has been around since 1954, and Mr. Micca agreed. Mr. Micca stated the hardship runs to the owner of the premises. He stated the owner had title since predating the zoning code. He stated the application was brought by him today. He stated the applicant is not impaired by the other actions that have been mentioned. He stated the applicant did not self-create the problems with this property. Mr. Micca stated he was advised prior to this tenant even entering the premises this was a pre-existing problem not created by the entrance of the tenant.

Keith O'Toole stated the change in use came after Leo McKinney purchased the property. Mr. Micca agreed with that. He stated, however, the problem is created because of the Town board's granting of a conditional use permit in an N.B. zone for operations of a fuel delivery station with minor repairs back in 1976. Keith O'Toole stated he was not going to dispute there were conditional use permits in the past.

Keith O'Toole stated Mr. McKinney owned the property when the site plan was issued. Mr. Micca indicated that was correct. Keith O'Toole stated he understood there was a day care center in the neighborhood, and Mr. Micca indicated he did not know if that was operational yet. Larry Smith indicated it is operating. Keith O'Toole commented there is a church nearby, and Mr. Micca indicated that was correct. Keith O'Toole asked if there are apartments nearby, and Beverly Griebel indicated there are condominiums. Mr. Micca stated there is a Sheriff's station across the street. He stated a quarter mile away there is a subdivision.

Royce Werberig - 12 Spring Flower Drive

He stated the business is located across from the Sheriff's station. He stated when the business was using the dynamometer, it sounded like it was right in his living room.

Beverly Griebel stated the Monroe County Department of Planning reviewed this application and has stated it has no specific recommendations on this matter. She stated the County did, however, make a few comments. They indicated when considering a use variance, no such use variance should be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. They further indicated in order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, the applicant must not be able to realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence. They stated the alleged hardship relating to the property in question must be unique and does not apply to a substantial portion of the district or neighborhood. They stated the requested use variance, if granted, should not alter the essential character of the neighborhood. They stated the alleged hardship should not be self-created.

ANYONE IN FAVOR OR OPPOSED:

Robert Scott - Mayflower

He stated he has in the past been able to hear the dynamometer. He stated, however, in the last two months he has not been able to distinguish it over the normal traffic on Buffalo Road. He stated he would offer strong support for the continuance of Tri-Mar. He stated they provide a much needed service at a very reasonable cost. He stated they are a wonderful convenience.

Albert Craig - 2173 Westside Drive

He stated he has resided there for almost 38 years. He stated he is not opposed to the vehicle repair, the car repairs, because they have been doing that for years on that property. He stated since the motorcycle operations began, he cannot take a nap in the afternoon even with the windows and doors closed because the dynamometer is too loud. He stated the people continued to work even after a stop work order and a citation were issued. He stated he was opposed to the motorcycle repair unit in that building.

Elizabeth Reinholtz - 2216 Westside Drive

She stated she lives two houses from the church. She stated in regards to the comments earlier about people signing the petition that do not live in Chili, she stated the dividing line between Chili and Ogden goes right down the middle of Westside Drive. She stated technically she is a resident of Ogden, even though she is two houses across the street from the property.

Ms. Reinholtz asked what the definition is of minor repairs, and she asked on what are the minor repairs allowed. She asked if there is a limitation as to the number of cars or motorcycles that are allowed on the premises at a time.

Larry Smith stated his interpretation of minor repairs are oil changes, minor tune-ups, muffler work, tires, for example. He stated when they get into working on engine blocks, those are major repairs. He stated that is another contention he has with this operation, that he doesn't believe they just do minor repairs. Ms. Reinholtz indicated she agreed with that. Larry Smith indicated the code refers to motor vehicles and does not distinguish between motorcycles and cars. Larry Smith stated he did not recall reading anything about the amount of vehicles allowed. Ms. Reinholtz stated she drives by there several times a day and on occasion there are 15 to 20 cars and/or motorcycles. She stated they primarily have motorcycles.

Ms. Reinholtz explained an incident she was told of regarding a customer's dissatisfaction with the service he received at the station. Ms. Reinholtz stated she did not feel comfortable with the statement that their business would drop off in the wintertime. She commented they could even run an off-season sale if they wanted to. She stated she has noticed no reduction in the amount of noise coming from that property. She stated she has heard the dynamometer run after 5 p.m. She stated this operation has definitely changed the character of the neighborhood.

Larry Smith commented in looking back through the records to 1976, he did not find any restriction as to the number of vehicles allowed on site.

Don Lucas - 2214 Westside Drive

He stated he owns the property directly across from the station. He stated he has to close all his windows to have any kind of rest in the evening. He stated he has two acres of ground with 300 ft. of frontage that people have inquired about buying a portion of to build a home on. He stated no one wants to look out their front door or the front window at a whole yard full of motorcycles, though. He stated the station is going to lower the value of his property. He stated no one comes to inquire about the property any longer. He stated the station is not conducive to the neighborhood.

Mr. Lucas stated Roberts Wesleyan College is putting up a fine arts building. He asked what kind of an image would the station leave for people coming in from Buffalo that will go to the college. Mr. Lucas stated there is already a convenience store on the opposite corner, so he was sure they would not put a convenience store at this location. Mr. Lucas stated the biggest concern he has is how the station affects his property value and the noise that the station generates.

Beverly Griebel read a letter dated July 7, 1994 from the Supervisor of the Town of Ogden addressed to Supervisor Kelly. The letter will be on file with the Building Department. The letter indicated some residents of Ogden have also registered complaints about the noise from the station.

Tim Ford - 2213 Westside Drive

He stated from his understanding a conditional use variance would be to the tenant and the Land Use Variance would be to the property. He stated if this use were to go with the property, he would be opposed to that. He stated he would be opposed to there being no periodic review by this Board. He asked the Board to deny the Land Use Variance.

John Hellaby asked for clarification if after the issuance of a building permit, was any work ever carried out. Larry Smith stated the code does not say anything about work being carried out. John Hellaby asked if he obtained a permit to build a house but then ran out of money, how long would the building permit be good for. Larry Smith indicated he would have 18 months. Larry Smith stated, however, the fact in this case is that there was a conditional use permit that was legitimized.

John Hellaby asked if no work was ever started and the time allowed had elapsed, wouldn't it fall back into the Neighborhood Business zone, not the original conditional use permit, which would then make the pumps illegal. Larry Smith indicated that was not the case. Larry Smith stated they still have the conditional use unless they did not use it for six months, at which time it would fall back into the Neighborhood Business classification.

Mr. Micca stated he did not understand that and questioned whether the conditional use stays so long as the use continues. Larry Smith stated the conditional use permit shall become void one year after approval unless by conditions. He stated the conditional use permit shall become void if the use shall cease for more than six months for any reason.

Mr. Micca asked Larry Smith if he was saying that the conditional use permit for the property for the fuel pumps is still permitted because the use has not stopped, and Larry Smith indicated that was correct. Mr. Micca asked when that conditional use was last granted. Keith O'Toole stated what they are approved for now is a convenience store and fuel pumps. He asked to clarify if that means then there is no conditional use permit.

John Castellani stated the December 11, 1992 letter was sent to Empire Energy Corporation granting a convenience store with fuel pumps at that property. He questioned what period of time that was for. Keith O'Toole indicated that was part of a site plan. He again asked if the conditional use permit was dead, and Larry Smith indicated it is. John Castellani asked if there is no conditional use permit out there.

Keith O'Toole stated to follow up on Mr. Micca's last question as to whether there was still a conditional use permit for fuel pumps, after conferring with Larry Smith, the answer for the record is the conditional use permit is dead, totally and absolutely from Larry Smith's perspective. He stated the change of use by a site plan terminated the conditional use permit in its totality. He commented some confusion arose because Larry Smith said they could have fuel pumps. Keith O'Toole stated the applicant can have fuel pumps under the conditional use permit. He stated they have the pumps under the change of use, but it just happens to be the same thing. He stated the applicant could have the fuel pumps in both situations, but the conditional use permit is dead.

Mr. Micca asked if a person can operate a premises indefinitely once they get a change of use. Keith O'Toole indicated they could do that assuming they are in compliance with all applicable laws and regulations. Mr. Micca asked if that meant there is no three-year review on this preliminary site plan approval. He asked if it is essentially a variance granted by the Planning Board. Keith O'Toole stated they could call it a variance, but it affects the zoning.

Keith O'Toole stated the December 11, 1992 site plan approval that was voted on at the December 8, 1992 Planning Board meeting is in effect. He stated the applicant can have his convenience store. He stated they can have fuel pumps.

Mr. Micca asked if a conditional use permit is required to operate a convenience store with fuel pumps on that premises assuming it was built after the application. Keith O'Toole indicated he lost the question.

John Castellani stated based on what he was seeing, the applicant is in for preliminary site plan approval from the change of use. He stated once this project is complete, they would then come in and apply to the Planning Board for another conditional use permit which would include final site plan. John Castellani asked Larry Smith if once they have completed their construction under the building permit, would they then have to approach the Planning Board so that they could finally grant the conditional use permit to operate that business that they had approved to be constructed. Larry Smith indicated that was incorrect because the Planning Board approved it.

Larry Smith stated the December 11th approval granted them the change of use. John Castellani asked if the applicant should have returned to the Planning Board after that, and Larry Smith stated not unless it was made a condition of approval.

Mr. Micca asked if in essence the Planning Board, by not making that a condition on the December 11th approval, waived the three-year renewal. Beverly Griebel stated she could not speak for the Planning Board. She stated the maximum term for renewal for a conditional use permit is five years. John Castellani commented, though, they were not granting a conditional use permit. He stated they were granting a change of use.

Mr. Micca stated he would like the Board to table the application for the variance portion only until next month. He stated that would not include their first application which is just the interpretation of the Building Inspector matter.

John Castellani asked if the applicant understands that this needs to be reposted with proper signage for another public hearing. Mr. Micca indicated they understood. John Castellani stated the meeting would be the 27th of September.

DECISION: Unanimously tabled by a vote of 6 yes for the following reasons:

1. Applicant requested tabling until the September 27th meeting.
2. APPLICANT TO OBTAIN NEW SIGNS AT THE BUILDING DEPARTMENT AND POST AS PER TOWN GUIDELINES.

In regards to the applicant's request for interpretation of the code by the Building Inspector:

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DECISION: Application regarding interpretation of the code by the Building Inspector unanimously denied by a vote of 6 yes to deny for the following reason:

1. The Building Inspector made a correct interpretation of the code because:
 - A. The zoning map of the Town of Chili and the Zoning Code demonstrate that the applicant's property is located in a Neighborhood Business Zone. In such a zone, a service station with repairs and fuel pumps is not a permitted use.
 - B. On December 11, 1992, the subject premises was given site plan approval for a change of use to allow a convenience store with fuel pumps by the Town Planning Board. The applicant's activities which are reported to include a service station with fuel pumps and repairs are not in conformance with this approved use. Applicant's contention that the Conditional Use Permit, which was renewed on April 15, 1992, is still controlling is incorrect. This Conditional Use Permit was extinguished by the Planning Board approval dated December 11, 1992. A building permit was issued dated June 2, 1993, which further confirms the change of use by establishing the completion of the Planning Board conditions cited by the applicant.

Application #1 was recalled.

Ted Griffin was present to represent the application. Beverly Griebel stated this came back from the Monroe County Department of Planning as a local matter. Beverly Griebel asked if the signs are up.

Mr. Griffin stated the signs have been up for a couple of years. Mr. Donnelly was also present to represent the application. He stated the first sign is 1 1/2' x 4'. He stated that would be the one over the first bay door. Mr. Donnelly stated the second sign advertising Dayton Tires is 2' x 4'. Mr. Donnelly stated the third sign advertising Interstate Batteries is 2 1/2' x 4'. Beverly Griebel asked how long the signs have been up, and Mr. Donnelly indicated they have been up close to four years.

Beverly Griebel asked if they have any plans to change the signs, and Mr. Donnelly indicated they do not. Beverly Griebel stated one of the signs is covered in plastic and is kind of faded. Mr. Donnelly stated if the sign fades too much, it will be replaced with the same size sign. Ron Popowich asked if the signs are lit, and Larry Smith stated they are not.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Signage needed to advertise business products.

Beverly Griebel stated Ann Barbato has withdrawn her tabled application.

After some discussion, the Board agreed by a vote of 6 yes to send a letter to the Town Board requesting an antique and/or arts and craft shop up to 2,500 sq. ft. be allowed in an RA District.

CHILI ZONING BOARD

September 27, 1994

A meeting of the Chili Zoning Board was held on September 27, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson, Ralph Barbaro 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. 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 stated she did not see any signs for Applications 2 and 14. There was a consensus amongst the Board that they did not see any proper signage on the properties. Beverly Griebel stated the two applications would be tabled until the October 25th meeting.

1. Application of Leo McKinney, owner; 513 Whittier Road, Spencerport, New York 14559 for Land Use Variance to allow a motor vehicle service station with fuel pumps and repairs at property located at 4210 Buffalo Road in N.B. zone.

No one was present to represent the application. Beverly Griebel stated the application would be recalled at the end of the meeting.

2. Application of Tri-Mar Auto & Cycle Inc.; 4210 Buffalo Road, North Chili, New York 14514, property owner; L. McKinney; for variance to erect two 2' x 3' double-faced freestanding signs on fuel pumps at property located at 4210 Buffalo Road in N.B. zone.

DECISION: Withdrawn at the applicant's request.

3. Application of Kenneth Hundt, owner; 2 San Mateo Road, Rochester, New York 14624 for variance to erect a 9 1/2' x 9 1/2' open porch to be 41' from front lot line (60' req.) at property located at 2 San Mateo Road in R-1-12 zone.

Kenneth Hundt was present to represent the application. He stated they would like to put on a 9 1/2' x 9 1/2' porch to add on to the house to cover up the existing cement steps. He stated the front of the house according to the measurements of the survey is 51 ft. from the front of the road. Mr. Hundt indicated the porch would extend 6 inches in front of the walkway.

Ron Popowich asked if there is a wood frame there now the size of the porch, and Mr. Hunt indicated there is. John Hellaby asked if this is going to be a covered porch, and Mr. Hunt indicated it would not be covered. John Hellaby asked if it would be a pressure-treated wood deck, and Mr. Hundt indicated it would be. Larry Smith stated he had no problem with the application.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 findings of fact were cited:

ZB 9/27/94 - Page 2

1. No change in character of the neighborhood.
 2. Will improve appearance of property.
4. Application of Louis Deutsch, owner; 23 Woodside Drive, Rochester, New York 14624 for variance to erect a 30' x 8' open porch to be 56' from front lot line (60' req.) at property located at 23 Woodside Drive in R-1-15 zone.

Louis Deutsch was present to represent the application. He stated he would like to erect a porch because the existing porch is slab with the brick frontage and it has deteriorated. He stated he had the porch repaired three times by a mason, and he stated the mason told him the last time to forget the repair and the maintenance. He stated the brick does not hold to cement.

Beverly Griebel asked if there are some footings, and Mr. Deutsch indicated there are. Beverly Griebel asked if the porch has already been started. Mr. Deutsch indicated it has been started. He stated he originally called the Town, and when he measured, he measured from the curb thinking the curb was his property line. He stated it turns out that 19 ft. of his property is not his property. He stated at that point the footers were dug. He stated he asked the Town if they could come out and inspect the holes so he could get the sonatudes in before they washed away.

Beverly Griebel asked if the porch would be in the same place as the porch was before, and Mr. Deutsch indicated that was correct. He stated the porch right now goes out 4 1/2 ft. and 8 ft. over, so there is a side entrance. He stated the original porch, instead of being a slab, was poured 5 ft. thick.

Ralph Barbaro asked if this would be a pressure-treated wood deck, and Mr. Deutsch indicated it would be. Ralph Barbaro asked if there would be a railing, and Mr. Deutsch indicated there would be a railing. Ralph Barbaro asked if there would be a roof over the porch, and Mr. Deutsch indicated there would be a roof. Ralph Barbaro asked what kind of shingles would there be, and Mr. Deutsch indicated they would match the house.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and John Castellani 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 findings of fact were cited:

1. No change in character of the neighborhood.
 2. Will improve appearance of property.
5. Application of Chili Plaza Associates, owner; 80 W. Main Street, Rochester, New York 14614 for variance to erect a 4' x 8' temporary freestanding sign for lease of property, to be 32 sq. ft. (16 sq. ft. allowed) at property located at 3260 Chili Avenue in G.B. zone.

Vicki Mills was present to represent the application. She stated they would like to put a 4 ft. x 8 ft. sign up temporarily at 3260 Chili Avenue where their property is to advertise the property for lease. She stated the sign would be 30 ft. from the road. She indicated there was a map enclosed with the application indicating the location.

Beverly Griebel asked how long the sign would be needed. Ms. Mills indicated they need it as long as it takes to lease the property. Ms. Mills estimated they would need the sign for a year.

Ralph Barbaro asked where exactly the sign would be, and Ms. Mills referred him to the map and stated the sign would be on the property that is right to the left of the Chili Paul Plaza. Ms. Mills stated the sign is needed for visibility for that particular location. Ms. Mills stated when they

speak to prospective individuals that are interested in leasing the property, they're really quite confused as to where exactly the property is because there is a house on the portion of the property right now, so in order to make it more visible and easier for them to show that location, it would be helpful for them to have the sign.

John Castellani stated he thought the Board granted a sign a while ago. Ms. Mills stated that sign is located up further. Ms. Mills indicated this would be a second sign for the parcel that is right next to the plaza, across from the McDonald's. Beverly Griebel stated it is really across from the gas station.

Bill Oliver asked if the sign would be illuminated, and Ms. Mills indicated it would not be lit up. She stated the sign would be white with blue lettering. She stated the sign would be secured by a 20 ft. post for weather, wind, etc. Bill Oliver asked how high the 4' x 8' sign would be. Ms. Mills indicated she did not have that information. Larry Smith commented the Board could set a height during conditions.

John Castellani asked if all the information on the sign is necessary. Ms. Mills stated they need all that information as a visual effect to help people interested in leasing the parcel know what they can do with the parcel.

John Hellaby asked what they would do if some of the parcels were leased out, would they have someone go out and paint over a portion of the information. Ms. Mills indicated they could paint over the sign. Beverly Griebel indicated they would have to come back before the Board for a change on the sign.

Beverly Griebel asked if they anticipate more than one tenant. Ms. Mills indicated they would love to have one tenant, but she stated the size of the parcel in all reality would actually allow for three tenants. Ms. Mills indicated they are looking at the back tenant as being a bank and the two front tenants being fast food restaurants.

Beverly Griebel stated she was in receipt of a letter dated September 27, 1994 addressed to the Chili Zoning Board from Samuel and Anna Grover. She read the letter indicating their concerns about the sign as well as the condition of the property. The letter will be on file with the Building Department.

Beverly Griebel commented there is a lot of brush along the roadway, and she stated that might have an impact on the height of the sign if they were to allow a lower height sign. Larry Smith stated the Board could put a condition on approval that the parcel be cleaned up to the Building Inspector's satisfaction before the sign is erected. He stated he would make sure the debris is gone. Ms. Mills asked if she could obtain a copy of the letter.

Larry Smith stated the drawing shows the sign being set back 30 ft. He stated that means it would be 30 ft. from the edge of the property and not the edge of the road. Ms. Mills indicated if it is 30 ft. from the edge of the property according to the code, that is where they would put the sign. Larry Smith stated 30 ft. from the right-of-way would put the sign approximately 47 ft. back from the edge of the road. John Castellani commented that distance may not be unreasonable for a 4' x 8' sign.

ANYONE IN FAVOR OR OPPOSED:

Anna Grover

She asked where the sign would be. Larry Smith indicated it would be located on the east side of the property. Larry Smith stated the sign would be almost at the end of Old Chili Scottsville Road. Ms. Grover stated there is a property line, their driveway and a house, and then there is a large lot on the west side. Ms. Grove stated she just wanted to make sure the sign doesn't be confused with her property.

John Hellaby commented the sign would be virtually at the front of the house. Ralph Barbaro suggested there should be another dimension besides the 30 ft. back to locate the sign. Larry

Smith indicated it looks like the sign would be 75 ft. from the east side of the property. Ms. Mills indicated that was an agreeable dimension.

Ms. Grove indicated they were concerned about the appearance of the property. Ms. Grove stated she wanted to be sure the present renters are not being blamed for the mess, because they are very neat and tidy.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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. Parcel to be cleaned up to the satisfaction of the Building Inspector before sign is placed.
 2. Granted for one year.
 3. Sign to be placed 75' from east boundary of property and 30' back from front property line.
 4. Overall height of sign to be 8'.
6. Application of Scott Griswold, owner; 201 Chestnut Ridge Road, Rochester, New York 14624 for variance to allow existing 8' x 12' utility shed to be 18" from dwelling (8' req.) and 1' from side lot line (8' req.) at property located at 201 Chestnut Ridge Road in R-1-15 zone.

Scott Griswold was present to represent the application. He stated approximately one year ago he had constructed a 96 sq. ft. shed next to his house. He stated he was naive in finding out or knowing that there was an ordinance as far as the distance away from the property and his house. He stated prior to the construction he had some building materials located on the property. He stated the house they own was vacant at one time and was pretty much tore up by the previous occupants. He stated they have been remodeling the home for the last three years. Mr. Griswold stated he realized the building materials being stored on the side of the home was an eyesore to his neighbors.

Mr. Griswold stated he spoke with his neighbor and told him he would like to construct a shed there. Mr. Griswold stated at that time there was no objection from his neighbor as far as the construction of the shed because it would look much better than the building materials. Mr. Griswold stated he then built the shed. He stated on July 18th his neighbor sent him a letter stating that if he did not come over to his house prior to the 31st of July, he would turn him in for the shed, for his dog barking, etc. Mr. Griswold stated he had the letter if the Board would like to look at it.

Beverly Griebel stated one side of his house is 7.7 ft. from the property line. She questioned what the distance is on the other side. She asked how far that is from the property line on the west side. Larry Smith stated there is 6 ft. there.

Ron Popowich asked if the shed is presently sitting on a concrete slab, and Mr. Griswold stated it is on old railroad ties in the ground. Ron Popowich commented the applicant has a fairly large rear yard. He questioned there being no other place in the yard to put the shed. Mr. Griswold stated the backyard really isn't too big. He stated he has a big garden that takes a quarter of the backyard. He stated he has some fruit trees planted along the back fence. He stated there is a big maple tree right behind the house, almost right in front of the shed. He stated the tree is right on the corner of the shed if one looks at the back. He stated the location of the shed was just overgrown brush before which he cleaned out to set the shed in there.

Ron Popowich commented he assumed since there is a garden there, the backyard gets a good

amount of sunlight, so there must not be a tree in that area. Mr. Griswold stated where the garden is is the only place they have an open area, though.

Ralph Barbaro asked the applicant if he built the shed himself, and Mr. Griswold indicated he did. Ralph Barbaro asked what the shed is used for, and Mr. Griswold indicated he would store building materials in it. Ralph Barbaro asked if it would be used for building materials for only his property, and Mr. Griswold indicated the materials would only be for his own remodeling. Ralph Barbaro asked the applicant what his profession is, and Mr. Griswold indicated he is an electronics technician at Kodak.

Ralph Barbaro asked where the maple tree is that is in the yard. Mr. Griswold indicated where the shed is, if one looks at the left-hand corner, there is a big maple tree almost 7 or 8 ft. from the front of the shed on the left-hand side. Ralph Barbaro asked if the front of the shed meant the side facing the street or the rear of the lot. Mr. Griswold indicated towards the rear of the lot. Ralph Barbaro asked if they were to remove the shed, would they be able to get it out of there, and Mr. Griswold indicated it would be very difficult. He stated he would have to disassemble the shed to remove it.

Larry Smith commented this house was a real mess until Mr. Griswold purchased it. He stated the Town had had a lot of complaints about it. He stated the applicant has improved the property substantially.

Beverly Griebel asked if they raised the back roof, and Mr. Griswold indicated he did. He stated he raised the back portion of the whole house 6 ft. high because the whole roof had been constructed out of 2' x 8' material on 24-inch centers with 3/8 plywood. He stated he even fell through the roof on the front part of the house. Mr. Griswold stated they took 600 bags of garbage out of the house and property.

Larry Smith commented the shed did not require a permit to be built. Bill Oliver asked the applicant if he stores gasoline in the shed, and Mr. Griswold indicated he does not. Bill Oliver asked the applicant if he would mind a condition of approval that no gasoline storage would be allowed in the shed, and Mr. Griswold indicated he did not mind that.

Mr. Griswold stated he does have a few building materials stored behind the shed. He stated if this were approved, he would put those in the shed also.

Ron Popowich asked if the shed was built one year ago, and Mr. Griswold indicated it was. Ron Popowich asked if there were any comments at that time from any neighbors, and Mr. Griswold indicated there were no comments at that time. Mr. Griswold stated he mentioned it to his neighbor at that time and there was no discussion of disapproval of it. Mr. Griswold stated, in fact, his neighbor had commented the shed would look better than having a pile of building materials out in his yard with blue tarps over it to keep the materials dry.

ANYONE IN FAVOR OR OPPOSED:

Robert Street - 203 Chestnut Ridge

He stated he lives to the west of the applicant. He stated Mr. Griswold never spoke to him about putting the shed up. He stated Mr. Griswold's ignorance of the law is no excuse. He stated the applicant has been cited a couple of times for having things in his front yard that did not belong there. Beverly Griebel stated that was not the issue that was being discussed this evening.

Mr. Street stated the applicant has an attitude problem. He stated the applicant does not want to get along with him. He stated the applicant should listen to him when he has a legitimate complaint. Mr. Street stated the applicant's dog bit him (Mr. Street). Beverly Griebel stated that was not relevant to the issue being discussed this evening.

Mr. Street stated he wrote the applicant a very nice letter and in no way threatened him. He stated he asked the applicant to come over to discuss how to be a good neighbor because of the problems they have had. Mr. Street stated he gave the man two weeks to come to his property

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because the applicant did not want him (Mr. Street) on his property. Mr. Street stated the applicant did not want him (Mr. Street) speaking to him on the phone.

Mr. Street stated in the letter he had discussed the fact that possibly the building materials behind the shed were in violation of a Town code. Mr. Street stated the applicant ignored his letter. Mr. Street stated having the shed 18 inches from the house and a foot from the property line is ridiculous. Mr. Street stated he has no guaranty that the applicant will store what he says he is going to store in there. Mr. Street stated he has stuff, too, but he stores it in the basement or his garage where it is not going to interfere with anyone else. He stated there is no reason why the applicant can't do the same thing. Mr. Street stated it is true the applicant has done wonders with the house, but he stated the applicant is not telling the truth this evening.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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 being cited:

1. Not minimum variance required.
 2. Other possible yard sites could be utilized for placement of the shed.
7. Application of Robert Clar, owner; 965 Paul Road, Rochester, New York 14624 for variance to erect an enclosed gazebo to be 175 sq. ft. (160 sq. ft. allowed) and to be 15 1/2' high (12' allowed) at property located at 965 Paul Road in R-1-15 zone.

Robert Clar was present to represent the application. Mr. Clar stated he was asking for a variance to erect a gazebo to be approximately 175 sq. ft, approximately 15' 5" in height. He stated it would be an enclosed gazebo. He stated there would be a hot tub inside the gazebo. Beverly Griebel asked if this would be built on a deck, and Mr. Clar indicated it would be attached to a deck. Beverly Griebel asked how high off the ground would it be, and Mr. Clar indicated approximately 3 ft. off the ground. He stated it would be level with the deck. Larry Smith stated the height is measured from the ground up.

Gerry Hendrickson asked if the gazebo would be used for his own use, and Mr. Clar indicated it would be for his own use with his friends.

Ralph Barbaro asked if the gazebo is already under construction, and Mr. Clar indicated that was correct. Ralph Barbaro asked the applicant at what point where they informed they needed a variance to erect it. Mr. Clar stated a gentleman came over from the Building Department and have him a stop work order. He stated at that time he was asked to come down to the Town to file for a permit. He stated when he spoke with the secretary in the permit office, she stated that it was a little too large and he would need to file for a variance and a permit would not be issued at that time. Ralph Barbaro asked the applicant if he called the Town before he started the construction, and Mr. Clar indicated he did not. Ralph Barbaro asked the applicant if he hired a contractor at any point to help get him started with this, and Mr. Clar indicated he is just building it himself with the help of his brother.

John Hellaby asked if the one side lot line of the fence is presently a 6 ft. stockade, and Mr. Clar indicated the whole backyard has a 6 ft. fence with a gate up in front.

ANYONE IN FAVOR OR OPPOSED:

Ed Briggs

He stated he lives right behind the applicant. He indicated he was in favor of this. He stated the gazebo is not an eyesore and would not disrupt the neighborhood.

Larry Smith stated he was in receipt of a letter dated 8/17/94 from Eric Shevin, 963 Paul Road;

Mr. and Mrs. Fred DeSanto, 979 Paul Road; Bill Young, 970 Paul Road and Willy Thomas, 10 Buck Drive that indicated they were in support of the application. The letter will be on file with the Building Department.

Bill Young - 970 Paul Road

He stated he lives diagonally across the street from the applicant. He stated whatever the applicant undertakes, he does it well. He stated this gazebo would enhance all the neighbors' properties.

Ralph Barbaro indicated he wanted to clarify his comment about the contractor being involved was not to infer that a constructor should have been involved, but rather was to determine whether there was any intent to avoid living up to the zoning regulations. He further commented generally if there is a contractor involved, they will inform their client that there are certain zoning regulations or building regulations.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 findings of fact were cited:

1. Minimum variance.
2. Structure will enhance property.
3. Will not impact character of neighborhood.
4. Neighbors do not object.

John Hellaby indicated it was his intention to abstain from Application #8 since his brother did some engineering work on this project.

8. Application of Elizabeth Goodberlet, owner; 17 Bowen Road, Churchville, New York 14428 for variance to erect an addition to house to be 56' from front lot line (100' req.) and 13 1/2' from side lot line (50' req.) at property located at 17 Bowen Road in PRD zone.

Joe Clemente was present to represent the application. He stated the main reason for the addition is to add onto the house a full bath and a bedroom for Mrs. Goodberlet who is aging in years. He stated it is difficult for her to get up and down stairs in the main house. Beverly Griebel commented she understood why they did not go out the back of the house when she saw the steep slope in the backyard. She commented there was also a walk-out basement. Mr. Clemente indicated that would also not be practical because there would be stairs then leading up to the main house.

Bill Oliver asked how old is Mrs. Goodberlet, and Mr. Clemente indicated she is 68 years old. Bill Oliver inquired as to Mrs. Goodberlet's ailment, and Mr. Clemente indicated she has emphysema and extreme arthritis. Bill Oliver asked where she is at the moment, and Mr. Clemente indicated she is staying upstairs in the house itself. Beverly Griebel asked if Mrs. Goodberlet is not able to come down the stairs to partake in the family activities, and Mr. Clemente indicated that was correct.

Bill Oliver asked if a ramp would be necessary for her to get in and out, and Mr. Clemente indicated that would not be necessary.

John Castellani commented the home does not meet the current zoning anyhow in that it is 60 ft. away from the road. Larry Smith stated it is a pre-existing, non-conforming situation.

Ralph Barbaro asked if the addition would only have a bedroom and a bathroom, and Mr.

Clemente indicated there would also be additional living space for Mrs. Goodberlet. Ralph Barbaro asked if there would be any additional kitchen facilities, and Mr. Clemente indicated there would not. Ralph Barbaro asked if the level of this floor would be the same as the level of the first floor of the home, and Mr. Clemente indicated it would be the same level as the rest of the house. Ralph Barbaro asked if there would be open archways or doors into the other portions of the home. Mr. Clemente indicated there would be an open doorway into the existing room. Ralph Barbaro asked if there would be an exit to the outside from the addition, and Mr. Clemente indicated there would not be an exit to the outside. Ralph Barbaro asked what the 4 ft. jog in the front would be for, and Mr. Clemente indicated that was mainly for aesthetics.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with 1 abstention with no conditions, and the following findings of fact were cited:

1. Pre-existing, non-conforming lot.
 2. Applicant's representative expressed medical hardship to care for family member.
 3. Variance in keeping with character of neighborhood.
9. Application of Daniel Boon, owner; 20 Berna Lane, Rochester, New York 14624 for conditional use permit to allow an office in home for a lawn maintenance business at property located at 20 Berna Lane in R-1-20 zone.

Beverly Griebel stated this application was sent to the Monroe County Department of Planning and it came back with no comments on it.

Dan Boon was present to represent the application. He stated he would like permission to have an office in his home for his business. He stated he rents a building on Turner Drive in Spencerport to keep his equipment at. He stated there would be nothing different in the appearance of the house. Mr. Boon stated once in a while at night he might take his trailer with his mowers on it home to store in his driveway. He stated when he comes home, it is usually dark, and he stated he usually leaves before it is light out. He stated he just wants the office as a place he can receive mail at.

Beverly Griebel questioned the occasional parking of the trailer in the driveway. Mr. Boon stated he drives his pickup home every night, but he stated he has a trailer that he puts a couple mowers on that he uses for mowing. He stated if he is working over in Henrietta, instead of going back to Spencerport and adding another hour and a half to his evening, he brings the trailer home. He stated he has a very large driveway.

Ralph Barbaro asked the applicant how often he needs to do that, and Mr. Boon stated there are some weeks where he doesn't do that at all. He stated it all depends on where he is working. He stated roughly once a week that may occur. He stated it is always an overnight situation, though.

Bill Oliver asked if there would be any outside employees, and Mr. Boon indicated he works all alone. John Hellaby commented there were no hours of operation listed on the application. Mr. Boon stated there would be no one coming or going to the property. Beverly Griebel asked the applicant if he would just be receiving phone calls and doing billing work there, and Mr. Boon indicated that was correct. Mr. Boon stated he carries a pager and usually receives his calls that way rather than on the phone. He stated he does mostly commercial work. Mr. Boon stated his office consists of a phone, a computer and a Xerox machine. Beverly Griebel asked if customers ever come to the property, and Mr. Boon indicated they do not.

Ron Popowich asked if the pickup is used for personal use also, and Mr. Boon indicated it is. Mr. Boon stated he owns three trucks. Ron Popowich asked how large the trailer is, and Mr. Boon indicated it is a 15 ft. flatbed trailer.

Bill Oliver asked how long the applicant has been in business, and Mr. Boon indicated he has been in business a little over a year. Bill Oliver asked the applicant if he anticipates his business growing, and Mr. Boon indicated he hopes it grows, but he stated that would not affect what he is currently doing since he has a full-time job besides this. He stated he can only do so much. Larry Smith stated he did receive a complaint on Mr. Boon's vehicles. Larry Smith stated right after he talked to Mr. Boon, Mr. Boon rented another place to store his vehicles in. He stated he was very cooperative.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ralph Barbaro 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 one year.
2. Applicant to strictly limit parking of equipment at home.
3. No business related advertising on premises.

The following finding of fact was cited:

1. Customary Home Occupation.
10. Application of Rochester Cornerstone Group; owner, 120 Corporate Woods, Suite 100, Rochester, New York 14623 for variance to erect a 10' x 4' real estate development sign to be 40 sq. ft. (32 sq. ft. allowed) at property located at 401 Paul Road in L.I. & FPO zone.

John Buckner was present to represent the application. He stated the owners of the property would like to erect a 10' x 4' sign because of the sheer volume of this property being 230 plus acres. He stated they have a 4' x 8' sign now on the west end of the property, but he stated the property runs from just about Bausch & Lomb almost to Westside Paving. He stated there are a couple houses and businesses in the area. He stated by the time people get down to Jetview Drive where they are working now, no one realizes it is part of the project.

Beverly Griebel asked how long the sign would be up for, and Mr. Buckner indicated they were hoping for a couple years. He stated if the parcels sell off and as they progress and work their way west, they would have to come in for different variances for the different plots. Beverly Griebel asked if they would change the sign as they moved along, and Mr. Buckner indicated that was correct. He commented the project is being phased in. John Castellani commented usually the Board does not grant such a sign for more than one year, and Mr. Buckner indicated that was fine. He commented if he had to come back in a year and ask for the sign again, he would do so.

Ralph Barbaro commented they need a dimension for the sign height. Mr. Buckner indicated the owners were asking for 6 ft. to the bottom of the sign because Paul Road is fairly high in the area where the sign would be sitting. Bill Oliver asked the applicant if he wanted to modify the sign in that regard, and Mr. Buckner indicated he did.

Larry Smith commented in the spot right now where they intend to put the sign, they are building berms. He stated if they were to put this sign 25 ft. from the lot line, they would be behind the berm. Mr. Buckner stated at this point the berm is not finished. He stated the material was brought up there strictly for the sake of getting it there until they come up with a design for the berms. Larry Smith stated he believed part of the berm was on the State right-of-way. Mr.

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Buckner indicated he checked that out and had it restaked. He stated it was moved back to allow for the right-of-way. Larry Smith commented no matter where the berm is, they are going to be 25 ft. from the lot line, and Mr. Buckner indicated that was correct.

Beverly Griebel asked if the sign would be on top of the berm, off the berm or behind it. Larry Smith stated the Board should consider that because if they put the sign on top of the berm, it would be adding another 12 ft. to the height of the sign. Ralph Barbaro suggested they condition the approval for the sign to be 10 ft. above the road level.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 the following conditions:

1. Granted for a period of one year.
2. Sign to be a maximum 10' height measured from the road surface.

The following finding of fact was cited:

1. Signage needed to advertise property.
11. Application of Tim Callaghan, owner, 2 Hunting Spring, Rochester, New York 14624 for variance to erect a 10' x 12' utility shed to be 4' from northwest corner of the shed to side lot line and 0' from southwest corner of shed to side lot line (8' req.) at property located at 2 Hunting Spring in PRD zone.

Tim Callaghan was present to represent the application. He stated he would like to locate what is known as a Quaker house storage shed on his property. He stated the shed would be used to store bicycles, a lawn mower and lawn tools. He stated the reason he would like to put it there is to have access to the front driveway. He stated his backyard drops off fairly drastically. He stated there is a creek and a culvert that run through his backyard. He stated the area does fill up with water and becomes very soggy. He stated he would not want to put the shed back in that area and have it shift. He stated he would like to keep it up on the most level parcel of land.

Mr. Callaghan stated the shed would be painted and stained the same color as his home. He stated the shingles would be the same as the home. He stated the shed would have two windows in it with shutters. He stated the shed would be the most expensive model that they manufacture.

Beverly Griebel asked how far the shed would be from the house. Mr. Callaghan indicated it would be 12 to 15 ft. from the house. Beverly Griebel asked if that area now has shrubbery on it, and Mr. Callaghan indicated that was correct. Beverly Griebel asked the applicant how long he has lived in the house, and Mr. Callaghan indicated he has been there two months.

John Castellani asked if the shed could be moved closer to the house. He commented if the driveway nextdoor to his is plowed, they could take out the shed. Mr. Callaghan stated he could move the shed a foot or two, but he stated he did not want to take the shrubbery out. Beverly Griebel asked how far the shed is from the driveway that goes to the flag lot. Mr. Callaghan stated he believed there is about 8 ft. Beverly Griebel asked if there is grass in between, and Mr. Callaghan indicated there is.

John Castellani asked if the corner of the shed would be right on the driveway, and Mr. Callaghan indicated it would not. Mr. Callaghan stated the corner would be on the lot line itself, and then there would be a distance of grass before the next driveway. Mr. Callaghan stated he wants the shed on the same angle as the house because of the way the house faces Chestnut Ridge Road and Hunting Spring.

Beverly Griebel asked the applicant if he had another place to store these items. Mr. Callaghan stated he would want to keep the snow plow and the kids' bicycles outside of the house. Beverly Griebel commented normally there would be a garage at the end of a driveway. Mr. Callaghan indicated he did not have a garage. Beverly Griebel asked what the house area is at the end of the driveway, and Mr. Callaghan stated they are using that as a family room. He stated the previous owners, Perna Homes, had it as an office, carpeted, air-conditioning, etc.

Mr. Callaghan stated he has also contacted the Homeowners' Association and received a letter of approval from them. He stated the people from the Homeowners' Association have come out and inspected the site and approved where he would like to keep the shed based on the Town's decision. Beverly Griebel asked if they were not allowed the shed, would they have to bring their lawn equipment into their family room, and Mr. Callaghan indicated that was correct.

John Hellaby asked what the distance is between the house and the shed, and Mr. Callaghan indicated there is 12 ft. John Hellaby stated something was not right, because the map submitted indicates 30.4 ft. to the corner of the house from the property line. John Hellaby stated the way it looks, the shed would not be lined up with the property line. Mr. Callaghan indicated there should be an arrow on the drawing indicating where the shed would be. He stated the location without the arrow is where the shed would have to be if he did not apply for a variance. He stated he wants to move the shed over to the lot line.

Ron Popowich asked if the edge of the driveway is the lot line, and Mr. Callaghan indicated that was correct. John Hellaby stated the applicant would end up with 18 ft. between the shed and the house, and Mr. Callaghan indicated that was correct. Ron Popowich asked if the shed would look like a barn, and Mr. Callaghan indicated it would not look like a barn. He stated the shed would have cross-buck doors and two jealousy windows on the front. He stated the shed would be stained the same color as the house.

Ralph Barbaro asked how wide the narrow strip of land is that is the property next to the applicant's. Mr. Callaghan indicated the width of the driveway is probably 8 ft., and then the Town of Chili has an easement there because of the storm sewers. Larry Smith stated there is a drainage easement there. Mr. Callaghan stated that strip is quite wide. Beverly Griebel asked if the drainage easement is on the other side of the driveway, and Mr. Callaghan indicated that was correct.

Ralph Barbaro stated the reason the code has the side setback rule is to allow fire equipment to get around behind the house and to the rear. Mr. Callaghan indicated there would not be a problem. Ralph Barbaro commented it appears nothing will be built in the 16 ft. of grass and driveway. He stated there was no cause for alarm as far as the setback in this particular case.

John Hellaby asked the applicant why he wants to move the shed over, because he could feasibly put the shed in another location without going for the variance. Mr. Callaghan indicated if he were to put the shed in the location that Mr. Hellaby was suggesting, he would have to remove a lot of landscaping, approximately 8 ft. of shrubbery and a tree. John Hellaby asked if it would be a problem to move the shed back. He stated he did not understand the necessity to have the shed on the pavement. Mr. Callaghan stated the back of the home has a four-season glass enclosed room. He stated he did not want the shed that close to the room or in a location where it would block some of the view. Mr. Callaghan stated he also did not want to have to take the lawn mowers out in the springtime into the mud where it would dig up the lawn.

John Castellani commented this shed would serve as a garage really. Mr. Callaghan stated on Hunting Spring there are approximately six to eight other sheds similar to his.

ANYONE IN FAVOR OR OPPOSED:

Bill Rudnicki - 4 Hunting Spring

He stated he lives in the first house to the west. He stated his dinette windows face exactly right into the side of the applicant's home. He stated the Callaghans are new and valued welcome neighbors. He stated he has to object, however, to the utility shed on the property. He stated the

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structure would be in direct violation to the Chestnut Declaration of Protective Covenants. He read a section of the Covenants.

Mr. Rudnicki stated he has met with his attorney and is ready to take legal action to see that the applicant's home goes back to the original home it was when the Rudnickis bought their home. Mr. Rudnicki stated he had a meeting this evening with his attorney and two members of the Chestnut Board. He stated the Board members advised him they have not met to discuss the shed and further indicated that they would be discussing it and getting back to them later. Mr. Rudnicki stated the impression he got from the Board members is the shed is something that they do not condone and that they have some serious reservations about bringing a shed into a planned development.

Mr. Rudnicki stated he would like the Board to suspend any action on this at the time until they find out if there is approval from the Homeowners' Association, specifically because of the information he received from two of the Board members that were in his home this evening saying that they did not agree with it either.

John Castellani stated the Board does not abide by any Homeowners regulations. He stated the Zoning Board acts according to Town Law. He stated if the Homeowners' Association does not agree with the Zoning Board's decision, they have the right to deny on their own property.

Mr. Rudnicki asked who signed the letter on behalf of the Homeowners' Association. Mr. Callaghan indicated the letter was signed by the President, Thomas Myers; Vice President, Ray Poole; Secretary and Treasurer, Ray Montagna. He submitted the letter to the Board.

Larry Smith stated there was a permit issued for interior remodeling to cover the garage into a rec room. Mr. Rudnicki stated they are beginning litigation regarding that because there are 158 homes in Chestnut, and 157 have two-car garages and only one was converted. He stated they feel that was in violation of the restrictive covenants. Larry Smith stated the covenants do not mean anything to the Board as far as the local ordinance. Mr. Rudnicki stated he understood that, but he stated he wanted to be on record as being against the shed.

Larry Smith stated the letter submitted by the applicant was not signed by any of the individuals. Mr. Callaghan stated that is the way it was mailed to him. Mr. Rudnicki again requested the Board suspend action until it is found out what is truly going on.

Mr. Rudnicki stated this matter is important to him and his wife's quality of life. He stated they came to the subdivision with a certain expectation for quality of life, and he stated he believed at this point it was being violated.

Mr. Callaghan stated he has contacted his own attorney, and he stated his attorneys are in total disagreement with this gentleman in that there is nothing in the covenants or the bylaws which state that even if someone has a garage, it is necessary to park your car in it.

Beverly Griebel read the letter into the record from the Chestnut Ridge Homeowners' Association. The letter will be on file with the Building Department.

Larry Smith stated this is a PRD development and one of the permitted uses is an accessory use on those parcels. He stated the shed would be an accessory structure according to the zone, according to Section 115-14 (b) 1.

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

DECISION: Approved by a vote of 4 yes to 3 no (John Hellaby, Bill Oliver and Gerry Hendrickson) with no conditions, and the following findings of fact were cited:

1. Applicant showed need to store lawn and other outside equipment as home has no garage.
 2. Adjacent land is driveway to flag lot which provides adequate access for emergency vehicles, and this shed will not be a detriment to other properties.
 3. Small size of shed and nearby landscaping will minimize impact on neighborhood.
12. Application of Ron Feiock, owner; 26 Fenton Road, Rochester, New York 14624 for variance to erect a 9' x 6' open porch to be 44' from front lot line (60' req.) at property located at 26 Fenton Road in R-1-20 zone.

Ron Feiock was present to represent the application. He stated this would be an open porch. He stated with the ice storm, they lost the awning that was up there and finally the rest of it came down in the wind storm. He stated the concrete steps after 20 years have started to decay. He stated his contractor said it would take \$600-800 by the time they were to do everything. He stated his wife has always wanted a porch. He stated a friend of theirs who is an architect drew the sketch up.

Mr. Feiock stated originally they wanted the porch to go all the way across the front of the house. He stated they found out about the restriction that they had to be at least 60 ft. from the front of the house. He stated this would make it 44 ft. according to the tape map. He stated the neighbor to the right of them has a porch that sticks out. He stated he did not measure it, but he stated by visual observation, it looks like it comes out forward of their house by about 4 to 5 ft., so this would not be a big obstruction.

John Castellani commented the applicant's house looks like it sits back further than the houses in the row. He commented this home is a pre-existing, non-conforming situation because it is only 50 ft., and Mr. Feiock indicated that was correct.

Beverly Griebel stated this application came back from the Monroe County Department of Planning as approved.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 findings of fact were cited:

1. Pre-existing, non-conforming lot.
 2. No change in character of neighborhood.
 3. Will enhance property.
13. Application of Robert Miller, owner; 4270 Union Street, North Chili, New York 14514 for Land Use Variance to erect a pole barn for an excavation business at property located at 4260 Union Street in RA-20 zone.

Robert Miller was present to represent the application. He stated he would like a Land Use Variance to erect a pole barn to store excavating equipment on his property. Beverly Griebel read the County Comments. The County Comments will be on file with the Building Department.

John Castellani asked if the Board was into another situation where because it is an RA-20, there is no conditional use permit allowed, and therefore, a Land Use Variance is the only alternative at

this point. He further commented he believed that was in the horizon to be changed. Keith O'Toole stated he assumed that if the application were here this evening for a Land use Variance, that the application had been turned down by the Code Enforcement Officer.

Larry Smith stated the application is allowed a customary home occupation, farming and a home. John Castellani asked if there is a change in that ordinance in the wings right now, or is it proposed, and Larry Smith indicated there is not a change being proposed at this time. He stated it has only been under discussion. Keith O'Toole stated the Board is obligated to rule under the current law.

Larry Smith stated there is a conditional use in an RA zone covering excavation and removal of sand and gravel and stone. John Castellani asked if that would include the storage of the equipment for that purpose. Larry Smith indicated the code does not say that. Larry Smith commented if the applicant moved a little bit of sand on his property once a week, he could come under that, but he stated that would be stretching the code. John Castellani commented having a Land Use Variance is really not beneficial to either the applicant or the Town.

Gerry Hendrickson asked the applicant if he is trying to house his equipment for the winter, and Mr. Miller stated he would like to house it year round. Ralph Barbaro asked the applicant if he moves this equipment around on a truck, and Mr. Miller indicated he does use a tractor trailer flatbed. Ralph Barbaro asked if that would also be stored in the barn, and Mr. Miller indicated it would. Ralph Barbaro asked if all the equipment would be stored in the barn, and Mr. Miller indicated that is the intent. Mr. Miller stated he would not say something might not sit out overnight, but he stated the intent is to put the barn up to keep the equipment inside.

Ralph Barbaro asked the applicant if he also resides at that property, and Mr. Miller indicated he does. Ralph Barbaro asked if there is an air strip behind that property, and Mr. Miller indicated there is up on the hill. Ralph Barbaro asked the applicant where he uses most of his equipment, and Mr. Miller indicated he uses it all over. Ralph Barbaro asked if he uses it over the county or the State, and Mr. Miller indicated he uses it all over the Counties of Monroe and Livingston. Ralph Barbaro asked the applicant if that is his primary business; excavation and grading, and Mr. Miller indicated bulldozing in particular. Ralph Barbaro asked where the equipment is being stored now, and Mr. Miller indicated North Road in the Town of Scottsville, Town of Wheatland.

Beverly Griebel commented there is another barn on the property, and she asked what that is used for. Mr. Miller indicated he has a couple trailers, lawn maintenance items and personal things in there. Beverly Griebel asked if that storage is related to the business, and Mr. Miller indicated it is not. Beverly Griebel asked the applicant if he lives in the house that is just directly adjacent to the proposed location, and Mr. Miller indicated that was correct.

Bill Oliver asked if the subject barn would be put up by a contractor, and Mr. Miller indicated it would be. Larry Smith stated since this is not an agricultural building, it would come under State Code. He stated if it were an agricultural building, it would not come under State Code.

Ralph Barbaro asked what the approximate cost of the building would be, and Mr. Miller indicated 28,000. Ralph Barbaro asked if that would include any grading or paving or anything like that, and Mr. Miller indicated it would include just the barn.

Ron Popowich commented to move the equipment in and out he would need a driveway. He asked the applicant if he is planning on having another driveway. Mr. Miller stated he is. He stated he already applied to the County for a permit to move the driveway that goes to the barn now over to the new barn.

Ralph Barbaro asked the applicant if he is presently paying \$500 a month to store his vehicles somewhere else, and Mr. Miller indicated that was correct. Beverly Griebel asked how long the existing barn has been there, and Mr. Miller indicated it was built in 1982. Beverly Griebel asked if that barn had to get approval before the Board, and Mr. Miller stated he did get a variance because it was close to the lot line. He stated it is about 10 or 15 ft. within the lot line. Larry Smith stated the applicant was granted a variance on October 26th, 1992 for a 42' x 40' pole barn,

6 ft. from side lot line. He stated the permit was issued November of 1982. He stated it was a Morton building. Beverly Griebel asked if that was just a regular use variance, and Larry Smith stated it was a side setback variance. He stated it was an agricultural building.

Beverly Griebel asked if because this is a different purpose, it requires this different application. Larry Smith stated a person can run an office out of his/her home in an RA District without a variance, but he stated no one can operate a business out of another structure. He stated the applicant's putting his bulldozer and everything in his barn is considered operating a business out of another structure. He stated if he parked his equipment there without a barn, he did not know how that would stand.

John Hellaby asked the applicant if he was renting office space somewhere, and Mr. Miller indicated he was just renting space to store his equipment, not office space. John Hellaby asked the applicant where he does his paperwork, and Mr. Miller indicated he does it out of his house. John Hellaby asked if the building that would be put up would have an office, and Mr. Miller indicated there would not be an office. John Hellaby asked the applicant where he would actually be running his business from, and Mr. Miller stated he would still do his paperwork in the home. John Hellaby asked if the building would only be used for storage of equipment, and Mr. Miller indicated that was correct. John Hellaby stated he did not know why the applicant was here. John Castellani agreed.

Keith O'Toole stated if, in fact, this is not crossing the threshold of customary home occupation, he shouldn't be here. He stated the question is does the storage of the equipment, is that going to alter basically the character of the neighborhood. John Hellaby commented the applicant could put up a pole barn if he was farming and stuff it full of tractors. Keith O'Toole commented that was a valid point.

Keith O'Toole stated there is also the view that the conditional use states excavation/removal of sand and so on is permitted subject to the provisions of the excavation code law.

Larry Smith asked the Board if it was saying his denial of issuing the applicant a building permit was incorrect. John Castellani stated he was saying that. Ron Popowich stated he thought so. John Hellaby commented the applicant meets all the square footage requirements, setbacks and everything else. Keith O'Toole stated the Board could convert this essentially into an appeal of the interpretation of the Code Enforcement Officer. Larry Smith stated if the Board were to overturn his interpretation, he would not have any problem issuing a building permit as long as the setbacks and everything are okay.

Larry Smith asked how wide is the lot, and Mr. Miller indicated the street frontage is at least 500 ft. Larry Smith stated there should not be a problem with the side setback. He stated the applicant would have to have the barn 50 ft. from the side yard and 100 ft. back. Beverly Griebel asked how far the barn would have to be from the other barn, and Larry Smith stated that would not matter.

Ralph Barbaro stated there are several similar situations to this on Chili-Scottsville Road, just north of the New York State Thruway. He stated his recollection was they were given approvals for storage of vehicles. He stated he was not sure if in both cases the owners of the vehicles also live on the premises or not.

Larry Smith asked the applicant if his house is on another parcel, and Mr. Miller indicated it is. Larry Smith asked if it is not on the same parcel, and Mr. Miller indicated it is not on the same parcel. Larry Smith stated that is the problem. Mr. Miller stated he owns both separate adjoining pieces of property. Larry Smith stated the applicant cannot have a customary home occupation and have another business running out of an adjoining parcel. John Hellaby asked the applicant if he is renting or leasing any of this space to anyone else, and Mr. Miller indicated he is not.

Larry Smith stated it was his interpretation that the applicant was running a business. He stated if the Board feels the applicant is just storing equipment, then they would be overturning his

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interpretation. Ralph Barbaro stated he was reluctant to do that. Bill Oliver stated he was reluctant to do that, too.

Keith O'Toole stated under Section 115-11 C 4 it states that a conditional use shall include public and private utility buildings, structures and uses, but not including corporations, storage or repair yards, which would seem to indicate to him that the code envisioned storage of business equipment and was specifically excluding it from not just a permitted use, but even the more difficult to obtain conditional use. He stated his read on the code is that the legislative intent was not to include general storage. He stated if the Board wanted to fit it under the excavation conditional use as a very limited storage, that might be the trick. Ralph Barbaro stated the Board should stay with the intent of the law.

Beverly Griebel asked if the Board wanted to make a motion to overturn the decision of the Building Inspector, and Larry Smith stated that was no longer a question since the home office is on an adjoining parcel.

Ralph Barbaro asked the applicant if he was working on any kind of a hardship as far as time. Mr. Miller stated he would just have to put off getting the building for a while.

Beverly Griebel explained to the applicant the purpose of the Agricultural Data Statement. She read the Agricultural Data Statement. The statement will be on file with the Building Department.

Ron Popowich asked if this would be a Morton building or a similar building by a different manufacturer, and Mr. Miller indicated it would. Ron Popowich asked if it would be the same color as the other structure, and Mr. Miller indicated it would.

John Castellani asked if the applicant has a 16-acre parcel and puts a pole barn on it for storage of this equipment according to a Land Use Variance, would that be the only permitted use of that land, for all 16 acres. He asked if the applicant could still rent the land out for farming. He commented if that were true, the Board might not be doing the applicant a favor in granting a Land Use Variance.

Ralph Barbaro stated the applicant could subdivide the land and combine the barn with the house so it would more appropriately be a Planning Board issue. Larry Smith stated they would still have a Land Use Variance on that separate parcel. Ralph Barbaro stated he understood that, but he stated they would not have the variance for the entire 16 acres then. Mr. Miller stated he did not want to go through the legal hassle of getting that surveyed and cutting it out and making another tax account number.

Keith O'Toole stated he did not read in the code that the applicant would be prohibited from using the rest of the land for something other than the Land Use Variance. Larry Smith stated the Board would be granting the Land Use Variance for the barn and nothing more. Larry Smith stated the Board could amend the application so the Land Use Variance would only be for the barn and not the rest of the land. Keith O'Toole stated to the Board if it was concerned that the applicant would park equipment on other portions of the property, they should note it in the decision and make it a condition that the equipment has to be stored inside.

After some discussion, the applicant amended his application to read, Land Use Variance to erect a 48' x 68' pole barn for inside storage of excavating equipment at property located at 4260 Union Street.

Mr. Miller asked what would happen if he were to store equipment outside over night, and Larry Smith told the applicant he would not be able to do that. He stated if he were to drive by and see the equipment outside, he would have to send the applicant a notice.

ANYONE IN FAVOR OR OPPOSED:

Peter Widener - 4280 Union Street

He stated for disclaiming purposes he would state he is a member of the Chili Historical

Preservation Board and the Tax Review Board for the Chili of Town.

Mr. Widener stated he had to speak supportively and critically of the application. Mr. Widener asked if there would be any equipment stored in the barn other than equipment owned by the applicant, and Larry Smith stated the applicant has stated it is his equipment. Mr. Widener stated he could live without outside, overnight storage of equipment.

Mr. Widener asked if any gravel would be put in the floors of the barn, and Mr. Miller stated he would put gravel in the barn. Mr. Widener stated taking the gravel, the roof and the parking lot into consideration, he is concerned about the drainage or the run off. He stated he was concerned about the fuel tanks. Larry Smith stated there has to be, according to State Code, ways of containing any kind of drippage from any kind of motorized vehicle. Beverly Griebel stated the applicant has stated in the application there will be no change in the drainage on the site.

Mr. Widener stated he was concerned about the functional obsolescence of heavy equipment pulling out on the road. He stated the applicant is located in a hollow and there is a blind hill to the north and a blind hill to the south of that property.

Larry Smith asked the applicant, when he went to the County, did he tell them this was going to involve a commercial road cut. Mr. Miller stated he did not tell them it was going to be a commercial road cut. Mr. Miller stated he told the County he wanted to store excavating equipment in there and would he going in and out of there with a tractor. Larry Smith stated that is something the County should have caught and looked at.

Mr. Widener stated he had a lot of problems just getting a school bus loading sign in front of his house which is right on the hill. Mr. Widener stated he has seen the buildings the applicant has built and knows they are excellent and well taken care of.

Mr. Widener stated if all the items mentioned are taken into consideration, he could support what the applicant is trying to do there. He stated Mr. Miller is a very meticulous person. He stated he was concerned, however, that this would set a precedent for some other person or place in Town.

Pat Brennan - 4230 Union Street

He stated he is just north of the applicant's location. He stated he was concerned about the number of vehicles that are going to be parked there and the noise level that will be created by the vehicles. He stated he would like to know if this is going to be in and out traffic. Mr. Miller indicated there would be one vehicle a day going in and out of there. He stated the vehicle would go out in the morning and would come in at night. He stated in the wintertime when it is cold and there is no excavating, there would be no vehicles coming in and out of there.

Ron Popowich asked the applicant what kind of equipment does he have. Mr. Miller stated he has two bulldozers, a tractor, an earthmover, pan and a lowboy. Ron Popowich stated he was concerned about the hill, also. He commented the proposed location for the driveway would be better than where it is now.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ralph Barbaro 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 findings of fact were cited:

1. Applicant demonstrated need for structure to store equipment.
2. Applicant demonstrated he could not realize reasonable return as farmland.
3. Hardship relating to property was unique as it is an undersize lot in an area of large farms.

4. Variance would not alter essential character of neighborhood.
5. Hardship was not self-created because property has been family owned since 1800's.

Beverly Griebel recalled Application #1. No one was present to represent the application.

John Hellaby made a motion to deny the application with prejudice, and Bill Oliver seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously denied with prejudice by a vote of 7 yes for the following reason:

1. Applicant failed to have the property appraised to establish current value or attempt to lease the property for a legal use or submit sufficient competent financial evidence to demonstrate his substantial inability to realize a reasonable rate of return on the premises. Applicant's proof as to the claimed difficulty in raising financing does not, by itself, establish an inability to realize a reasonable rate of return because he did not actually seek financing to finish renovation of the premises to the existing legal use of the convenience store with fuel pumps. Applicant did not list the property for sale or otherwise seek to establish the value of the property on the open market, even though it has an existing legal use. He did not know the original purchase price or the potential sale price, both factors, which could demonstrate whether a reasonable rate of return could be generated.
 2. The applicant's proposal to operate a service station with fuel pumps and major repairs is inconsistent with the overwhelmingly residential character of the surrounding neighborhood. Based on comments and a petition from local residents and personal inspection by the members of the Zoning Board of Appeals, the resulting noise, increased vehicular traffic, sights and smells of a repair shop would destroy the quiet enjoyment, health and safety of the people residing in the Buffalo Road/Westside Drive neighborhood, including but not limited to the children in the nearby day care center and nursery (which will open soon).
 3. The Board has heard evidence that applicant has been performing major repairs which have been harming the neighborhood.
 4. Letter dated April 26, 1994 by the Building Inspector indicates that applicant had prior notice that a "service station with repairs is not a use in this zone" and the property was approved by the Planning Board for a change of use to "convenience store with fuel pumps" which shows that the hardship claimed by the applicant is self-created.
14. Application of Timothy Ford, owner; 2213 Westside Drive, Rochester, New York 14624 for variance to erect a 5' high chain link fence around rear lot line (3' req. abutting a street) at property located at 2213 Westside Drive in R-1-15 zone.

A man stood up in the audience and stated he was present for Application # 14. Beverly Griebel stated it had been announced at the beginning of the meeting that this application would be tabled until the next meeting due to improper signage. The man representing the applicant, presumably Mr. Ford, stated he put the sign up on Buffalo Road where the variance was being asked for. Beverly Griebel stated there should have been two signs, one for each road frontage.

John Hellaby stated he saw a board the day before but no sign. Beverly Griebel stated the application would be heard on October 25th. She stated the applicant would need to obtain new signs to repost the property properly.

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DECISION: Unanimously tabled by a vote of 7 yes for the following reason:

1. Applicant failed to post proper signs. Application will be heard on October 25th at 7:30 p.m. **APPLICANT TO OBTAIN NEW SIGNS AT BUILDING DEPARTMENT AND POST AS PER TOWN ORDINANCE.**

The 7/26/94 and 8/16/94 Zoning Board meeting minutes were approved as is.

The meeting ended at 11:27 p.m.

CHILI ZONING BOARD

October 18, 1994

A meeting of the Chili Zoning Board was held on October 18, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson 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. 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.

1. Application of Geoffrey Bondi, owner; 26 Sunset Hill, Rochester, New York 14624 for variance to allow existing and proposed deck to be 58' from rear lot line (90' req.) at property located at 26 Sunset Hill in R-1-20 zone.

Geoffrey Bondi was present to represent the application. He stated he wants a variance for an existing deck to be within 58 ft. of the back property line and for a deck around the pool. He stated the existing deck was put up by a contractor without a permit.

Beverly Griebel stated the application indicates the applicant is Donna Bondi. Mr. Bondi stated that is his wife. He stated he is the sole owner until they get it changed. Beverly Griebel stated the application would be modified to reflect Mr. Bondi as the sole owner. She stated the notice in the paper was correct.

Beverly Griebel asked if the area in the back is a common area, and Mr. Bondi stated there is 70 ft. of green space beyond his property line and there is a hedge row that separates his property from the green space. Beverly Griebel commented there are trees in the back and on the side.

Bill Oliver asked if there was a large or small contractor involved with this project. Larry Smith indicated it was done by Perna Homes.

Beverly Griebel asked if the variance would be for the deck on the house and the deck around the pool. Gerry Hendrickson stated the variance is for both decks, but the one around the pool is proposed for next spring.

John Castellani asked Mr. Bondi if he is the original owner of the house, and Mr. Bondi indicated he is. Keith O'Toole asked if they are seeking a variance for both sections, and Mr. Bondi indicated they were.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Gerry Hendrickson 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 change in character of the neighborhood.
2. No encroachment on neighboring properties.

2. Application of Robert Bolam, owner; 58 Hillary Drive, Rochester, New York 14624 for variance to erect an 8' x 10' utility shed to be 2' from garage (8' req.) at property located at 58 Hillary Drive in R-1-15 zone.

Robert Bolam was present to represent the application. He stated he would like to put a shed on an existing concrete block platform behind the garage. He stated the builder requires the shed to be 2 ft. from the garage and it would extend out 10 ft. He stated it would be an 8' x 10' shed.

Beverly Griebel stated the application says the existing metal shed would be removed. Mr. Bolam stated it is already gone. Beverly Griebel asked if the new shed would go in approximately the same area. Mr. Bolam stated the metal shed was up against the garage. He stated this would be 2 ft. away from the garage.

Beverly Griebel asked if there was any reason the shed could not be 8 ft. from the structure. Mr. Bolam stated the shed would be on grass and he would have to move the whole existing concrete block pad. Beverly Griebel stated there are a lot of blocks scattered around. She asked if they could be moved 8 ft. from the structure. Mr. Bolam stated he would have to tear up the lawn to imbed those. He stated the blocks are scattered because he is trying to level the area. He stated he also needs those blocks to extend the pad out 2 ft.

Beverly Griebel asked if there is a pool, tree or swingset that would obstruct the shed from being able to be 8 ft. from the structure. Mr. Bolam stated there is a tree straight ahead of the shed.

Bill Oliver questioned the lay of the land. Mr. Bolam stated the back lawn is fairly level. He stated it comes down from Chestnut Ridge School. He stated he has had water problems there in the past. Bill Oliver asked how far away from the house is the low spot. Mr. Bolam indicated it is about 30 ft. Beverly Griebel asked if that is beyond the tree, and Mr. Bolam indicated it is.

Ron Popowich asked if he would use half the blocks to level the ground. Mr. Bolam indicated he would use 3/4 of them and would need more for the 2 ft. in front to accommodate the 10 ft. depth. Ron Popowich asked what was the size of the metal shed. Mr. Bolam indicated it was 9' x 8'.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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. Replaces non-conforming, pre-existing structure.
 2. Applicant explained hardship to move or replace foundation pad to another area.
3. Application of Marshall Lewis, owner; 12 Sesqui Drive, Rochester, New York 14624 for variance to erect a 16' x 17' enclosed patio to be 45 1/2' from side lot line (60' req. abutting a street) at property located at 12 Sesqui Drive in R-1-20 zone.

Marshall Lewis was present to represent the application. He stated he would like a variance so he could put up a three-season patio enclosure by Patio Enclosures of East Rochester. He showed the Board a picture of what he wanted to build. He submitted a petition to the Board from his neighbors. He stated the patio enclosure would be 16' x 17'. He stated there would be a new cement slab put down for this structure. He stated the existing slab has been there for about 17 or 19 years.

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Beverly Griebel commented right now there is a doorway coming out of the house onto the patio. Mr. Lewis indicated that was correct. Ron Popowich asked if the pad that is there is 16' x 17', and Mr. Lewis indicated it is 17' x 18'.

ANYONE IN FAVOR OR OPPOSED:

Robert Podgorski - 11 Sesqui Drive
He stated he was in favor of the application. He stated it would be a nice addition to the neighborhood.

Beverly Griebel indicated this application was sent to the Monroe County Department of Planning for their review and has come back with their approval.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Gerry Hendrickson 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. Will enhance property.
2. Will improve character of neighborhood.
3. A corner lot problem abutting a street.
4. Application of Richard Anderson, owner; 34 Constitution Circle, Rochester, New York 14624 for variance to erect a 14' x 16' deck to be 26' from rear lot line (30' req.) at property located at 34 Constitution Circle in R-1-15 zone.

Richard Anderson was present to represent the application. He stated he would like a variance of 4 ft. for his deck because it would only be 26 ft. from the lot line. He stated he utilized some faulty information when he put up the deck. He stated he is new to the suburbs and asked some co-workers who live in Chili what he should do, and he stated he was told he should just build it.

Beverly Griebel asked if the deck is half built, and Mr. Anderson indicated it is. He stated his brother-in-law who is a construction foreman is building it. Beverly Griebel commented the house is on a peculiar flag lot. Mr. Anderson stated he has a large side yard that goes unused, and he stated the deck would be inappropriate over in the side yard. Beverly Griebel commented it would not come out of the house where their living area is if it were on the side.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and John Castellani 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. Minimum variance.
2. No infringement on neighbors as property backs up to industrial area.
5. Application of Louis Ferrari, owner; c/o L.C. Installation, 55 Wheeldon Drive, Rochester, New York 14616 for variance to erect a 12' x 16' enclosed porch to be 30' from rear lot line (35' req.) at property located at 119 Chestnut Drive in R-1-20 zone.

Louis Ferrari, applicant, and Joseph Leitten, a contractor were present to represent the

application. Mr. Leitten stated there is already an existing deck there now that they are going to be framing on top of which has adequate structure to hold all the weight that they need. He stated they are going to enclose the porch so they can get more use out of it. Bill Oliver asked if the deck is an existing deck, and Mr. Leitten indicated it is. Mr. Leitten commented he did not build the deck.

Beverly Griebel asked how long the deck has been there, and Mr. Ferrari indicated about six years. He stated on the 1989 survey it is shown, so it is at least that old. Larry Smith commented decks were not required to have a permit back then.

Ron Popowich asked Mr. Ferrari if he works for the County, and Mr. Ferrari stated he does. Ron Popowich stated a question in that regard on the application was answered incorrectly then. Mr. Leitten indicated that was his fault because he filled out the application. The application was modified to show that Mr. Ferrari is an employee of the County.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel stated this was submitted to the Monroe County Department of Planning because of its proximity to the airport. She stated this application has received their approval.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich 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. Minimum variance.
 2. A buffer zone of trees and plantings exists to prevent infringement on adjacent properties.
6. Application of Glen Grant, owner; 108 Loyalist Avenue, Rochester, New York 14624 for variance to erect a 12' x 14' enclosed porch to be 21 1/2' from rear lot line (30' req.) at property located at 108 Loyalist Avenue in R-1-15 zone.

Glen Grant was present to represent the application. He stated he would like a variance to erect a patio enclosure to be 21 1/2' from the rear lot line instead of 30 ft. He submitted a petition to the Board signed by his neighbors on either side indicating they would not mind the porch.

John Castellani asked if there is an existing deck there now, and Mr. Grant indicated there is not. Mr. Grant stated they would be putting a patio door where there is an existing window. He stated they have no access to the backyard right now.

Larry Smith asked Mr. Grant if he would consider amending the application to be 20 ft. from the rear lot line instead of 21 1/2 ft. just in case there is some kind of mistake on the measurements. John Castellani commented he would find that advisable. Mr. Grant asked for that amendment to the application.

Beverly Griebel asked if the door off the back of the house would be coming off a family room. Mr. Grant indicated it would come off the dining room.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel stated this was also submitted to the Monroe County Department of Planning for their review and has come back with their approval.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Gerry Hendrickson 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. Applicant showed need for additional living space.
 2. Visual blockage by trees and brush to screen structure from other properties.
7. Application of James Foxworth, owner; 3870 Union Street, North Chili, New York 14514 for variance to erect a fireplace chimney to be 27' from side lot line (50' req.) at property located at 3870 Union Street in PRD zone.

James Foxworth was present to represent the application. He stated he was applying for the fireplace chimney to be on the side lot line instead of on the back because he was a wooden wall on the backside which wouldn't permit enough clearance to permit the chimney to be on the back side of the house. He stated he has talked to his neighbors and they don't have any problem with the construction.

Beverly Griebel asked how long has the house been there, and Mr. Foxworth indicated over 50 years. Beverly Griebel stated the house precedes the code because the house is only about 30 ft. from the side line. Larry Smith stated this is a pre-existing, non-conforming structure on an undersized lot. Beverly Griebel commented the applicant's neighbor is quite far away and there is a hedge row and pine trees in between. Mr. Foxworth stated there is about 200 ft. from the back side of the house. He stated he has a large lot, 3 1/2 acres, but it is not large enough on the side.

Gerry Hendrickson asked who would build the chimney, and Mr. Foxworth stated a construction outfit from Scottsville. John Castellani asked what kind of material is on the side of the house. Mr. Foxworth stated the chimney would go through the basement wall, concrete block. He stated the side of the house is wood clapboard.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and John Castellani 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. Pre-existing, non-conforming lot.
 2. Variance application based on only logical location to construct chimney.
8. Application of First Society of the Free Methodist Church of North Chili, owner; 4322 Buffalo Road, North Chili, New York 14514 for variance to erect a 6' x 3 1/2' double-faced freestanding sign at property located at 4322 Buffalo Road in R-1-15 zone.

Steve Wilkins was present to represent the application. He stated he is the Church Administrator. He stated they would like to erect a free-standing sign to give them better identification for the church. He stated they are proposing an attractive sign that would fit in with the architecture of the existing building. He stated this sign will replace a sign which was erected in 1965 when the addition to the church was built. Beverly Griebel asked where the other sign is, and Mr. Wilkins indicated it is gone. Beverly Griebel commented the only signage they have now is up on top in gold lettering, and Mr. Wilkins indicated that was correct. He commented most people do not see that signage.

Beverly Griebel asked the applicant if they would like to amend their application from having the hours of illumination listed from dark to 12 p.m. to dark to midnight. Mr. Wilkins indicated that

would be fine. The application was amended in that regard.

Larry Smith asked if they want the sign to be 20 ft. from the edge of the road or the edge of the property, and he stated there is a difference there. Mr. Wilkins indicated the sign would be 20 ft. set back from the property line. Larry Smith stated the property line is approximately 17 1/2 ft. in from the edge of the road, so the sign would be back about 37 ft. from the edge of the road. Mr. Wilkins indicated that was okay. Mr. Wilkins stated they will probably be a little further back than that even.

Ron Popowich stated there is an area staked out. He asked if that is where the sign will be. Mr. Wilkins stated that is where they are proposing to put it. He stated the little shrubbery is where the old sign was. He stated there is a foundation for the old sign that they will remove before they put the new sign there.

Bill Oliver asked if the sign would be interiorly illuminated. Mr. Wilkins stated there would be exterior lighting by flood lights. Gerry Hendrickson asked if the lights would be aimed at the sign so as not to cause a glare for the traffic, and Mr. Wilkins indicated they would be aimed at the sign and more into the property than the road.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich 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. Sign needed for identification.
 2. Replaces prior signage.
9. Application of Lyell Metal Co., owner; 1515 Scottsville Road, Rochester, New York 14624 for variance to erect a 25' x 68' addition to warehouse to be 13' from side lot line (35' req.) at property located at 1515 Scottsville Road in G.I. zone.

Don Avery was present to represent the application. He stated they need a variance on the addition to the maintenance building. He stated they are just putting in another bay. He stated the reason they have to come before the Board is because the two properties are not under the same ownership. He stated one of the parcels is owned by the Bobry Brothers Realty and the other is owned by COMIDA. He stated because the parcel used by the business is owned by separate entities, they don't have enough distance between the new phase of the building and the property line.

Bill Oliver asked if there is a hardship associated with this property. Mr. Avery stated there is a hardship because they need the other facilities in the building that are there. He stated the drain, for instance, takes care of the oil that is located in the building, and they are just adding onto it so they can service their vehicles at that one location.

Beverly Griebel asked if the new building is going to go behind the fence. Mr. Avery stated the building would actually be on the fence line. He stated they are just going to extend the building to the south. Beverly Griebel asked if they are going to remove the 14 ft. fence that is there now. Mr. Avery stated they are just going to remove the fence where the building is going to go up. He stated they are going to reinstall that portion of the fence over where there is a shorter fence on the property.

Larry Smith stated the addition has received approval from the Planning Board.

Beverly Griebel asked if all the land is really owned by the same corporation. Larry Smith

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explained COMIDA is a government agency that loaned money to the company. He stated COMIDA holds title to the property. He stated the Bobrys have been buying properties on either side of them and have been expanding the business, but COMIDA is the property owner of record until the loan is paid off.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel indicated this application went to the Monroe County Department of Planning for its review and has come back with their approval.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich 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. Essential services need to be grouped together.
2. No infringement on any other property.

The 8/23/94 Zoning Board minutes were held until the next meeting for further review.

The meeting ended at 9:08 p.m.

CHILI ZONING BOARD

October 25, 1994

A meeting of the Chili Zoning Board was held on October 25, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson, Ralph Barbaro and Chairperson Beverly Griebel.

ALSO PRESENT: Larry Smith, Building Inspector; Richard Stowe, Counsel for the Town.

Chairperson Beverly Griebel declared this to be a legally constituted meeting of the Chili Zoning Board. 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 stated Application #5 was withdrawn at the request of the applicant.

1. Application of Timothy Ford, owner; 2213 Westside Drive, Rochester, New York 14624 for variance to erect a 5' high chain link fence around rear lot line (3' req. abutting a street) at property located at 2213 Westside Drive in R-1-15 zone.

Beverly Griebel stated this application was submitted to the Monroe County Department of Planning and came back as a local matter. Timothy Ford was present to represent the application. Mr. Ford stated he was requesting a 5 ft. chain link fence. He stated the requirement is for a 3 ft. fence facing a street. He stated the property faces two roads, one in the front and one in the back.

Mr. Ford stated he is proposing a 5 ft. fence. He stated on the inside of the fence he would put up Arborvitae for aesthetics. He stated the fence would keep the kids and the dogs inside the yard. He stated the fence would keep intruders and animals out of the yard. He stated the fence would be black with black support poles.

Mr. Ford stated the third side of the property has a berm which required them to go with the 5 ft. fence because of the size of dogs and their ability to leap over a 3 to 4 ft. fence.

Beverly Griebel asked what kind of dogs do they have. Mr. Ford indicated he has a full-bred lab and a lab/shepherd mix. Beverly Griebel asked where the fence would be located. Mr. Ford stated it would be along the back of the property, just the backyard. Beverly Griebel asked how far in would the fence be. Mr. Ford stated it would be about 35 ft. from Buffalo Road. He stated it would go right up to the evergreen trees. Beverly Griebel asked if it would go along the sides of the property, and Mr. Ford indicated it would.

Ralph Barbaro commented there is an easement there to Ogden Telephone Company. Mr. Ford stated he secured a document from OTC indicating they have no problem with this. He submitted the letter to the Building Inspector.

Beverly Griebel announced Larry Smith's arrival to the meeting.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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

findings of fact were cited:

1. Applicant demonstrated hardship with rear of property abutting Buffalo Road.
 2. 5' fence needed for safety of children and dogs.
 3. Applicant will enhance appearance and privacy by landscaping with shrubs.
2. Application of Joseph Klapp, owner; owner; 16 Loring Place, Rochester, New York 14624 for variance to erect a 10' x 14' open porch to be 51' from front lot line (60' req.) at property located at 16 Loring Place in R-1-15 zone.

Joseph Klapp was present to represent the application. He stated he has a concrete porch on the house currently. He stated he would like to replace it with a wooden porch. He stated a wooden porch would be safer. He stated the present porch is small. He stated anyone entering the house is almost swept off the porch by the door. He stated the existing porch is very slippery in the winter.

Mr. Klapp stated he has small children and the porch would allow them to have a place to watch the kids from. Mr. Klapp stated the reason he needs the variance is the house currently sits approximately 62 ft. back from the road. He stated he picked this size of porch because it seems to be in line with some of the other porches in the neighborhood.

Beverly Griebel asked how far out does the present concrete slab run. Mr. Klapp indicated it is 7 ft. Beverly Griebel commented the porch is kind of mounded up, and Mr. Klapp agreed. Ron Popowich asked if the slab needs to be removed or repaired, and Mr. Klapp stated that was correct. Mr. Klapp stated the ground's freezing keeps heaving the porch.

John Hellaby asked if this would be an open porch with no roof structure on it. Mr. Klapp stated there would not be a roof structure. He stated there would be a railing approximately 3 ft. high. John Hellaby asked if this would be a pressure-treated wood deck, and Mr. Klapp indicated it would be.

Beverly Griebel asked who would be putting the deck up, and Mr. Klapp indicated it would be a contractor in North Chili. John Castellani asked if that would be the same contractor that is siding the house, and Mr. Klapp indicated it would be.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich 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 findings of fact were cited:

1. Porch should increase property value of home.
 2. Would be in alignment with neighboring properties.
 3. Will improve safety and appearance of home entrance.
3. Application of Mr./Mrs. Joseph Berardicurti, c/o David DeLuca, Atty., 1829 Marine Midland Plaza, Rochester, New York 14604 for variance to allow a recreational vehicle to be stored and/or parked in driveway (rear yard required) at property located at 196 Hillary Drive in R-1-15 zone.

David DeLuca was present to represent the application. He stated this is an application for a variance from the existing parking regulation that requires a duly licensed recreational vehicle to

be parked in the rear yard of a premises in the Town, and because of the particular configuration of this particular lot, the Berardicurtis are unable to do that.

Mr. DeLuca showed the Board three photos which show the tree line on either side of the existing lot. He stated there is essentially a 10 ft. distance between each side of this house and the side yard lot line. Mr. DeLuca stated as shown in the photographs, there are fairly substantial mature trees on either side of the home which prevent access to the rear yard. Mr. DeLuca stated the third photograph shows the existing driveway that is on the premises now.

Mr. DeLuca stated the Berardicurtis have lived at this address since 1987 and have parked this vehicle on the paved portion of their driveway until the Building Inspector indicated that a variance was needed. He stated there is a two-car garage which is not sufficient to house the vehicle at this point.

Mr. DeLuca stated he had a petition that indicates the undersigned neighbors at or near the subject premises are familiar with the application and have no objection to the granting of the variance. He stated the residences represented by this petition are 190, 191, 193, 194, 195, 198 and 200 Hillary Drive.

Mr. DeLuca stated the vehicle is a 26 ft. 1981 Wilderness mobile home and is duly licensed in New York State and otherwise complies with the Zoning Ordinance. Beverly Griebel asked when the vehicle was purchased. Mr. DeLuca indicated it was purchased in the late 1980s. Beverly Griebel asked if the vehicle was purchased prior to the move to this location. Joseph Berardicurti, also present to represent the application, stated the vehicle was purchased in 1980, brand new.

Ralph Barbaro stated he was astonished to see the photo showing a driveway with no cars parked on it because having gone by there many, many times, he knows there is a limousine that is always parked there. He stated there is a trailer that is always parked there and there are five or six other cars that are parked in the driveway, the front lawn or in front of the house at various times of the day and night. Ralph Barbaro asked how many cars are owned by the residents of the household. Joseph Berardicurti stated there are four vehicles. Ralph Barbaro asked who are the owners of those vehicles. Joseph Berardicurti stated his son Kenny owns the limo and the Camaro. He stated his son Pat owns the Blazer and the Cavalier. Joseph Berardicurti stated he owns the Suburban and the trailer. Ralph Barbaro commented there are more than four vehicles there, then Ken Berardicurti, present in the audience, stated the fifth vehicle is stored in the garage.

Ralph Barbaro stated he has also observed from time to time maintenance work being done in the road in front of the house. He stated he has seen a car jacked up and people underneath it working in the road. He stated he has observed that more than once. He commented he wondered if they did not have that trailer there, if they would have enough room to do those things on their own property rather than obstructing the road with a car that is up on jacks.

Joseph Berardicurti stated in the future he would try to limit the amount of cars in the driveway and would try to do the maintenance in the driveway. Ralph Barbaro asked the applicant how he proposes to limit the amount of cars in the driveway. He asked the applicant if he foresaw something changing in the next month or two that would mitigate the problem. Joseph Berardicurti stated he could not predict the future.

Ralph Barbaro stated on page 3 of the documents submitted, it says that the vehicles have been parked in their present location without complaint. He stated he knew, however, on at least one occasion the applicant has been before this Board and it denied an application to park the vehicle there, and he stated the vehicle disappeared for a season or half of a season and then was right back there again the next year in violation of the ordinance. He stated the applicant was aware that it was in violation. Joseph Berardicurti stated he was not aware it was in violation. Ralph Barbaro stated the applicant has to have been aware of that at least since his application for a television antenna, because he himself stated that to the applicant at that meeting. He stated that was this year, 1994.

Beverly Griebel stated on August 27, 1985 the applicant was denied a variance to park the vehicle

in its current location. Joseph Berardicurti stated the denial on that one was on the lot next to the trees, on the ground, not the driveway. He stated that location was in front of the house alongside the trees. Ralph Barbaro stated regardless of that, the statement that there have been no complaints about the vehicle in this location is incorrect. He stated at the prior Zoning Board meeting, there were a number of people that came before the Zoning Board at that time. Mr. DeLuca stated he prepared the document and apologized if there was an error in the application. He stated he was not aware of what Mr. Barbaro stated when he prepared the application.

Ralph Barbaro stated he did not have any argument with the fact that there is difficulty in pulling that vehicle around to the back because of the trees. Mr. DeLuca stated frankly it would not make a difference how many vehicles were parked in the driveway. He stated the problem with regard to this vehicle would remain the same. Ralph Barbaro commented that was true, but stated because that vehicle takes so much space up in the driveway, there is an overflow of vehicles from this property to the detriment of the neighborhood. Mr. DeLuca stated the adjoining neighbors are in favor of the application, though.

Ralph Barbaro stated the documentation indicates a denial of the application would necessitate the sale of the vehicle and the depreciation of a substantial asset of the owner. Ralph Barbaro stated he looked in the paper this weekend and found there are numerous places where trailers can be stored indoors and outdoors in the Riga, Churchville, Ogden areas. He stated many people store vehicles such as this off their properties.

John Castellani asked if the limousine is used in a business that is being operated out of the house. Joseph Berardicurti stated his son is trying to operate a limo business. He stated his son is just starting that business. John Castellani asked if he would be coming in before the Board for a home occupation variance, and Joseph Berardicurti stated, "Not really." Ralph Barbaro commented then that would also be a violation of the Zoning Ordinance.

John Castellani asked if the trailer is licensed. Joseph Berardicurti indicated it is licensed. John Castellani commented the Board would probably make that a condition of the approval. Beverly Griebel asked where the trailer is now. Joseph Berardicurti stated he just got back from Florida with it.

John Hellaby asked Richard Stowe if the applicant has a licensed trailer that is presently registered, why is the applicant not allowed to park the vehicle in the driveway without a variance. Richard Stowe stated a currently licensed boat, trailer or recreational vehicle can be stored in the rear yard only. John Hellaby asked what determines storage. He questioned what it would be considered if the gentleman is using the trailer periodically. Richard Stowe stated the term "storage" is not defined in the code. He stated that is an interpretational issue that the Building Department initially goes through.

Richard Stowe stated he did not think the storage in the rear yard is limited only to unlicensed vehicles. Larry Smith stated in order to have a vehicle on the property, it has to be licensed. John Hellaby stated he agreed with that. Larry Smith stated anything not used on a weekly basis is stored, not parked. John Hellaby commented that was Mr. Smith's interpretation. Larry Smith stated it is his job by law to interpret the code.

John Hellaby asked the applicant how often he uses the trailer. Joseph Berardicurti stated this year they have used the trailer twice. John Hellaby asked the applicant if technically this trailer is in the driveway a good period of time, and Joseph Berardicurti indicated that was correct. Joseph Berardicurti stated in the last few years he has gone through five different operations and was unable to use his recreational vehicle. John Hellaby asked if the trailer is used as some sort of live-in quarters while in the driveway. Joseph Berardicurti stated it is not being used that way.

Ron Popowich commented the trailer was purchased in the 1980s. Joseph Berardicurti stated he purchased it from Ballantyne. Ron Popowich asked the applicant if he has checked with Ballantyne or Myers to see if they could store the trailer. Joseph Berardicurti stated when he was denied in 1986, he brought the vehicle down to Timberline in LeRoy. He stated the trailer suffered \$4,000 worth of damage while it was there. Ron Popowich commented Timberline is a

campground, though. Joseph Berardicurti stated he looked around and that was the only place that would store it. Ron Popowich asked the applicant if he has asked Ballantyne if they would be able to store the trailer. Joseph Berardicurti stated he has not done that.

Ron Popowich asked how long the trailer is. Joseph Berardicurti stated it is 26 ft. long. Ron Popowich commented the driveway is on an incline. He asked how they keep the trailer from rolling. Joseph Berardicurti stated that is why he wanted to put the trailer on the dirt part, but instead has put blocks under the trailer. He stated he also has the four jacks. He stated the jacks get most of the weight off of the wheels and off the tongue.

Beverly Griebel asked if the trailer sits jacked up in the driveway. Joseph Berardicurti stated the trailer is on the four tandem wheels plus the tongue weight, and he stated then they have four jacks or plates more or less standing underneath it to try to get the weight up. He stated so far the vehicle has not moved. Ron Popowich asked if there are any brakes on the vehicle. Joseph Berardicurti stated there are no brakes on the vehicle unless it is being driven. He stated there are electric brakes on the vehicle. Ron Popowich stated he did not feel the driveway incline is safe for this vehicle to be parked there. Joseph Berardicurti stated the trailer has not moved on its own and also serves as a good wind breaker.

Larry Smith asked the applicant when did he remove parts of the satellite antenna mount on his house roof. Joseph Berardicurti stated he did that when he was ordered to. Larry Smith asked how long ago that was, and Joseph Berardicurti stated he did not know off the top of his head. Larry Smith stated there is still quite a bit of that satellite dish remaining on the roof. Joseph Berardicurti stated just the mount is up there. Larry Smith asked when that would be removed, and Joseph Berardicurti stated, "In due time." Joseph Berardicurti stated the Town was complaining about the dish. Larry Smith stated the dish mount is still a structure. Joseph Berardicurti stated he would have to get that down eventually. Larry Smith asked when that would be, and Joseph Berardicurti stated, "In the near future." Larry Smith asked if that meant within a month, and Joseph Berardicurti stated, "Possibly."

Larry Smith stated in 1986, the applicant was denied a variance to store the recreational vehicle. He stated the applicant has persisted in doing that. He stated in 1992 the applicant was denied a variance to mount an antenna on the roof and yet the antenna remained there until 1994. He stated there are parts of the antenna still on the roof.

Mr. DeLuca stated he talked to Ms. Thrash in the Building Department about the condition of the Berardicurti roof and was told what the applicant had done as far as the removal was acceptable and in compliance with her order. He stated the applicant has not received any communication from the Town regarding that antenna situation since then. Mr. DeLuca stated he felt the condition of the roof is the subject of another discussion.

Ron Popowich asked Larry Smith how this matter came to his attention. Larry Smith stated a complaint was made. Ron Popowich asked if the complaint was from someone that lived nearby, and Larry Smith stated he did not have that information in front of him.

ANYONE IN FAVOR OR OPPOSED:

Ken Berardicurti

He stated he was in favor of the application. He stated the applicant should be allowed to have his vehicle there even with all the other vehicles that go in and out of the driveway.

Pat Berardicurti

He stated his 1986 Cavalier is presently being traded for something other than a vehicle. He stated there are vehicles in front of the trailer, and if the trailer were to roll, the other vehicles would stop it. He stated in four or five years the trailer has not moved an inch while in the driveway.

Pat Berardicurti stated as far as the roof situation, they did not have an antenna on the roof; it was a satellite dish. Mr. DeLuca stated that was not part of this application.

Dorothy Borgus - 31 Stuart Road

She stated she does not live near the applicant. She stated the Zoning Board would be doing a disservice to the Town if it were to approve this variance. She stated if they allowed this trailer to be there, the Town would be inundated with more requests for such variances and there would be hundreds of these types of vehicles in the front and side yards around Town. She stated if she lived near these people, she would not want to see the trailer there all the time. She stated she felt it was time that the people of Chili start thinking about their neighbors as well as their own desires.

Beverly Griebel stated she was looking at the property on Sunday and there was a man and woman from a nearby street that expressed they would not be able to attend tonight's meeting but were displeased about seeing this trailer there when they are out jogging. Mr. DeLuca asked Ms. Griebel if she had their names. Beverly Griebel stated they gave her their names but she does not remember them now.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR, and made a determination of no significant environmental impact, and Bill Oliver 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 being cited:

1. Applicant had not investigated alternate storage to prevent a change in the character of the neighborhood.
2. Incline of driveway as well as bona-fide vehicles creates a safety hazard with the addition of the recreational vehicle.
3. Though applicant did show some unique features of the lot which create some practical difficulties, this was outweighed by the visual detrimental effect to the neighborhood and legitimate safety concerns that would be created if the application were to be granted.
4. Application of Eduardo Navarro, owner; 42 Bright Oaks Drive, Rochester, New York 14624 for variance to allow existing 10' x 9 1/2' utility shed to be 3' from side lot line (8' req.) at property located at 42 Bright Oaks Drive in R-1-15 zone.

Eduardo Navarro was present to represent the application. He stated he built a 10' x 9 1/2' shed on the corner of his property not realizing it was in violation of the Town ordinances. He stated he had asked a neighbor if he had a problem with it, and the neighbor indicated he had no problem with it. He stated two to three months ago someone from the Town came and told him this shed was in violation of Town ordinances. He stated he was quite disturbed over this and avoided some of the letters from the Town. He stated subsequently he did apply for the permit.

Mr. Navarro stated he has painted the shed to match the color of his house.

Beverly Griebel asked when the shed was built. Mr. Navarro stated it was built in June this year. Ralph Barbaro asked if there is anything on the property line that is 3 ft. away. Mr. Navarro indicated there is not. Ralph Barbaro asked if it is open on the other property, and Mr. Navarro indicated it is. Ralph Barbaro asked what is adjoining the property. Mr. Navarro stated there is another residence. He stated there is a Town drainage area 4 1/2 ft. behind it. Ralph Barbaro asked if there is a drainage easement between the houses, and Mr. Navarro indicated not that he was aware of.

Ralph Barbaro asked if there was any reason the shed could not be moved further from the lot line. Mr. Navarro stated technically, no. He stated it would be a bear to move. Ralph Barbaro asked if the shed is anchored to the ground. Mr. Navarro stated it is staked to the ground on a wooden platform.

Beverly Griebel stated she noticed 6 2x4s underneath the shed. Mr. Navarro stated that is part of the foundation he built for the wooden shed. Beverly Griebel asked if there are any trees that would be obstructing the shed if it were moved away from the property line. Mr. Navarro indicated there are no trees there. Beverly Griebel asked if the shed is on a cement floor, and Mr. Navarro indicated it is not. He stated he had to build a little bit of a leveling board in order for the floor to sit level because that part of the yard is not level. He stated if he were to move the shed, he would have to find some way to kind of slide it over and then rebuild it to relevel the floor again.

Beverly Griebel stated there is another shed also on the property over by the pool. Mr. Navarro stated that is a metal shed that would be coming down. He stated he built the new shed to replace the old shed that was next to the pool. He stated he hasn't had a chance to tear it down and relandscape the area. Mr. Navarro stated the old shed is rusting and he cannot keep it painted and looking attractive.

Ralph Barbaro asked the applicant if he discussed this shed with his neighbor adjoining on that side, and Mr. Navarro stated he did and his neighbor said they did not have a problem with it.

Ron Popowich asked if there was a reason for putting the shed 3 ft. from the lot line. Mr. Navarro stated he was trying to take advantage of the fact the yard is small. He stated the way the pool is situated, with the shed where it is, it gives him a little more of an open area. He stated if he were to center the shed in the yard, it would take away from the scenery of the yard. He stated the way the shed sits right now, there are some trees around it so when the foliage fills in, one's eye is not focused on the shed.

Ron Popowich commented he saw some fence posts along the property. Mr. Navarro stated those are his neighbors and have been there for about five or six years ago. Ron Popowich asked if there was grass growing in that area, and Mr. Navarro stated it is a pretty shady area where the shed is. He stated he could not grow grass back there. He stated the slats underneath the shed were purposely placed that way so water could drain down through here underneath the shed, towards the ditch in the back. Ron Popowich commented that ditch is more like a canal.

Ron Popowich asked what is stored in the wood shed. Mr. Navarro indicated he stores pool equipment in there and lawn furniture. Ron Popowich asked if there is a filter or something in the wooden shed. Mr. Navarro stated the pool filter is in the metal shed. He stated when the metal shed gets removed, he will build a little housing for the filter so it will not look unattractive.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ralph Barbaro 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. Applicant to remove old metal shed nearest to pool by June 1995.

The following findings of fact were cited:

1. Not a detriment to the neighborhood.
2. Nearest neighborhood is in agreement.
5. Application of John Tierney, owner; 13 Minute Man Trail, Rochester, New York 14624 for conditional use permit to allow an office in home for a mail order home brewing supply business at property located at 13 Minute Man Trail in R-1-15 zone.

DECISION: Application withdrawn at the request of the applicant.

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6. Application of J. Edward Gillott, owner; 260 Stottle Road, Scottsville, New York 14546 for variance to create two undersized lots - Lot 1 to be 7.2 acres (20 acres req.) with a lot width of 505' (700' req.), Lot 2 to be 3.48 acres (20 acres req.) with a lot width of 110' (700' req.) at property located at 260 & 266 Stottle Road in PRD zone.

Richard Olsen was present to represent the application. He stated the Gillotts own a piece of property now approximately 8.8 acres. He referred the Board to the map to explain the proposed lot configurations. He stated Mr. and Mrs. Knorr who live on Stottle Road own Parcel A and B. He stated it is proposed that Parcel C be added to Parcel A and B, creating one parcel. He stated that lot would be 3.475 acres, leaving the Gillotts with 7.229 acres. He stated this matter went through the Planning Board process two weeks ago. He stated the Planning Board granted approval subject to the Zoning Board approval.

Mr. Olsen clarified they are really talking about the 1.6 acres being taken off of what is 8.8 acres and adding it onto the Knorr's property which is approximately 1.9. He stated there is absolutely nothing being proposed for development. He stated this is strictly an alteration of lot lines. He stated there would be no adverse effect on the neighborhood. He stated one lot is going to be slightly less in conformance and the other is going to be quite a bit more in compliance because they are almost doubling the size of the one lot.

John Hellaby asked if this will have been resubdivided into one lot with one tax account number, so it will not be a landlocked parcel. Mr. Olsen stated that is the purpose of the application.

Gerry Hendrickson questioned whether the Knorrs have purchased another small piece of property in the area. Mr. Knorr was present in the audience. Mr. Knorr stated he bought that piece of property that Mr. Hendrickson is referring to separately by itself. He stated it has its own abstract and deed. He stated that piece is not part of this application.

ANYONE IN FAVOR OR OPPOSED: No one.

Carol Raymond - 253 Stottle Road

He stated he lives across the street from the applicant. Mr. Olsen explained by use of the map what was happening here. Mr. Raymond stated he did not have a problem with the application.

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

1. Minimum variance.
2. Pre-existing, non-conforming lot.
3. Readjusting parcels adds acreage to smaller lot.

The 8/23/94 and 9/27/94 Zoning Board minutes were approved as is.

The meeting ended at 9:10 p.m.

CHILI ZONING BOARD
November 22, 1994

A meeting of the Chili Zoning Board was held on November 22, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson, Ralph Barbaro 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. 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.

Larry Smith stated the Town has received a letter from David DeLuca dated November 11, 1994. He asked the Board if it feels there is significant enough change with the new information in that letter to warrant a new hearing without waiting for the requirements per code of one year. Keith O'Toole stated Mr. DeLuca is asking for three things. He stated he is asking for a rehearing as to the RV application and the extension on time to file an Article 78. He stated the Board does have the option of granting a rehearing. He stated the Board does not have to grant a rehearing on either of the two applications. He stated the Board does have the power to extend the time for the Article 78.

Mr. O'Toole stated it was his personal recommendation that the Board do absolutely nothing. He stated by law the Board is not required to do anything. He stated due process was given to the applicant on both occasions. He stated ample notice was given to the applicant on all occasions. He stated in terms of extending the Article 78, he saw no basic cause for doing so, and in fact, to do so in his opinion would be to give the applicant a special preference which is not enjoyed by the other citizens of the Town of Chili.

Ralph Barbaro asked Keith O'Toole what the new evidence is as Mr. DeLuca outlined with respect to the satellite dish. Ralph Barbaro stated he fails to find anything new anywhere in the letter that was not previously considered at the original hearing. He stated the applicant proposes to bring in another witness, but the issues that are proposed to be raised are issues that were already discussed. Keith O'Toole stated typically new evidence is considered to be evidence that could not have been presented at that time. He commented every time there is a zoning application, someone could come up with ten different neighbors. He further commented using Mr. DeLuca's argument, he could have a new hearing for every new neighbor they would bring in. He stated that is not the intent of the code.

Keith O'Toole stated one of the arguments in the second paragraph referring to the satellite dish makes reference to a change in the New York State Town Law effective on July 6th of 1993. Keith O'Toole stated he fails to see how a substantial change occurs on a statute which changed a year prior to the making of the application.

Ralph Barbaro stated as far as the contour of the property, he stated the Board went over that at the original hearing. Ralph Barbaro stated he would not be in favor of granting the applicant an extension because that would show special preference to a person who has already violated the law knowingly for two years.

Beverly Griebel stated she did not think there was anything new on the application. She stated it seemed to be the consensus of the Board that this matter would just be left alone at this point. No motions of any sort were made, so the Board continued on with the agenda. Keith O'Toole stated

he would be sending the counsel for the applicant a letter to inform him of the non-decision of the Board.

Beverly Griebel stated Application #5 has been withdrawn.

Ralph Barbaro left the meeting during Application #3. He was not present for the second portion of the meeting during which the Board members vote on the applications.

1. Application of Dennis Warchocki, owner: 8 Glenlivet Drive, Rochester, New York 14624 for variance to allow existing 14' x 16' enclosed gazebo to be 224 sq. ft.. (160 sq. ft. allowed) and to be 15' high (12' allowed) at property located at 8 Glenlivet Drive in R-1-15 zone.

Dennis Warchocki was present to represent the application. He stated the gazebo has already been constructed. He stated in 1987 they built the property. He stated in 1988 Bob Connelly was the Building Inspector at that time. He stated he talked to Bob in 1988 about putting a deck onto the property and at some time in the future as time and money would allow, he would be putting an extension of a gazebo or brick patio off the main deck. Mr. Warchocki indicated he was now in receipt of a letter from the current Building Inspector indicating he was in violation of the code because he did not have a permit and needed a variance for the setback.

Mr. Warchocki stated the property is such that it is very chopped up like a pie shape. He stated he did not think there would be anyway he could get 40 ft. out of that particular dimension in the back from where the corner of the gazebo is. He stated as far as the height and the overall size, he stated he did not check into anything when he built it because he thought he was okay based on his previous conversation with the former Building Inspector.

Mr. Warchocki stated he has talked to his neighbors. He presented the Board with a signed letter indicating the neighbors have no objections to the existing gazebo. Mr. Warchocki stated the gazebo is located within a fence that goes around the back of the property, so it will not pose any kind of danger problem to anybody passing through the yard. He stated it has two gates on it that are locked at all times. He stated the gazebo is basically just for recreational uses for his wife and himself. He stated it allows them to get out of the weather and also adds a little value to the property.

Beverly Griebel asked if the gazebo was built this year, and Mr. Warchocki indicated he started it in the springtime and worked on his weekends throughout the summer.

Ron Popowich questioned whether a setback requirement was missing from the application, and Larry Smith indicated he reviewed the application again and determined the gazebo was an accessory structure and would require only an 8 ft. setback. He stated no rear setback is required.

Beverly Griebel stated the petition submitted by the applicant contained 14 people's names in support of the application. She stated the people reside on Glenlivet Drive, Golden Road and Westside Drive. The petition will be on file with the Town. Mr. Warchocki commented the people on the list are all people that can either see the structure or are adjoining neighbors.

Ron Popowich asked if this gazebo was built by a kit. Mr. Warchocki stated this was not a kit. Ron Popowich asked the applicant if he was aware of the Town's size requirements, and Mr. Warchocki stated he was not. Ron Popowich asked the applicant if he was into the Town a few years ago for his garage. Mr. Warchocki stated he was. Larry Smith stated in 1989 there was a 7 ft. setback granted. Mr. Warchocki stated he would still like to put another 24' x 32' structure in there if he could.

John Hellaby asked the applicant if he was notified by letter he was in violation by a drive-by situation, or was there a complaint. Larry Smith stated he was not sure how this was brought to the Town's attention. Mr. Warchocki stated his neighbor to the south had put up a storage shed and needed and received a permit of the storage shed. He stated he thought someone from the Town mistook his shed on the property for his neighbor's shed when they came out to do the inspection, and the gazebo issue was raised at that time.

Bill Oliver commented with there being a concrete foundation in the ground for the gazebo, it makes it kind of a permanent structure. Mr. Warchocki stated he has 4 x 4 posts in concrete. Bill Oliver asked the applicant if he did all the work on this, and Mr. Warchocki stated he did. Mr. Warchocki stated he is a master mold-maker by trade at the Eastman Kodak Company. He stated the structure is very sound.

Beverly Griebel commented she noticed the gazebo is glassed in. Mr. Warchocki stated he put in triple-track storm windows so that he could keep the elements out should they have a breeze.

Bill Oliver asked if there is any water or electricity running to this facility. Mr. Warchocki stated he would like to have electricity.

John Castellani stated he questioned the applicant's statement that he did not know about the requirements for the gazebo. Mr. Warchocki admitted he made a mistake. John Castellani commented nothing has changed since 1988 with regards to this portion of the zoning code.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Approved by a vote of 5 yes to 1 no (Ron Popowich) with no conditions, and the following findings of fact were cited:

1. No change in character of the neighborhood.
 2. Neighbors have no objection.
2. Application of Suburban Propane, owner; 3325 Chili Avenue, Rochester, New York 14624 for variance to erect a dispensing unit to be 50' from front lot line (75' req.), variance to erect a bobtail fill structure to be 40' from front lot line (75' req.) at property located at 3325 Chili Avenue in G.B. zone.

Don Avery of Avery Engineering was present to represent the application along with Bob Tremain and David Dries of Suburban Propane. Mr. Avery indicated on some drawings the location of the facilities in question. He stated the Planning Board has approved their project. He stated they need two variances from the Zoning Board this evening.

Mr. Avery stated the bobtail fill riser is supposed to be 75' from the road. He stated they are seeking a variance to have it be 40' from the road. He stated they want to move the dispensing unit back from the road, but it still would not be the required 75 ft. from the road. John Castellani asked if they would be improving their position in regards to the zoning by 26 ft., and Mr. Avery stated that was correct.

Ralph Barbaro asked if the dispensing unit is going to be enclosed in a shed. Mr. Tremain stated currently it is on an open concrete pad. He stated it will be put in a shed. Ralph Barbaro stated they could have been a little more creative with the shed appearance.

Mr. Tremain stated the present truck fill operation is off to one side of the charging dock. He stated that existing charging dock will be demolished and that is where the truck fill riser will go.

Ralph Barbaro asked if the Planning Board had any questions about the utility architecture of this sitting out so close to the road. Mr. Tremain indicated they did not. Ralph Barbaro asked if the open side of that dispensing unit is going to be facing Chili Avenue., and Tremain indicated that was correct. Mr. Tremain stated the typical setup is that there is an 8 ft. slide gate in front of it so that customers can pull into the parking lot and bring their cylinder to the gate.

John Hellaby asked where the feeding tank is going to be for the smaller units. Mr. Tremain

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stated it would be fed directly. John Hellaby asked if that would eliminate the tank they have there presently, and Mr. Tremain indicated it would.

Ron Popowich asked what the purpose is of the bobtail. Mr. Tremain stated the trucks that deliver the gas to individual residences and business have the a big propane tank on back. He stated the bobtail is the station that they fill up at. Ron Popowich asked if they still fill the 100-pound tanks. Mr. Tremain stated they would be filled on the charging docks itself. He stated that is the large building that is in the back.

Beverly Griebel commented presently all the operations are done at the street, closer up, so they are moving that back. Mr. Tremain stated there are two operations. He stated the one that is done at the street is more for the very small cylinders, the barbecue cylinders. He stated the larger cylinders that are transported out to a location are filled up on the cylinder fill dock on the new plan. He stated presently they are closer to the street.

Bill Oliver asked why they are moving the dispensing unit back. Mr. Dries stated it would give them more parking area. Gerry Hendrickson commented the firemen asked them to move the tanks back for safety reasons, too. Mr. Dries stated the only thing that was requested as they appeared before was to provide customer parking at the dispensing station location. He stated that used to be employee parking and now is going to be customer parking.

Beverly Griebel asked if they are going to eliminate the small tank presently nearest the road, and Mr. Dries indicated they are. Ron Popowich asked if the little three-sided building that is in the picture is there now. Mr. Dries indicated that is not there now. Mr. Tremain commented the operation is there now, but not the building.

ANYONE IN FAVOR OR OPPOSED: No one.

The Zoning Board did not make any motions regarding SEQR since the Planning Board has already declared itself lead agency with regard to this application.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. New facility 26' further away from road, which is a safety improvement.
 2. Improved customer parking.
 3. Will allow better maneuverability for trucks when refilling.
3. Application of William Felluca, owner; 12 Barnswallow Lane, Rochester, New York 14624 for conditional use permit to allow an office in home for seasonal driveway sealing business' at property located at 12 Barnswallow Lane in R-1-15 zone.

William Felluca was present to represent the application. He stated he is a schoolteacher for the Gates-Chili District. He stated he teaches Phys. Ed. He stated he has been a teacher for about 20 years and in 1986 decided he had to supplement his income by seal-coating driveways in the summertime. He stated when he began, he used his car and would buy a couple pails at a time, would knock on doors and would seal some driveways. He stated as the years progressed, he gradually became bigger and bigger.

Mr. Felluca stated he bought a half-ton pickup truck in 1986 so he could carry more pails. He stated in 1988 he bought a trailer, 5' x 8' so he could put a tank on there so he wouldn't have to pay \$10 a pail where the actual value would be \$5. He stated in 1991 he expanded and bought a truck, a 1981 Ford van with another trailer and a machine for handling parking lots. He stated at that point he expanded so he could do commercial jobs rather than just residential.

Mr. Felluca stated he started out doing this just himself, and then as years progressed, he had an employee and then more employees. He stated currently this summer he had six part-time

employees. He stated he had a D/B/A for a while, and then in 1991 he became incorporated as an S Corporation for liability reasons. He stated he has a tax I.D. number and pays sales taxes.

Mr. Felluca stated his business started out with him knocking on doors. He stated six years ago he starting out sending a mailing to former customers. He stated he has been doing that on an annual basis at the beginning of the season. He stated it got to the point where he needed to have a separate phone number for the business. He stated the business phone is located in their living room. He stated when it rings, he or his wife will answer the phone or the caller will leave a message. He stated he has a form that he leaves in the caller's mailbox for estimates if people are not home.

Mr. Felluca stated he was ignorant that he needed a permit for this operation. He stated he did receive a complaint letter dated September 22nd. He stated he thought the complaint was about all the equipment that he has been accumulating. He stated he used to always park his pickup truck in his driveway. He stated he would keep his trailer over at Steve Pikuet's home on Golden Road in the winter. He stated in 1991 when he purchased the commercial equipment, he did store this truck and trailer and that commercial machine on Steve Pikuet's property. He stated it became more and more inconvenient for him to go to Steve Pikuet's property to get the truck. He stated the truck is an old Ryder truck. He stated it is just a moving truck that they use to house the things that they use for seal-coating commercial properties. He stated this past summer he was parking the truck in front of his house. Mr. Felluca stated he thought as long as he was parking the truck 40 ft. from an intersection and it wasn't during the winter months, it was okay.

Mr. Felluca stated in 1991, Rochester Jet Black relocated from Buffalo Road to Deep Rock road, which is by the airport. He stated the owner and operator of Jet Black never would allow customers to park any equipment over there because he just never had the room at the former location. He stated this year, at the end of the summer, people were allowed to lease out space at his property. He stated his truck and commercial equipment is now being stored over there for \$35 a month. He stated his pickup truck is the truck that he uses to get to work every day. He stated he just hooks the trailer on it in the summertime when they seal-coat the driveways. He stated his trailer that has the tank on it is sitting on Steve Pikuet's property right now during the off season.

Mr. Felluca stated he would like to have the permit for the home office. He stated he would like to be able to continue to be allowed to park his pickup truck with his small trailer in his driveway. He stated he did not think he ever really had a complaint about that from the neighbors. He stated he thought the main complaint was the big yellow truck that he bought several years ago. He stated he is going to try to keep that over at Pikuet's property.

Mr. Felluca commented there are times during the summer where he is not going to be able to get this equipment to Jet Black. he stated when he does commercial work, oftentimes he works a lot on the weekends because the businesses are operating during the week. He stated Jet Black is only open until 12 o'clock on Sunday, so there are going to be times when he could be working and Jet Black would be closed. He stated Jet Black has a gate with barbed wire fence, and he stated he would not be able to get back into there.

Mr. Felluca stated there are other times like where they paved Hoselton on Marsh Road a couple years ago when they could not even start that job until 5 p.m. He stated they had to do that on weekends. He stated on those instances he could not get into Rochester Jet Black. Mr. Felluca stated there is no lighting at all at the Golden Road location where Steve Pikuet's property is.

Mr. Felluca stated he would ask to be allowed to just temporarily park his truck in front of his house with the intent to move it the next day and not to keep it there.

Beverly Griebel commented the application is for an office in the home. She further commented the two-page application seems to be about all there equipment and doesn't once mention the office. She asked if the home occupation aspect is just for the paperwork, or is there storage also of material and equipment at the home that is involved in the operation. Mr. Felluca stated he was told he had to have a home office permit. He stated he was told that is what he should apply

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for.

John Castellani questioned whether the storage of equipment needs to be included in the hearing advertisement. Larry Smith stated it did not need to be included. John Castellani questioned that and stated in the past the Board has objected sternly to any storage of business equipment in a residential neighborhood. Larry Smith stated it would be up to the attorney.

Gerry Hendrickson commented the applicant is not storing anything; he is just parking vehicles. John Castellani stated he thought the way the application reads for the office in the home is very appropriate if it is a telephone and paperwork type only thing. Ron Popowich commented this is more of a package type of thing. Larry Smith stated the applicant is asking for a customary home occupation, and he stated there are some vehicles involved with the customary home occupation. He stated one of the vehicles has a trailer on it. John Castellani stated he felt his involves storage.

John Castellani made a motion that this application be tabled until it can be advertised to allow everything that is involved or at least a statement of storage of driveway sealing equipment be advertised to the people. Ron Popowich seconded the motion.

John Hellaby commented this business has escalated into a little more than a customary home occupation inasmuch as the applicant has stated he has many as six employees, where the customary home occupation provision allows for one employee. He questioned how they would handle that situation. Keith O'Toole stated that could be handled by a condition.

Beverly Griebel commented the work of the business is done off site. Ron Popowich stated they are still storing equipment at the site. Bill Oliver stated it would not be fair to the neighbors if they did not know there would be equipment around there.

Keith O'Toole stated the Board cannot grant the permit unless the whole definition fits. He stated one of the issues under the definition is that the operation should not change the character of the neighborhood in which it is located. He stated if the Board considers the commercial equipment outside something that would change the character, then it cannot grant the permit. Larry Smith stated it could be granted with conditions.

Ron Popowich stated he was not concerned about the truck and the trailer.

Keith O'Toole asked the Board to consider whether there is a core of business there that is truly a customary home occupation. He stated if there is a customary home occupation at this location, the Board could grant the permit and get rid of the offending parts of the application, such as the trucks, by condition. He stated the applicant has indicated he needs access to one of his vehicles during the high season, during the summer, and if he wants to store it during the week and that is the Board's concern, it would probably be in violation.

Keith O'Toole stated there are a couple of ways the Board could approach this. He stated if they consider this a non-customary home occupation across the board, they would deny it. He stated if they think there is a form of customary home occupation there, they could preserve it and give the permit subject to the conditions that eliminate the offensive problems.

Ralph Barbaro asked the applicant if he stores any materials in his garage that are associated with his business. Mr. Felluca stated his tools are stored in the trucks. He stated the only thing that he stores right now is about ten pails of leftover crack filler. He stated that comes in five-gallon pails, and he stated he has to move those down into his basement because if he doesn't store them inside, then they freeze up and harden and are of no use. He stated the pails cost anywhere between \$45 and \$60, so he has \$500 or \$600 worth of material that he cannot leave outside in the truck. Ralph Barbaro asked if that is a normal inventory type of situation. Mr. Felluca stated ideally it would be nice if at the end of the season he ends up with no materials to be stored, but he stated that is impossible to do.

Ralph Barbaro asked when the applicant gets together with his employees to discuss the work

schedule. Mr. Felluca stated the six part-time employees consisted this past summer of one high school student, four college students and one guy who has been working with him for a few years who has graduated. He stated on any given day he generally tries to have about four people working. He stated he has six employees so he can end up with four people working. Mr. Felluca stated the majority of the time the employees come to his home. He stated they generally meet around 8 a.m.

Ralph Barbaro stated he is trying to determine what is the extent of the conduct of the business. He asked when the employees get paid, do they come to the applicant's house, or are they given their paychecks on the job site. Mr. Felluca stated his business is a little more informal. He stated when he sees them, he gives them a paycheck. He stated generally he has the checks mailed. He stated oftentimes when the employees bring the equipment back, he hands them their checks.

Ralph Barbaro asked the applicant if he has ever had occasion to have an employee meeting or an employee party. He asked if they have ever sat down altogether to discuss what the business plan is for the coming week. Mr. Felluca stated he discusses the business goals with his wife and he tells the employees what the job is to do. Mr. Felluca stated they do not have meetings in their house. He stated they do sometimes briefly meet in the morning informally just to be told what the work schedule for the day will be.

Ralph Barbaro asked if the employees would leave their cars at the applicant's house. Mr. Felluca stated usually they could come over to his house or he might take his truck and pick them up go all go over to Jet Black to get material.

Ralph Barbaro asked the applicant if he has asked the owners of Jet Black for a key to the gate so he could have access to his equipment. Mr. Felluca stated he has not asked that. He stated he would probably get turned down. He stated the owner has loads of material over there that is in the open that he would not want someone to steal.

Ralph Barbaro stated it appears this is something more than just a customary home occupation that is limited to one employee. He stated this does appear to be something that probably ought to be advertised as something more than a customary home occupation. He stated he did not see why the applicant could not have an office in his home, but he stated more does transpire to the property, including the storage of the vehicles.

Keith O'Toole stated the applicant is applying for a customary home occupation, so the Board has to advertise it as such. He stated the motion on the table is just to amplify the advertisement to the neighboring property owners so they know exactly what it is the applicant is applying for.

Larry Smith stated in listening to the testimony, in order for the applicant to operate the way he wants to operate, he probably most likely would be required to get a land use variance. Ralph Barbaro stated he would be less inclined to grant a land use variance for a business in a residential area than he would be for a home occupation. He stated he would be more inclined to grant him permission to have an office but not to store any equipment there other than the truck that he drives back and forth to school. Mr. Felluca stated that is exactly what he is asking for. Ralph Barbaro stated that would mean no storage of vehicles on the property. John Castellani stated that would mean the applicant could not store material in his basement either.

Beverly Griebel asked the applicant if he has looked into other storage facilities. Mr. Felluca stated he called a gentleman over on Trabold Road, but the storage facility was not big enough to house his truck. He stated he does not want to leave the truck outdoors at that location because the area is not fenced in. He stated at Jet Black his equipment is fenced in with a barbed wire fence. Mr. Felluca commented he has access to his equipment at Jet Black except for Sundays after 12 p.m. or if they are working late one night.

Ron Popowich stated he did not have a problem with the truck and/or the trailer. He stated he would not like to see the other van at the property, though.

Ralph Barbaro left the meeting.

John Castellani stated the Board should table the application to allow it to be re-advertised correctly. He cautioned the applicant that if he did not come up with a solution involving not having the employees showing up every day at his home, all storage being off site and only paperwork being conducted out of the home, he would probably not prevail. He stated that was just his advice and not the opinion of the Board.

Beverly Griebel commented the Board would also look at employee parking filling up the driveway. John Castellani commented based on everything in the application and the testimony given this evening, the applicant has demonstrated the business would change the character of the neighborhood. John Castellani stated an office in the home with a phone and to do the paperwork and a vehicle for him to go back and forth to the project, no trailer, is probably all that would be allowed.

There was some discussion about what could be done at this point. Keith O'Toole stated the various Board members have been trying to give the applicant some insight into the decision-making process. He stated they are not in a position, nor can they give the applicant any legal advice. He stated they are bound to apply to the Town Code. He stated any time someone wants to run a business out of a home, they are supposed to come to the Town for a permit to operate in a Residential zone. He stated running a business out of a home is not a flat out permitted use. He stated that would be a conditional use, and by conditional use, that means they would have to come in before the Board and get an approval. He stated the Board can approve such a use subject to certain conditions which are designed to preserve the character of the neighborhood, among other things.

Larry Smith asked the applicant if he would get by with not trailer storage, no vehicle other than his personal vehicle and no employees being at the home. Mr. Felluca commented he is at the mercy of the Board. He stated he would have to accept that. Keith O'Toole and the Board further explained what a customary home occupation means and how it relates to this application.

Keith O'Toole stated the motion before the Board is to table the application in order to provide proper legal notice to amplify the legal notice and to give further information to adjoining property owners. There was some discussion about when this would be back before the Board. Keith O'Toole stated the Board would also be modifying the motion to allow the applicant opportunity to provide further information to the Board as well, which may effectively modify the application.

Beverly Griebel stated if anyone was present in the audience to speak on this application who could not be at the December 20th meeting when this would be addressed, they could write a letter addressed to the Zoning Board or the Building Department, and such letter would be read into the record at that time.

DECISION: Unanimously tabled by a vote of 6 yes for the following reason:

1. Applicant to obtain more information. Applicant to obtain new signs at Building Department and post as per Town code.
6. Application of Nancy Schallmo, owner; 16 Sierra Road, Rochester, New York 14624 for conditional use permit to allow a beauty shop in home at property located at 16 Sierra Road in R-1-12 zone.

Nancy Schallmo was present to represent the application. She stated she would like to have a permit to have a beauty shop in her home. She stated it would be just herself working there. She stated she would operate the beauty shop three or four days a week. She stated she has been a hairdresser for 24 years. She stated she has not done hair for 15 years but has cut her friends' and family members' hair.

Ms. Schallmo stated the shop would be on the first floor of her home. She stated it would be in one of the existing rooms. Beverly Griebel asked where would the customers park. Ms. Schallmo stated they would park in the driveway. She stated her driveway can hold six cars. She

stated they can fit four cars up close to the garage and then two where it narrows down. Beverly Griebel commented that situation could be a problem for moving cars around. Ms. Schallmo stated it would only be herself working and including her car, there would not be more than three cars in the driveway at one time. Ms. Schallmo stated she would only have two clients there at a time.

John Hellaby commented there were no hours of operation checked for Wednesday. Ms. Schallmo stated she would not operate on Wednesdays. Bill Oliver commented she would operate on Tuesday, Thursday, Friday and Saturdays. John Hellaby asked if this would be a part-time basis only, and Ms. Schallmo stated that was correct. John Hellaby asked if there would be more than two customers at the home at a time, and Ms. Schallmo stated there would be no more than two customers there at a time. John Hellaby asked if there would be any outside advertising. Ms. Schallmo stated there would not be any outside advertising.

Beverly Griebel stated normally if an application such as this were approved, it would be approved for one year and then the applicant would have to return and it would be reviewed again at that time.

John Castellani asked the applicant if she is a licensed operator, and Ms. Schallmo stated she is a licensed hairdresser. John Castellani asked the applicant if she has more than one exit from the business area. Ms. Schallmo stated there is one door and two windows. Larry Smith stated two exits are not required.

Beverly Griebel asked if the applicant has any plans to widen the driveway to be a full two-door width. Ms. Schallmo stated they have no plans like that. Beverly Griebel commented it looks like the driveway has been paved recently. She asked if there was a reason why they had not extended it to a full width. Ms. Schallmo stated they just did not see the need for that. Beverly Griebel stated she would like to see the driveway widened. She stated she thought there might be a backing up problem that would induce people to park on the road rather than having to maneuver around up and back around a slanted driveway like that.

Bill Oliver stated if on-street parking were to occur, he was sure the neighbors would complain. Bill Oliver asked the applicant how many vehicles are owned by the family, and Ms. Schallmo stated they own two vehicles. Ron Popowich asked if the cars are parked in the garage normally. Ms. Schallmo stated there is room for one in the garage. Ron Popowich asked Ms. Schallmo if her husband works during the day. Ms. Schallmo indicated he does. Ron Popowich stated he did not see a problem with the driveway situation.

ANYONE IN FAVOR OR OPPOSED: No one.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Granted for a period of one year.
2. No on-street parking pertaining to business.
3. No advertising on premises.
4. Customers by appointment only - maximum two at a time.
5. Hours as per amended application.
6. House numbers per Town code (minimum 4 1/2" high).
7. Conditional upon proper license and inspection by Health Department.

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The meeting ended at 9:08 p.m.



CHILI ZONING BOARD

December 20, 1994

A meeting of the Chili Zoning Board was held on December 20, 1994 at the Chili Town Hall, 3235 Chili Avenue, Rochester, New York 14624 at 7:30 p.m. The meeting was called to order by Chairperson Beverly Griebel.

PRESENT: John Hellaby, John Castellani, Ron Popowich, Bill Oliver, Gerry Hendrickson, Ralph Barbaro and Chairperson Beverly Griebel.

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

This is a draft only and has not been filed according to Section 106 of the Public Officers Law. These minutes have not been approved by the Chili Zoning Board, and therefore, are subject to change.

Chairperson Beverly Griebel declared this to be a legally constituted meeting of the Chili Zoning Board. 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 stated she did not see signs on Applications 3 and 6. She stated was out Sunday in the afternoon. Bill Oliver stated he saw a sign for Application 6. Ron Popowich stated he saw the sign for Application 6. John Castellani stated Application 3 did not have a sign. Gerry Hendrickson for Application 6 there was a sign there. Beverly Griebel stated without the sign on Number 3, she would like to have that one tabled. The consensus of the Board was to table the application.

Ralph Barbaro asked what is the status of that application with the Planning Board. He asked if they would be holding them up if they do that. He commented they're really SEQR on it. Beverly Griebel stated the applicant formed the parking area, and they did that without the proper permits. She stated then they were called in after the fact. She stated the parking is there, and they have until 60 days after the asphalt plant is up in the spring to blacktop this new area.

Larry Smith stated a condition of approval was they would come in with revised site plan. Beverly Griebel stated she did not think that delaying this until the January meeting would hold them up with anything. She stated they do have a parking lot that is gravel, and people are parking on it right now. John Castellani asked Larry Smith if he got a call from anybody. Larry Smith stated he did not.

Beverly Griebel made a motion to table Application 3 until the January meeting. All the Board members were in favor of the motion. Larry Smith asked what was the exact reason for the tabling. Beverly Griebel stated there were no posted signs. Beverly Griebel asked if there was anyone present to speak to regarding Application 3, the North Chili Family Restaurant. No one responded. Beverly Griebel asked if the applicant was present. No one responded.

1. Application of William Felluca, owner; 12 Barnswallow Lane, Rochester, New York 14624 for conditional use permit to allow an office in home for a seasonal driveway sealing business at property located at 12 Barnswallow Lane in R-1-15 zone.

William Felluca was present to represent the application. Beverly Griebel stated the Board has the applicant's revised application. Mr. Felluca stated he was present to apply for a home office, a conditional use permit for a home office for a seasonal driveway business that goes between May and the end of September.

Beverly Griebel asked the applicant if he has taken care of all the other aspects that were on the other application so this would be sufficient for him to have the home office. Mr. Felluca stated all he was asking for is the conditional use permit for the home office.

John Castellani asked the applicant if he will not do anything except an office. Mr. Felluca stated that was right. He stated there won't be any storage on the property. He stated the vehicles will

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be parked between Rochester Jet Black and the Piquet's property on Golden Road. He stated the employees are going to meet over there. He stated they will conduct the business from those sites.

John Castellani asked if this would purely now be just an office. Mr. Felluca stated it would just be an office. He stated the only thing that he would like to continue is having his pickup truck parked at the site which he drives to work. He stated he would like to have his pickup truck, but he would take the tank off so the tank won't be there.

Ralph Barbaro asked if there would be any exterior evidence that there is a business office there on the property. He asked if there would be anything parked there, any tools or anything stored there. Mr. Felluca stated the tools will be housed in the trucks or the trailer, and the trucks will be parked at Golden Road or Rochester Jet Black.

ANYONE IN FAVOR OR OPPOSED:

Gregory Richards - 166 Archer Road

He stated he doesn't have a problem with the way he has this now since he has reapplied for his application as long as it is done strictly as an office without any equipment on his property.

Thomas Gray - 5 Barnswallow Lane

He applauded Mr. Felluca for trying to generate extra income. He stated if he can meet what he has given the Board regarding his commercial vehicles and equipment not being in front of the property, that is fine with him. He stated his concern focused on the utility truck that he parked there last summer night after night. He stated if that can be eliminated, then he has no problems with this. He stated he would support it.

Beverly Griebel asked Mr. Felluca if the truck he was speaking of is that is the one he will be parking off site. Mr. Felluca stated he believes the gentleman was referring to the '81 Ford van, the big yellow truck, and yes, that truck will be parked off site. He stated the one that he would like to continue parking in his driveway is his 1982 light blue half ton pickup truck. He stated that is his second vehicle that he drives to work every day.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 the following conditions:

1. Granted for a period of one year.
2. No on premises signage.
3. No storage of business related materials.
4. On premises parking ONLY of vehicles incidental to residential use.
5. No employee parking at residence.
6. No on-street parking of business vehicles.

The following finding of fact was cited:

1. Customary home occupation per Town Code.
2. Application of Albert Bullwinkle, owner; 24 Clifton Road, Clifton, New York 14431 for variance to allow four chickens on property (5 acres required) at property located at 24 Clifton Road in RA-1 zone.

Elsie Bullwinkle was present to represent the application. She stated those are her four chickens. She stated she has had them for two and a half years on the property. She stated she would like to know who reported them. Larry Smith stated he would like to tell her, but he can't. Ms. Bullwinkle asked why it will cost her \$35 to have her little chickens there.

Ms. Bullwinkle stated she picked the chickens up at the Elmgrove Fruit Farm two and a half years ago. She stated she has been raising them ever since. She stated they lay eggs once a day.

Beverly Griebel asked what is the life span of chickens. Ms. Bullwinkle stated 9 to 35 years. Beverly Griebel asked the applicant if she plans to add to them. Ms. Bullwinkle stated she does not. She stated she doesn't want more chickens. Beverly Griebel asked if the chickens will reproduce. Ms. Bullwinkle stated they won't.

Ron Popowich asked if the chickens are housed in a chicken coop. Ms. Bullwinkle stated they changed one of the kids' old fort into a coop and put aluminum siding on it. She stated that is where they sleep. Ron Popowich asked if the chickens run around anybody's yard. Ms. Bullwinkle stated they don't. She stated they had a pen. She stated they just took the pen down because they rototilled the garden. She stated the pen was by the barn.

Larry Smith stated the first complaint he received, he couldn't find chickens, so they're not running around. He stated they received another complaint and the chickens were found.

Beverly Griebel asked if the chickens are noisy. Ms. Bullwinkle stated they live at the house where they used to park for the carnival. She stated the chickens are next to the creek and behind that is the Iacovangelos' old fields. She stated then the garden is right there, and the chickens peck in the garden. She stated in the wintertime they don't travel much, they stay inside.

Beverly Griebel stated the code requires five acres. John Castellani asked if the chickens are a food source. Ms. Bullwinkle stated they are not. She stated they have names. She stated they're pets.

Ralph Barbaro asked if the L-shaped piece of property is the applicant's. Ms. Bullwinkle stated it is. Ralph Barbaro asked if the exit is on Wheatland Center Road and consists of 3.98 acres. Ms. Bullwinkle stated it does. Ralph Barbaro stated that is why they were here, because it is under 5 acres, and that is why they were charged \$35 to appear. He stated the fact of the matter is that for two and a half years, they have been in violation of a law they didn't know existed. Ralph Barbaro asked if these are the same four chickens she has had since the beginning. Ms. Bullwinkle stated actually there were seven. She stated one of them was already mangled from the day care center she got them from and passed away, and then the other two passed away. She stated the woman she got them from said there were 12 eggs that were supposed to hatch. She stated seven hatched.

ANYONE IN FAVOR OR OPPOSED:

Mary Ann Miller - 101 Wheatland Center Road

She stated she lives down the road from Elsie. She stated there was a woman that lived there several years ago and she had ducks running all over the place. She stated no one complained about them. She stated that lady had them in her house and every place. She questioned why didn't somebody complain then. She asked why these people can't have four little chicks. Ralph Barbaro stated so far nobody has told them they can't.

Bob Miller - 101 Wheatland Center Road

He stated they live in a farming community out there in comparison to what is here in the Town of Chili. He stated they don't have a lot of things out there that the Town has, and he stated and they're not too happy about people coming out there and giving them a lot of problems about this. He stated they would like to be left alone.

Larry Smith told Mr. Miller he is in the Town of Chili. Larry Smith stated a resident down in that area made the complaint. He stated they respond to all complaints made. He stated if there is a

violation, notices go out, and regardless if they think they're their own little entity or not, they're still part of the Town of Chili.

Ralph Barbaro asked what do they do with the waste materials. Ms. Bullwinkle stated she composts it. She stated they have two big gardens.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and John Castellani 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. Minimum variance.
3. Application of North Chili Family Restaurant, 4405 Buffalo Road, North Chili, New York 14514; property owner; P. Stefanidis & K. Votsis; for variance to allow front parking for five additional vehicles at property located at 4405 Buffalo Road in G.B. zone.

Beverly Griebel stated, as they announced previously, the application for North Chili Family Restaurant has been tabled. She asked if the applicant was present. No one responded.

DECISION: Unanimously tabled by a vote of 7 yes to table for the following reason:

1. No public notice was posted. Application tabled until the January 24, 1995 meeting. Applicant to obtain new signs at the Building Department and post as per Town regulations.
4. Application of Nancy Meyer, owner; 2340 Scottsville Road, Scottsville, New York 14546 for variance to erect a 3' x 3' freestanding sign with logos for bed & breakfast at property located at 2340 Scottsville Road in RA-20 zone.

Nancy Meyer was present to represent the application. She stated she was present to apply for a sign. She stated the sign is going to be a 3 x 3 heart, 20 feet away from the street. She stated the main reason why would like to put up a sign is because of expense reasons.

She stated the reason why she got this idea is throughout the years the colleges have asked her if she had any short-term housing overnight, which she hasn't. She stated to keep expenses reasonable, she would like to put up a sign.

Ms. Meyer stated she would like to put Christmas lights around it, hopefully not a spotlight. Beverly Griebel asked if the Christmas lights would be up all year. Ms. Meyer stated they would be up all around the heart. Beverly Griebel stated she questioned that because they're calling it the Christmas In. Ms. Meyer stated they're calling it the Christmas In because she was told if she put I-n-n and then provide food, it's like a little restaurant, which she is not going to be doing that. She stated she will serve orange juice, muffins and coffee.

Beverly Griebel stated she was out looking at the property. She asked where would she be placing the sign. She stated she could see the need for the sign because she had trouble locating the house. She commented the road is 55 miles an hour, and when one is looking for a house number, everything is whizzing by. She commented there are some bushes there. She asked if the applicant plans to trim back those bushes. Ms. Meyer stated she could if the Board wants her to. Beverly Griebel stated she was just trying to visualize where the sign would be in relation to those shrubs.

Ms. Meyer stated she has the Blessed Mother and Joseph and Jesus on a big carriage. She stated the sign would be on top of the carriage next to the Blessed Mother, Jesus and Joseph. Larry Smith stated the Board only received a drawing of the proposed sign.

Beverly Griebel stated she was trying to visualize where the sign would be in relation to the shrubbery and the trees. Beverly Griebel stated if the sign is back that distance from the right-of-way, she thought it is going to be obscured. Larry Smith stated maybe the applicant would like to amend the application for a set back variance. Beverly Griebel stated she could then put it closer to the road.

Ralph Barbaro stated right now the way it is described, she described it as 20 feet from the edge of the road, and the law requires 20 feet from the edge of the right-of-way. He stated they need to clear up what they're talking about here. He asked if they were talking about some distance from the edge of the road, or are they talking about some distance from the edge of the right-of-way.

Larry Smith asked the 20 foot, was that measured from the road or from the property line. Ms. Meyer stated it was from the property line, she believed. Larry Smith stated that would be about 37 foot back from the edge of the road. Beverly Griebel stated that would be a ways up the driveway. Ms. Meyer stated maybe it was measured from the road, because her carriage is right behind her free Christmas dinner, so she would say it is from the road then, not her property line.

Ralph Barbaro asked if the sign would be visible at that point. Beverly Griebel stated there might be a little shrubbery trimming that would need to be done. She commented 20 feet from the right-of-way would be way back. Ron Popowich commented if they get it too close, they won't see it either.

Ralph Barbaro asked if they know where the relationship of the road right-of-way is to the sign. He stated there is nothing shown on this drawing here. He stated there is no site plan. He stated he was not sure at this point whether 20 feet from the edge of the road is within the road right-of-way or outside. Larry Smith stated the road right-of-way would be about 17 feet from the edge of the road. Ralph Barbaro asked if there is a 100 foot right-of-way there because it is a State road. Gerry Hendrickson commented they're planning on widening that. Larry Smith stated that is a 60 right-of-way. Ralph Barbaro stated he has no objection. He stated just doesn't want to give the applicant a permit to put a sign up within the right-of-way.

John Hellaby stated the Krenzlers right nextdoor have a 66 foot right-of-way. Beverly Griebel stated if the sign is going to be 20 feet back from what is permissible, it will be way back in those shrubs. John Castellani stated he thinks 20 feet from the roadway is what she wants.

There was some discussion about what the right-of-way is. Ralph Barbaro asked if anyone knew what the width of the pavement is there. He stated he saw an 8 foot paved shoulder there. Ralph Barbaro stated they need something to show where that sign is in relation to the edge of the pavement and the edge of the right-of-way.

Keith O'Toole asked the applicant if she had an instrument survey for the property. Keith O'Toole asked the applicant if the property has ever been surveyed. Ms. Meyer stated she was sure it was when she bought it. She stated for 14 years she has been there. Bill Oliver asked if the Town records have something to avail them of some kind of measurements in relation to where she is.

Keith O'Toole stated the purpose of this is to help the applicant in siting the sign so as to be in conformance with the code and not to be too far back from the road so as to give it maximum visibility. He stated his understanding from a previous conversation with the Zoning Board Chairman is that the house is old enough it wouldn't appear on a site plan and wouldn't be in Town records on any level. He stated a subdivision map wouldn't help them. He stated if the applicant owns an instrument survey, there may be some relational points or stakes that the applicant could refer to and then site the sign properly from that. Keith O'Toole asked the applicant if the Board could adjourn this application to be recalled before they closed the public hearing this evening. Keith O'Toole stated the Code Enforcement Officer is indicating he would like to review the records of the Town, so they might want to adjourn this particular part of the hearing until the end. Ms. Meyer stated that was fine.

The application was held until later in the meeting.

5. Application of Thomas Krenzer, owner; 2380 Scottsville Road, Scottsville, New York 14546 for variance to create an undersized lot to be 2.67 acres (20 acres req.), with a lot width of 400' (700' req.), variance to allow existing barn to be 47.3' from proposed side lot line (50' req.) at property located at 2437 Scottsville Road in RA-20 & FPO zone.

Tom Krenzer was present to represent the application. He stated a while back the Zoning Board gave them permission for a lot to build themselves a ranch home on. He stated at that time they didn't realize that this place was going to go into a violation because they didn't survey the whole thing. He stated his son would also like to have ownership of it, so there will be a title change. He stated that's the main thing that is going to happen, only a title change.

Mr. Krenzer stated for the third part of the application where they're too close, he talked to the engineer today and he said it would be no problem to move that 5 feet south to conform on that part.

Ralph Barbaro asked if this was going to be the applicant's sons lot. Mr. Krenzer stated it would. He stated his son would like to put an addition on the house probably next year. Ralph Barbaro asked if the existing barn was going to be 47.3 feet away from the property line. Mr. Krenzer stated it would be, from the south lot line. Ralph Barbaro asked if that is where they're saying they would make it another 5 feet. Mr. Krenzer stated it is. He stated his engineer thought it only had to be 40 feet when he surveyed and he didn't quite put it right, but he stated they can add on there no problem. Ralph Barbaro commented all those requirements are up for review over the next year anyway.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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 findings of fact were cited:

1. Property will remain in family.
2. Not out of character with area.

Larry Smith stated the Town does not have a map for Application 4. Beverly Griebel stated there is no site plan for Application 4. Larry Smith stated he knew he did see a survey map at one time that Nancy or her son showed him. He stated if the applicant amended the application to include a three foot set back from the right-of-way, that should handle the situation of placing it. He stated the setback was shown on the original map of the house.

6. Application of Blockbuster Video, c/o Forster Signs, 1050 Plastermill Road, Victor, New York 14564; property owner: Chili Plaza Associates; for variance to erect a 5' x 10' double-faced addition to freestanding sign at property located at 3240 Chili Avenue in G.B. zone.

Nelson Bronis was present to represent the application for the Forster Sign Corporation. He stated he was present to represent Blockbuster Video. He stated they would like to install a double-faced, 50 square foot, approximately 5 x 10 sign between the two existing poles for the Chili Paul Center, which is directly across the street from the Town Hall.

Beverly Griebel asked if this will be an internally lit sign, and Mr. Bronis stated it will be. He stated it will be lit internally with high output lamps that normally light box signs. He stated the face of the sign would not be a lexan. He stated Blockbuster uses what is called a flex face, which is a sign tech material which is very durable, and this is nationwide what they do. He stated the sign material illuminates almost like an awning, a little darker, but almost like an awning. Mr. Bronis stated the sign would have a flat face, not a bust.

Mr. Bronis stated one reason they need the sign is because their sales have not been up to par as they expected when they moved in here. He stated they're having some problem getting noticed is what their customers are telling them. He stated there is a big awning there, but it is set back a ways and they just drive by. He stated their customers keep going and then they have to turn around.

Mr. Bronis stated this sign being in between the poles is the only place they could put it. He stated the reason why it is cocked like it is, is because their torn ticket logo is on an angle all over the country. He stated that is the only way he can mount it. Beverly Griebel asked if that is the same emblem that is on their sign on the store, the little slanted ticket. Mr. Bronis stated if someone goes in Blockbuster and gets a tape or a bag, they will see that logo on there also, and it is on a slant.

Mr. Bronis stated they are having some problem getting noticed. He stated their sales are down, and Blockbuster has shown him track records. He stated he does Blockbuster signage from here to half of the United States, so he is very close with them. He stated he knows what kind of locations they go into and what kind of dollars they expect. He stated, for instance, they put one up in Perinton, but that one is right up against the road and really can't be missed. He stated on the other hand, this one is set back further, so they need some help for notification. He stated they would have loved to wrap an awning around the whole place.

Mr. Bronis stated the 50 sq. ft. sign is the second smallest sign. He stated they have one that is 40 square feet. He stated the Blockbuster people wanted to go bigger, but he told them the 50 square footer is plenty.

Gerry Hendrickson asked if the sign would glare from lights from the cars. Mr. Bronis stated it would be up too high. He stated it would be approximately 18 foot high, the top. He stated it would be 20 foot high at the right peak. He stated he didn't think they are really going to hit that. He stated the sign does not have a gloss nor a mat finish; it is in the middle. He showed the Board a piece of the material used in the sign against a light and showed the light doesn't bounce off.

Ralph Barbaro asked Mr. Bronis if he had a picture of what the 40 square foot sign looks like. Mr. Bronis stated he did not. Ralph Barbaro stated this looks like a big sign in relation to the Marine Midland sign that is there. Mr. Bronis stated that sign is about to fall apart. He stated that Marine Midland sign is straight across with very small copy, 2 foot high, but one line of copy. He stated that was their logo as it was. He stated today Marine has changed their logo. He stated if someone were to look at the new Marine Midland sign, it is totally different. He stated if they wanted to change their sign, they could not fit it into this particular box.

Mr. Bronis stated Blockbuster's largest sign is a 100 square footer, and then there is a 125 or a 150 which they could fit in there if they wanted to, but that would be absolutely too big.

Ralph Barbaro stated it begins to look like visual pollution when when they start getting all these signs, all these different colors and all these different shapes and things up and down Chili Center. He stated generally when there is a plaza, they announce the presence of the plaza and every store has 100 square foot or more sign on their store front. He stated if people were to go up to Greece Towne Mall, they don't see a big sign that says Greece Towne Mall then listing 100 stores that are in it with all different signs, shapes and logos. He stated he was not sure they want to start that practice here. He stated it would be different if they didn't have any signs on the buildings themselves, but the buildings and the stores in that plaza already are identified and are already identified within the law, and in some cases, there are variances granted so they could have bigger signs than what was allowed by law. He stated to put that right out there is just visual pollution.

Mr. Bronis stated Greece Ridge is a large shopping mall, because it is inside. He stated they cannot put 200 stores on a sign. He stated in the Chili Paul Plaza, Blockbuster is their anchor tenant, one of the anchor tenants.

Bernard Iacovangelo, present in the audience, stated Blockbuster is not really an anchor tenant. He stated Blockbuster is a notable tenant and actually has brought a lot of recognition to the plaza that the plaza couldn't get with simply a Big M or a bank. He stated when they're talking about a AAA tenant, a AAA credit worthy tenant, that is almost like the same as Wegmans coming into town. He stated that is how important they are to the plaza. He stated coupled with the next new comer, Monro Muffler Brake, it just gives a lot more credibility with their presence.

Mr. Bronis stated probably Big M and the other bank and perhaps Golds Gym would love to be on this pole sign for more recognition. He stated that would be polluting with three, four or five signs on there. He stated their plans to put a separate sign up for each one do not exist. He stated if in the future this whole sign would be revamped, he believed Mr. Iacovangelo would probably not allow to have four or five different signs on this sign. He stated Blockbuster, one of the more attractive or attention-getters into the plaza is further back than Big M and Golds Gym is right next to it, but they're not as attention grabbing. He stated Blockbuster is further back than any other tenant, large tenant.

John Castellani stated he would take the contrary position to equating the Chili Paul Plaza to the Greece Towne Mall in economy of size and function. He stated he also agrees that they're not going to see Blockbuster from the road easily. He stated people will see Big M. John Castellani stated he doesn't consider that pollution.

Beverly Griebel stated her son has been away for three or four months and did not even notice Blockbuster when he drove by.

Beverly Griebel stated this was submitted to Monroe County Planning and it came back as a local matter.

Bill Oliver stated it seems like a large sign. John Hellaby asked if Mr. Bronis was acting on behalf of Mr. Iacovangelo. Mr. Iacovangelo stated he was acting on behalf of Blockbuster. John Hellaby asked if Mr. Bronis has the plaza's endorsement as far as this application. Mr. Iacovangelo stated he does. Mr. Iacovangelo stated he is the managing partner of the Chili Paul Plaza. He stated when they negotiated the lease with Blockbuster to get them in that spot, they didn't want to be there. He stated they wanted to be on the pad site next to the dentist office right there on Chili Avenue, because if you look at traditionally all of their locations, they're on pad sites. He stated very seldom do they go in what they call in-line or end-cap locations as they did. He stated he was able to negotiate a lease which was very attractive to them to take the end-cap location and get them into the Town.

Mr. Iacovangelo stated the group that signed that lease is the new franchisee for Rochester and Monroe County. He stated the franchise that is in Gates is on a pad site. He stated that site was not expanding fast enough, so corporate took their franchise rights away from them and sold them to this other group out of Florida. He stated these fellows have come in and put in six stores so far in the Monroe County area and one in Canandaigua, and they plan on another three. He stated what they found is that of the stores that they have put in locally, and in comparison to other ones in this region, the Chili store is one of the lower performing stores notwithstanding the fact that the demographics have gone up as far as traffic and everything else. He stated one of the reasons is that they're set back so far.

Mr. Iacovangelo stated one of the things that helped Clairidge when they opened up there was the fact the Zoning Board granted them a variance to place a very large awning sign there with large letters which were visible from the street. He stated Forsters helped them at that time to demonstrate that the size of the letters from the distance from the road driving by, seeing the site, they needed those size letters. He stated at that time they came in and spent the time to get the larger sign.

Mr. Iacovangelo stated he would set some time aside with Mr. Bronis to put together some kind of a plan for the plaza's sign. He stated they could limit it to a certain number of spots, certain

type of outline, so that everybody is in concurrence.

Bill Oliver stated it is not a question of they're not saying they don't need the sign per se for identification, because they definitely want business to come into Chili. He stated it is the size and the way it is set up. Ralph Barbaro stated Monro and Fays may want a little more exposure with their name out front, too. He stated there are businesses that have been in there for a dozen years that haven't had this kind of exposure at any time in their history, including a couple banks that have come and gone. He stated he just sees them starting something with this that is going to mushroom, not only for that plaza, but then everybody else along Chili Avenue is going to want better exposure. He stated then they have to defend that in court.

Mr. Iacovangelo stated there is not going to be any removal of the pylon. He stated there is not any other location that has that kind of pylon in front of it in the Chili area. He stated one of the reasons why they kept that pad site open is that he is in the process of negotiating with Marine Midland to move to that pad side so as to open up that whole front of that plaza. He stated Marine would like to be in a new bank on that pad site next to the dentist office by the beginning of 1996. He stated that is why he didn't want Blockbuster there, because it would have never opened up the front of the plaza the way it has been with the present location of Marine Midland.

Beverly Griebel stated if and when Marine Midland goes there, that will block the Blockbuster location. Mr. Iacovangelo stated it would not totally. He stated they will be in the line of sight a little. Beverly Griebel stated it will be less readily visible from the road, so the sign will be more essential. Mr. Iacovangelo stated there was no question about that.

Mr. Bronis stated it sounds large, but when you get it up there, it is smaller. He stated the sign is a foot shorter than he is. He stated it looks big on the ground, but it is small.

John Hellaby asked presently how many lease agreements are in this plaza. Mr. Iacovangelo stated there are 23. John Hellaby asked if there are provisions built into these leases if somebody came to the plaza owner and said they wanted something because Blockbuster got a sign. Mr. Iacovangelo stated that's correct. Mr. Iacovangelo stated they would have to have his approval before they can go on the sign.

John Hellaby asked if this Board felt that there was a need for a sign for advertisement, is it all or nothing, or could they live with a smaller type sign. Mr. Bronis stated they have a logo that is national. Mr. Bronis stated they would like this, or if the Board does not grant this, then they do not grant that. He stated he already talked them into something smaller. Mr. Bronis stated they always want bigger.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich seconded the motion. All Board members were in favor of the motion except for John Hellaby, who stated he was opposed to the motion because he believed the application involved visual pollution.

DECISION: Approved by a vote of 4 yes to 3 no (Ralph Barbaro, John Hellaby, Ron Popowich) with no conditions, and the following finding of fact was cited:

I. Signage needed to further identify business located in remote corner of plaza.

7. Application of R.J. Taylor, owner; 2024 W. Henrietta Road, Rochester, New York 14623 for variance to erect a 5' x 4' double-faced freestanding sign at property located at 14 Jet View Drive in L.I. zone.

Jeff Taylor, the Vice President of R.J. Taylor, was present to represent the application. He stated they purchased the building that was formerly D.J. Andrews at 14 Jet View around mid November, and they shortly thereafter got a building permit to renovate the site.

Mr. Taylor stated part of their plan is to get an identity at that location. He stated up until now the building has kind of been overwhelmed by some of its neighbors. He stated RMA Kolko is to the north. He stated Fisher-Scientific is to the west across the street from them. He stated there is another business on the corner parcel.

Mr. Taylor stated their building is about 5,000 square feet. He stated nobody seems to know about the building or it just slips by them, so they're trying to get a presence there. He stated they're trying to erect a sign that is not illuminated, just a sign with daylight hours so that people can come by and can find them. He stated they have a number of salesmen calling them on a day-to-day basis.

Mr. Taylor stated they're trying to do something attractive. He stated they're trying to incorporate brick peers to match the front of their building to tie it all together. He stated they're trying to fit within the criteria with 20 feet from the right-of-way, 15 feet from their driveway. He stated there were a couple blanks on the application he did not fill out at the time of turning it in but he has since done some measurements.

Mr. Taylor stated the building to the south of them at the corner is approximately 220 feet to the south and Kolko is 300 plus feet to the north, so neighboring parcels aren't an issue. He stated they are trying to occupy the building around February 1st, and they're in the middle of construction.

Bill Oliver asked if they bought some of the property that used to belong to Genesee Cooler. Mr. Taylor stated he was told it was an RCA Service Center. He stated that must have been after the tool and die. Mr. Taylor stated the two-acre parcel has always transferred along with it, to his knowledge. He stated that is part of the reason they bought it. He stated they own about an acre and a quarter that they're not using, but they have the room to expand in the future. He stated there are no plans in the near future, but it is nice to have the property available.

Beverly Griebel stated she could see the need for it because she turned in there and wasn't sure where it was. She stated she had to come up to an abrupt halt. Mr. Taylor commented there is a generous set back. He commented, unfortunately, a set back on a building as small as theirs gets lost. He stated there are mature trees in the yard that escapes their view.

Ron Popowich asked if there will be a sign on the building, too. Mr. Taylor stated there would be only the one sign. Ron Popowich asked what exactly do they do. Mr. Taylor stated 50 percent of the building is their office, and 50 percent is for their shop and storage area for their construction materials. He stated sometimes they do some light fabrication of mill work, or if the elements are so bad, their guys will sometime bring some of the work back to the shop and do some work in January and February. He stated there is a little fenced area in the back where they can store trailers during their slow season. Ron Popowich asked if they would have any retail business here. Mr. Taylor stated not at all.

John Hellaby asked if there is presently at the head of this industrial park a sign board type situation that has all the businesses on it. Mr. Taylor stated there is. He stated the plaques are 6 inches high and 3 or 4 feet long that identify who is in the park. He stated, however, there is no map showing where it is and the sign doesn't give a street number.

John Hellaby stated if memory served him right, there are no other freestanding signs in this industrial park. Mr. Taylor stated Fisher-Scientific has one across the street. Bill Oliver stated Genesee Cooler used to have a sign there that got knocked down by a car.

Mr. Taylor stated again, if their building were a little larger and a little closer to the road, a sign on the building would be more appropriate. He stated they're trying to get out beyond the mature trees. He stated he thought it was a better compromise to have a freestanding sign than to cut down the trees to see the building.

Ron Popowich asked if they get a lot of tractor-trailers deliveries there. Mr. Taylor stated not at all. He stated it is not laid out to accept tractor trailers. He commented if they got in, they would

never get out. He stated they discovered the quality of the paving is a light-duty paving. He stated if they let any trucks in there, it would disintegrate in first couple months. He stated it is about 3 inches of base and about 2 inches of asphalt. Mr. Taylor stated they refuse deliveries at this location. He stated they only take deliveries out at their sites, otherwise they would really have to handle everything twice.

Mr. Taylor stated they do, however, get a lot of salesmen. He stated it is important to them that they're able to find them.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel asked if the size of the sign, 5 x 4 includes the pillars or not. Mr. Taylor stated that is just the tall wooden sign itself with the printing on it. Beverly Griebel asked if the pillars are included. Keith O'Toole stated the sign definition includes the entire structure. He stated whatever is permitted as a sign includes the uprights and everything.

Mr. Taylor stated the true size would be probably 8 feet by 6 feet if they were counting all the pillars. Larry Smith stated they should amend the application. Mr. Taylor stated it wasn't their intent to get something that big. He stated they were trying to tie it together. Mr. Taylor stated he would like to amend it to be 8 feet by 6 feet.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, 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 findings of fact were cited:

1. Signage needed to identify a small size business located near entrance road.
8. Application of 84 Lumber Company, owner; 1505 Scottsville Road, Rochester, New York 14623 for variance to erect a 4' x 8' temporary double-faced "A" frame sign to be erected once a month and to be placed on front lot line (20' req.) at property located at 1505 Scottsville Road in G.I. zone.

Margaret Somerset, an attorney from Harris, Beach & Wilcox, was present on behalf of 84 Lumber along with Mark Penazek, the manager of this location. Ms. Somerset stated this is an application to display on a periodic basis a 4 x 8 sandwich sign in order to indicate that this particular location of the 84 Lumber store is participating in promotion business of the national company.

Ms. Somerset stated the national company approximately once a month has a promotion on a nationwide basis and advertises it in local circulars. She stated unfortunately without a variance, this location cannot put out a sandwich board to indicate they're a participating retailer and to benefit by drive-by sales from that advertising.

Ms. Somerset stated on the property they have a building identification sign and a lollipop sign that identify the name of the business, but nothing identifies participation in sales. She stated the survey they submitted mistakenly identifies a location outside the fence line. She stated it is not their intent to place it on the right-of-way line. She stated they would like to amend their application and that survey map to indicate the sign would be 20 feet from the right-of-way, inside the fence line in the entrance driveway. She stated the entrance drive is over 20 feet wide, so it would not be a difficult situation to situation that in the entrance driveway area.

Beverly Griebel stated that's correct. Ms. Somerset stated the fence is about 4 foot back from the right-of-way, so the sign would be 16 foot inside from the fence line.

Ralph Barbaro asked if the sandwich board sign would be 4 x 8 feet, and Ms. Somerset stated it would be. Ms. Somerset stated there is a photograph of the sandwich board attached to the

application. She stated that is a standard issue sale day sign that 84 Lumber mandates for each of its locations.

Ralph Barbaro asked how many days at a time would that sign be out there. Mr. Penazek stated approximately ten. He explained they usually start the third week of a month, on a Wednesday, and then through Saturday near the end of each month; about 10 days is the maximum. Ralph Barbaro asked when it is not being used, where it will be kept. Mr. Penazek stated behind their building. Ms. Somerset stated there is no road on the back of 84's property, so it will not be visible from the road.

Beverly Griebel asked what kind of items would be on sale that would be an impulse purchase. She stated she has been on that road and has been in the shop. She commented is a very busy road. She questioned why someone would suddenly see there is a sale, turn in there and stop. She stated when she has gone to the store, she has gone there with a purpose, for something specific. She asked who would be attracted to a sale at 84 Lumber rather than to a sale at another type store, a dress store or something like that. Larry Smith stated males would be.

Ms. Somerset stated the need for this sign is directly related to the advertising that is done on a national basis. She stated the only way for this location to indicate it is a participating retailer for purchases of those national sales is to have a sign out. She stated, for example, if someone wanted to buy a vanity at 50 percent off, they would want to know this store would have that sale. Beverly Griebel stated she can't see where someone would on the spur of the moment see a sale and just turn in there.

Ms. Somerset stated 84 Lumber is the kind of a store that really sells more to people who are doing construction on their homes or contractors, subcontractors, people who are familiar with these kind of businesses. She stated if they're not only shopping at 84 Lumber, they will shop at Hechingers, Chase-Pitkin, and they want to know where they can get the best price. She stated for a person to know this 84 Lumber is a participating retailer in national sales, would be very important.

Ron Popowich stated he guessed what they're saying is this would actually be like a financial hardship more or less if the public didn't know the sale was going on. Ms. Somerset stated that was correct. Ron Popowich stated he has turned in on those sale signs. Ms. Somerset stated as an example, if someone wanted to do construction on their house but didn't have a deadline, and needed to buy 10 sheets of 4 x 8 plywood, they might wait until they saw that sale sign at 84 Lumber before they actually purchased it.

Ron Popowich questioned the sign in the pictures presented to the Board. Ms. Somerset stated that is the standard issue sign. Mr. Penazek stated it is a vinyl overlay with a piece of plywood. Ron Popowich asked if it would say drywall one month and 2 x 4s the next. Mr. Penazek stated it would not.

Larry Smith stated to clarify, the applicant is not asking for a variance on the setback requirement. Ms. Somerset stated that was correct. She stated the applicant seeks to have the sign displayed 20 feet from the right-of-way. Larry Smith stated the applicant is requesting a promotional sign to be used once a month versus their code which basically says a promotional sign can be used for 10 days once a year. He stated the applicant is requesting it to be a promotional sign for 10 days a month versus a year. Ms. Somerset stated that was correct.

Larry Smith asked the applicant to point out on the original map where the sign will be. Ms. Somerset complied. Ms. Somerset stated the right-of-way is identical with the property line, which is the heavy black line. She stated the fence is about 4 foot inside that right-of-way line. She stated they propose to put the sign about 16 feet inside the drive.

John Castellani asked what was the date that the project was denied. Larry Smith stated it was on 11/16/94.

Ralph Barbaro asked if there are 84 Lumber stores in this area that do not participate in the

national sales. Mr. Penazek stated all four of them in this area do. Ralph Barbaro asked if they do that every month. Mr. Penazek stated they do except for November through March, they don't have sales. Ralph Barbaro asked if that was for the whole company or just the four stores. Mr. Penazek stated that was for the whole company. He commented they shut down for winter as far as that goes. Ralph Barbaro commented the justification here is a little bit questionable. He stated they're saying that they need the sign to show that this particular location is participating in a national sale, but, in fact, all locations participate in a national sale when there is one.

Ms. Somerset stated it is her understanding that there is a customer need. She stated the company has identified a need to let their customers know that this is a participating dealer, that the customers aren't necessarily aware that all local 84 Lumbers do, in fact, participate in those sales.

Keith O'Toole commented the applicant's argument basically is they have a nationally designed advertising program, and that if this location doesn't get that sign, they would have to go back and design some remedial way of filling the gap, and that would prove to be an economic burden. Ms. Somerset stated that is exactly right. She stated they would have to change local advertising and they would not be advertising on a nationwide basis.

ANYONE IN FAVOR OR OPPOSED: No one.

Larry Smith stated every time he goes in there, everybody is a manager. He asked Mr. Penazek if he is the top manager there. Mr. Penazek stated he is. Larry Smith asked Mr. Penazek if he is the General Manager. Mr. Penazek stated he is. Keith O'Toole asked Mr. Penazek if he has the authority to bind 84 Lumber with this application. Ms. Somerset stated he does; he is the most senior officer at this location.

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

DECISION: Approved by a vote of 5 yes to 2 no (Ralph Barbaro, Beverly Griebel) with no conditions, and the following findings of fact were cited:

1. Needed to identify business participating in national sales.
 2. Applicant demonstrated financial hardship.
9. Application of Donald & Kenneth Turner, c/o Avery Engineering, 3225 Chili Avenue, Rochester, New York 14624 for variance to allow a 75' front setback for Lot 2 & 3 of the Turner Subdivision (100' req.) at properties located at 2505 & 2507 Scottsville Road in RA-20 zone.

Beverly Griebel stated this was submitted to Monroe County Planning and was returned as a local matter.

Don Avery was present to represent the application. Mr. Avery stated they have an approved subdivision plan signed by the Town which shows the 75 foot setback from the right-of-way, and they also then have an instrument survey map which shows the setback, which was the minimum of 75.5.

Mr. Avery stated why they're here is that originally this was an RA-20, which requires a 100 foot setback. He stated somehow this fell through the cracks and they thought they were doing it by the 75 foot that was required on Scottsville Road. He stated the people didn't put the house up willfully disobeying anything that they thought wasn't right.

Mr. Avery pointed out on the plans a hill. He stated where there is a ridge, that is where the house should go. He stated if the house were back further, as he indicated on the plans, if it was back here, it would be behind a hill. He stated where they are proposing the house is where it

should be, and that happens to be just the 75.

Mr. Avery stated there is an existing house, the cobblestone school house, and they're really right in line with those. He stated it would have looked rather peculiar if they were back further on the 100 foot.

Larry Smith stated basically their code requires a 75 foot setback from major roads. He stated in all zones with the exception of that zone, that would be greater than what the zone itself would require. He stated in an RA-20, they still require a set back of 100 foot. John Castellani asked if the Planning Board signed off on it. Larry Smith stated they had no authority to grant a variance on it. John Castellani asked if the applicant was ever advised to come to this Board for the relief. Larry Smith stated he didn't see the 75 foot set back on it. John Castellani commented it was a miss all the way around.

Ralph Barbaro asked if the lots were subdivided at some previous time. Larry Smith stated they were. Mr. Avery stated they came before this Board to divide the lots into what they have, and it was done mainly based on the fact that those lots would be all be in the family.

Beverly Griebel stated she walked out there on Sunday. She stated there is a drop off in the back. She stated it looks like the house has a walk-out basement. Don Turner, also present to represent the application, stated it does partially. Don Turner stated if the house were set back 75 feet, it would be over the crest of the hill. Beverly Griebel stated or they would have to add tons of fill. Don Avery stated they would need a lot of grading if it was 100 foot back.

John Hellaby asked why is the tie distance to the center line of the road different from the tape location to the subdivision map. John Hellaby stated the instrument survey does not reflect the same tie distance as the survey map. Mr. Avery stated that is why they do the survey map. John Hellaby stated he was referring to a filed subdivision map. John Hellaby questioned why those dimensions are different. Mr. Avery stated that is before the house goes up and they always go by what was actually placed on the ground. John Hellaby stated he would beg to differ. He stated these two distances should correspond. John Hellaby stated the two maps are telling him the property line on the side of this house is in two different locations because it has a different tie distance to the center line of Morgan Road. John Hellaby stated that was a problem here that should be resolved so someone doesn't have a problem later on. John Hellaby stated the one map says 553.74 feet from the center line of Morgan Road where the instrument location map is 561.75. Mr. Avery thanked John Hellaby for pointing that out. He stated he would check that out.

ANYONE IN FAVOR OR OPPOSED:

Jacob Bonner - 164 Scottsville Road

He asked when it was subdivided, did they allow the 75 foot variance, or wasn't that allowed. Keith O'Toole stated the Planning Board has no authority to grant variances, only the Zoning Board may. Mr. Bonner stated it was supposed to be 100 feet, and then this house was built at 75 without it being approved. Keith O'Toole stated what the applicant is saying is there was misinterpretation of the code provision. He stated the Town has a code provision that states what the setbacks are in that particular zone. He explained under special circumstances for particularly highly traveled roads like Scottsville Road, it incorporates a different set of setbacks for those particular roads. He stated it has happened in the past that people have forgotten to refer over to that other section.

Mr. Bonner stated he could buy that on the first house, but he stated this is another one. Keith O'Toole stated the applicant is coming here for a variance for the first house and the second one. Mr. Bonner stated the second one is not built; the first one is.

Keith O'Toole stated the applicant has been approved for a certain grade plan, and, in fact, what they would have to do is first they would have to come back in for additional approvals, and then as the applicant has stated, they would have to come in and get additional fill. He stated and the cost of fill, cost of heavy machinery can drive up the cost of a site preparation and the home. Mr.

Bonner stated that is a decision they make when they build on a site. Keith O'Toole stated in his own experience, every time a builder goes out and checks out a parcel of land, he decides what kind of house he can market on that particular piece of land given the cost of developing. He stated now the applicant is stating that the cost of developing it with that extra 25 feet would be significantly higher than originally anticipated.

Mr. Bonner stated that is 25 feet that he didn't take into consideration when he built the first house. He stated it was supposed to be 100 foot and he built it at 75. He stated now the applicant is saying he wants to build another one that isn't there. Keith O'Toole stated the applicant's argument is that the Town gave him approval for that entire plot of land, two lots. He stated basically the applicant is asking for a variance for one lot that happens to be nextdoor on the same general parcel of land that has the same general contours. He stated the same hardship that runs to house Number 1 that has already been built also applies to Lot Number 2 where there is no house. He stated the applicant is saying it would be significantly more expensive to go out and do site preparation.

Keith O'Toole stated the applicant could apply for the one variance of the house built, and he may legally also apply for a variance on Lot 2. He stated he can do it today as he is doing, or he can come back a different time. He stated legally this Board has the authority based on his variance to grant it or deny it, but that is the crux of his argument.

Ralph Barbaro stated the other property to the north is already at 75. He stated it has been there for years. Mr. Bonner asked if that is prior to RA-20 going in in that area. Beverly Griebel stated it precedes the code. Ralph Barbaro stated he did not know that. He stated he was not sure when the house was built.

Ralph Barbaro stated there is a property already approximately 75 feet from the road, and there are other properties along Scottsville Road that have been built according to the State requirement of 75 feet set back along Scottsville Road, so granting this variance is in keeping with the general neighborhood layout. He stated if they were to say they have got all these houses at 75 feet but now are going to make this house go back another 25 foot, then actually they're kind of putting that house out of perspective with the rest of the neighborhood.

Mr. Bonner stated for aesthetics, the regular shapes are more pleasing than irregular shapes. Ralph Barbaro stated it depends on who is looking at it. Mr. Bonner stated the house is at 75 and is supposed to be at 100. He stated he is not denying them the right to have their homes. He stated he was just questioning why it is there at 75 feet instead of the 100 that it should have been.

Beverly Griebel stated they have had other occurrences that are somewhat similar to this where something is built and it may have been overlooked along the way, and then they come into this Board to get the variance so that the property can remain as it is. She stated without the variance, the perspective owner can't get a Certificate of Occupancy and mortgage and all that sort of thing. She stated that is why they're coming in now to clarify the situation.

Mr. Bonner stated part of his mission to come and ask the questions is he lives in that area, and there are continually being variances made from RA-20 to smaller homes, closer to the road. He stated that goes against what their rural area was supposed to be maintained at. He questioned if they continually offer variances, why are the original rules there. He asked if they will be changed, too.

John Hellaby stated the whole south of Black Chili presently is in a rezoning mode. He stated there is a board formulated that meets once a month, Thursday nights, at 7 o'clock at the Community Center. Mr. Bonner stated it seems like a strip development with all the farmland behind that. John Hellaby stated they are going to go through and revamp all of that south of Chili Avenue, is what their intent is.

Bernie Iacovangelo

He stated they had worked with the Turners when they prepared this subdivision map, and they had taken time to work with the Planning Board and the Zoning Board of appeals in getting the

necessary variances for this property. He stated one of the reasons why they developed this land in such a fashion was to achieve a couple different things. He stated Mr. Turner wanted to be able to give a lot to each one of his children, and also there is the remaining portion of the land that has been used by the farmer in the neighborhood for farming, and they wanted to keep that in the lease with the farmer. He stated they tried to achieve multiple objectives.

Mr. Iacovangelo stated in locating the septic tanks for the Health Department, making sure that that area perked out, one of the difficulties now that the houses have been built is that if they try to shift that around, they don't know what the perk test would be on moving that whole house and septic system back 25 feet, whether or not it would reach the same perks and so forth. He stated he could assure the Board that there was a significant amount of discussion and determination on these parcels before and that this was an inadvertent thing that no one expected after all the painstaking efforts everybody had taken were done.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Bill Oliver 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 findings of fact were cited:

1. Applicant described significant monetary hardship.
2. In keeping with neighboring properties.

Beverly Griebel stated the Board would return to Application 4. She stated their question was about the placement of the sign. Larry Smith asked the applicant if she would amend her application to read 3 foot from the property line at that point. Ms. Meyer stated she would. Keith O'Toole asked the applicant if she understood the code says she has to have it 20 feet from the property line, so she would be asking for a variance to be 3 ft. from the property line.

Beverly Griebel stated she was not sure if that would bring it behind the shrubs. Larry Smith stated they could make it a condition she remove the shrubs to see it. Beverly Griebel stated she would want to do that because to have the sign in the mist of the shrubs, would not make it visible.

Ralph Barbaro asked if there is a height limitation on that sign. Ms. Meyer stated she originally had it on a 5 foot post, and then she was going to have something on each side. She stated she would make it very simple and would place it on the carriage with the Blessed Mother and Joseph and Jesus.

Keith O'Toole asked the applicant what would be the total height of the sign with the posts, to the very top. Ms. Meyer stated it would probably be 8 foot on top of the carriage instead of the posts.

Beverly Griebel stated the original application was for a 3 foot by 3 foot standing sign. Ms. Meyers stated that was on a 5 foot post, and she stated she then changed it to the carriage. Keith O'Toole stated the Board just wants to just confirm that the total height of the combined structure would be 8 foot. Ms. Meyers indicated it would be 8 foot. Larry Smith stated the application as amended would be for a sign 3 foot by 3 foot, 8 foot tall, 3 feet from the property line.

Ron Popowich asked would the sign be illuminated. Ms. Meyer stated it would be illuminated until 10 o'clock at night by Christmas lights. She stated she doesn't like floodlights.

John Hellaby asked if this needs a conditional use permit or land use variance. Larry Smith stated it is a sign variance. John Hellaby questioned whether the operation needs a permit. Larry Smith stated it does not. John Hellaby asked what would she operate this bed and breakfast under. Larry Smith stated under the multiple dwelling law with four boarders. Larry Smith stated in an RA zone, it is a customary home occupation and she doesn't need a variance for that. Larry Smith

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stated she is not permitted a sign, so she is requesting a variance for a non-permitted sign.

John Castellani asked the applicant if she has been informed about all the licenses and inspections she is going to go through with a bed and breakfast. Ms. Meyer stated she has been in touch with the Bed & Breakfast Association. She stated she went down and did her d/b/a. John Castellani asked if that included the Monroe County Health Department. Ms. Meyer stated it did.

Gerry Hendrickson asked if the Christmas lights would be flashing. Ms. Meyer stated they would not be flashing lights. Gerry Hendrickson asked if the sign would be parallel with the road. Ms. Meyer stated it would be.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel made a motion to declare the Board lead agency as far as SEQR and made a determination of no significant environmental impact, and Ron Popowich 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. Signage needed to readily identify the business on a high speed road.

The meeting ended at 10:20 p.m.