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CHILI ZONING BOARD

January 23, 1996

A meeting of the Chili Zoning Board was held on January 23, 1996 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, Dan Melville, Ron Popowich, Bill Oliver,
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.

1. Application of Rochester Tel Mobile Communications, 161 Chestnut Street, Rochester, New York 14604, property owner: Casperson Party House; for conditional use permit to erect an 80 ft. high cellular telephone tower with an 11 1/2' x 26' equipment building at property located at 673 Beahan Road in RA-20 zone.
2. Application of Rochester Tel Mobile Communications, 161 Chestnut Street, Rochester, New York 14604, property owner: Casperson Party House; for variance to erect a cellular telephone tower to be 80 ft. high (35' allowed), variance for tower and equipment building to be 10' from side lot line (50' req.) at property located at 673 Beahan Road in RA-20 zone.
3. Application of Rochester Tel Mobile Communications, 161 Chestnut Street, Rochester, New York 14604, property owner: Casperson Party House; for variance to erect a 6' chain link fence with 2' of barbed wire to be a total of 8' high (6' allowed) at property located at 673 Beahan Road in RA-20 zone.

Beverly Griebel stated before they proceed, she was out and did see the sign on the property on Saturday, the 20th. Beverly Griebel stated she was saying that for the record because there was a question at the Planning Board that the sign was not posted for the required total time. She stated she thinks there was a problem maybe with the snow or something. She asked if everyone else saw the sign out there. The Board indicated they saw the sign.

John Castellani asked if they had County Comments. Keith O'Toole stated just to clarify for the record, they do have County Comments in a sense. Keith O'Toole stated some County Comments were presented to the Planning Board. Keith O'Toole stated the County is indicating they have no full recommendation at this point pending the completion of the SEQR review, so the Zoning Board has comments, but they don't necessarily have them in a sense.

John Castellani asked when do they anticipate those arriving. Keith O'Toole stated the County would have to send out a letter basically on their position. He stated they're doing a coordinated review with the Planning Board. John Castellani asked if they could vote on the application. Keith O'Toole stated they can't vote on it.

John Castellani questioned whether they want to keep a public hearing open for two meetings and then hear this again next month in a public forum. Keith O'Toole stated they don't have to keep it open. He stated they could close the public hearing as to this application and vote on it at the next meeting if that is the Board's pleasure. He stated by the same token, there has been a public hearing and it has been noticed, so it may be worthwhile giving the applicant the opportunity to give his point of view and let the public say what they want to say.

Keith O'Toole stated he has had some discussions with counsel. He stated one of his concerns is

with their scheduling, they want to hear any negative input at this point rather than later so they have time to address it.

John Castellani asked in all fairness to the public, he doesn't want to see next month's meeting on this item be just a vote. He stated he wants the public to have input. He stated people may not have seen the sign this time, and he was sure with the news reporting, they are going to see it the next time.

Beverly Griebel stated there would be further input allowed at any subsequent meeting. John Castellani stated but the public wouldn't be present to hear it; that is his point. Dan Melville stated they could be.

Keith O'Toole stated the applicant's counsel has indicated he would be at the next of the Zoning Board. Tom Greiner, present to represent the applicant, stated he would be present at the next meeting.

Beverly Griebel stated she was at the Planning Board meeting and understands they are waiting for FAA comments which may be delayed because of the budget crisis and all of that in Washington. She stated there was some uncertainty as to when the FAA comments would come through so that the Airport could complete their review. Keith O'Toole stated that is his understanding. Beverly Griebel stated it could be anywhere from one month to six months or more before they get the FAA comments. She stated there is no way to hurry it up.

John Castellani stated he just didn't want to go through this more than once. Keith O'Toole stated not as a legal argument so much as a practical one, since this type of application tends to be controversial sometimes, if there are things to deal with, the more time they have to deal with them, it is probably to the Town's advantage, for what it is worth.

Beverly Griebel read the County Comments. The County Comments will be on file with the Building Department. Beverly Griebel stated she has not gotten any information on that coordinated review, and after that is distributed, then it would take 30 days for comments to come back, so that time clock is not yet running. She stated on the basis of that, then that would not be likely completed before the next Zoning Board meeting. Keith O'Toole stated that is correct.

Keith O'Toole stated to follow up on the SEQR issue, the Zoning Board has a standard practice of allowing the Planning Board to be lead agency when they so indicate they wish to be. He stated, in fact, the standard procedure works in the reversal. He stated the applicant request goes to the ZBA, and a formal motion is made consenting to the Planning Board being lead agency. He stated there is no reason why they can't do that. He stated he understands the applicant has been involved in various and sundry litigation in the past relative to their towers and they're trying to build a tighter record. He stated certainly they should follow standard procedures and there is nothing wrong doing a little beyond that.

Beverly Griebel asked should they wait for their information on the coordinated review before they make that motion. Keith O'Toole stated it doesn't matter at this point.

John Castellani stated they should hear the testimony and table it. He stated they shouldn't take any action until such time as they get all the information. Dan Melville commented that may not necessarily be next month, either. John Castellani stated based on what the Chairwoman has read, it may not be until March or April.

Keith O'Toole stated the Board is aware that the Planning Board declared their intention to be lead agency. Beverly Griebel stated their next meeting is February 27th. She stated the application deadline is January 26th. She stated today is the 23rd. Dan Melville stated if they table this application after they hear it, they can't table it until next month because they don't know. He stated they might have to table it until they get confirmation as far as the County Comments and stuff like that, and then they'll have to advertise it.

Dan Melville stated they'll have to receive notification ten days before the meeting. Keith O'Toole

asked if they were tabling this to the next meeting or the March meeting rather than the February, because he doesn't think the coordinated review will hit these deadlines, Larry Smith stated they have to table it to a date. Keith O'Toole stated they have a standard practice of tabling to a specific date so as to give members of the public notice.

Mr. Greiner stated what he was going to offer was the suggestion that the Planning Board has declared its intent to be lead agency. He stated there won't be any finishing of a coordinated review until the other involved agencies consent to that or dispute their wanting to be lead agency. He stated he talked to the County Planning today. He stated they said that they were consenting to the Planning Board being lead agency.

Mr. Greiner stated so he would hope that the Zoning Board would consent to that so that at least the Planning Board can begin the coordinated review. He stated they really can't begin the review until the agencies have settled on who is the lead agency.

Dan Melville asked has the Planning Board declared themselves as lead agent or their intent. Keith O'Toole stated they have declared their intent. Mr. Greiner stated they can't declare themselves lead agency. He stated even though sometimes the Board talks about they'll be lead agency, but what they mean is they want to be lead agency and the other involved agencies have to consent or dispute that.

Beverly Griebel stated there is a whole official list of agencies in Town that are notified with a big packet of information. She stated that hasn't been sent yet. Mr. Greiner stated there are only three agencies that constitute involved agencies that could be the lead agency. He stated one is the Planning Board, one is Zoning Board and one is County Planning because it does have review and approval authority locating something close to the airport. He stated so one of three, the Planning Board, asked for the designation.

Beverly Griebel stated it is their practice to send the packet of information to all of the involved agencies, and once that is sent out, there is a 30-day period of time, 31 days to close that timeline. Keith O'Toole stated or they can receive a letter of agreement.

Mr. Greiner stated he would ask that the Board consent to the Planning Board being lead agency so the Planning Board can start the environmental review. Beverly Griebel stated she would prefer to wait for that information to come to her as Chairperson and go to all of the people and then they can make that decision.

Ralph Barbaro stated he was thinking that if this was going to be able to be settled at the next meeting, that they could go ahead and hear this, but now that he has heard these other statements made that this could go on for two or three months, that is too much of a delay between the giving of testimony and the hearing of testimony and then the decision-making process. He stated it is also too much of a delay as far as the public testimony that would be rendered on this issue. Ralph Barbaro stated he had to agree with John Castellani that the testimony ought to be delayed until such time as the County Comments at least are in so that any delay after that would be a minimal delay for a decision. He stated it looks like this may go for two or three months before they're really even ready to hear this. He stated he understood the presenters want to know what all of the negative comments are, but they certainly can talk to anybody in the audience to get that information if that is what they want. Ralph Barbaro stated he was not so sure that this Board should be at that disadvantage by having them having three months to prepare counter arguments and whatever.

Bill Oliver stated they have had problems in the past with antennas and towers. He stated he felt they should wait and see just what they're going to do in the future.

John Castellani asked what is the estimate of time all this would take. Keith O'Toole stated assuming they establish lead agency at the next next meeting of the Planning Board, which means the time has elapsed, or they receive some sort of agreement from the interested agencies, they can certainly have a determination that evening as to the environmental significance.

Beverly Griebel asked would the Planning Board be able to do that at that time. She stated their meeting is February 13th and the information has not been sent out for the coordinated review. Keith O'Toole stated he would have to defer to Kathy Reed as to where that is at that point.

Mr. Greiner questioned what information were they talking about for the coordinated review. Beverly Griebel stated she has seen in the past a packet of information. Mr. Greiner stated that is the application and all of the supporting materials. He stated they have supplied 30 copies of everything or more to the Town. Larry Smith stated they just got 18 copies either yesterday or today. Mr. Greiner stated they submitted 20 copies in November, and then just the other day there was another seven copies that Kathy Reed wanted. He stated the information that they are talking about is that information. He stated they have an application, a site plan and the environmental assessment form is part of this packet. He stated they have submitted dozens of those things, and that is the information that the Planning Board would want.

Mr. Greiner stated the other agencies they send it to, they have submitted copies for that as well, but in terms of who can actually be the lead agency here, it is a board with an approval function, which is the Planning Board for site plan, the Zoning Board for conditional use and area variances and County Planning for proximity to the airport issues. He stated that is the only information they're going to submit.

Mr. Greiner stated what they're talking about now is deciding who is going to be the lead agency so they can begin the environmental review. He stated if everybody delays deciding who is going to be the lead agency, they can on for months and months. He stated if they agree who is going to be the lead agency, the Planning Board, from his meeting with Mr. O'Toole, said they would begin the review on the 13th, which would be their next meeting.

Mr. Greiner stated he understood the Board's feelings, but if they could simply at least agree on the lead agency, they could begin their review and they won't be dragging this out for months and months. He stated he understood that they don't want to have a public hearing and then wait for four months and then hope that somebody shows up. Mr. Greiner stated he hopes that wouldn't happen or he doesn't think it would happen, but they could get the Planning Board started on their environmental review.

Dan Melville stated they can do that. Mr. Greiner stated they cannot. He stated they are not lead agency until the other two involved agencies consent. Dan Melville stated they don't have to consent. John Castellani stated that is right. He stated as long as they make a declaration, in this Town, that has never been a problem.

Mr. Greiner stated what they have to do for the State law, if they are saying the Planning Board is lead agency, then that is enough. Keith O'Toole stated it is either a waiver or specific agreement. Mr. Greiner stated they changed the law in '87. He stated it used to be if they waited 30 days and nobody said anything, they were deemed lead agency. He stated now the time requirement is 30 days and they took out what happens.

Keith O'Toole stated his understanding is it is not so much an issue in the Town of Chili and they have an agreement between the Boards. He stated the applicant has requested they do it and he made the suggestion as courtesy, but he doesn't believe the Zoning Board has to make the determination.

Mr. Greiner stated if the Zoning Board is saying the Planning Board is going to be lead agency, they don't have to get more formal than that.

Keith O'Toole stated the other argument is that the Zoning Board does not want to hear the application. John Castellani made a motion to table this action and to hear it when they have the appropriate information from the County.

Keith O'Toole stated this is a particularly unique application above and beyond the fact there is a cell tower involved. He stated the applicant is arguing they're a utility, and under the case law they are entitled, if they're deemed a utility, to special treatment for purposes of variances.

Keith O'Toole stated the applicant also has a history of litigating, which is their right, as it is every applicant's right. He stated he would be of a mind to let them present their application and deprive them of any arguments that the Board acted in an arbitrary and capricious manner. He stated they can't vote on it.

Keith O'Toole stated there is a school of thought that says even the scheduling of a public hearing constitutes an action. He stated the issue came up this afternoon. He stated he hasn't had time to research it. He stated there is an argument whatever they do here doesn't have any relevance. He stated he would prefer from a legal point of view to give the applicant the opportunity to drop the stuff on the table and let the four or five people in the audience say what they want to say. He stated in an Article 78, every argument they can deprive the petitioner of, the better.

John Castellani stated he was just concerned they have a full public hearing once again when all of the information is in, because that is not fair to all of the people. John Castellani stated he did not know if there are more people interested out there, but by the same token if they can't take action this evening, those people should be allowed to have their say.

Keith O'Toole stated before the special term of the Supreme Court, Mr. Greiner could argue that the public hearing was noticed, the land was posted, it was in the newspaper and the public had their opportunities. Beverly Griebel stated generally if they table something, they then have a public hearing again which gives the public an opportunity to speak at that time. Keith O'Toole stated this is one of the reasons they generally don't have old businesses because it is like the lingering death and the applications never go away. He stated he would argue this is a unique situation.

Dan Melville asked will they have everything they need next month to make a decision on this application, all of the County Comments. Dan Melville stated he thought they should wait until they have everything in place and then have a public hearing. Keith O'Toole stated he cannot speculate what the future will hold; he can only give his legal advice.

Beverly Griebel stated she would prefer to hear it and give the people that have come in an opportunity to speak tonight. She stated they're on the record then. She stated they would not have to return unless they had anything more they wanted to say. Beverly Griebel stated they could speak tonight and it remains on the record for this application for the life of the application.

John Castellani stated he could accept that if at the time they have all of the information, they do a complete public hearing again. John Castellani stated he would want it readvertised. Beverly Griebel stated that is normally what they would do.

The motion died for lack of a second.

Mr. Greiner stated he was present on behalf of the phone company along with Russ Germond, an employee of the phone company, the Cellular Engineering Manager and particularly the Project Manager for this site.

Mr. Greiner stated if the Board wants, they would be happy to pay for the readvertising. He stated when they have another hearing where perhaps the Board is in a position to vote, as long as they don't mind hearing it again, they certainly don't mind talking about it again. He stated he doesn't mind giving his name and phone number to anybody in the audience if they would like to discuss this between now and the Planning Board's next meeting or the Zoning Board's next meeting. He stated his phone number is 263-1456.

Mr. Greiner stated they are a public utility. He stated they are trying to serve their utility customers. He stated they're trying to fix a problem. Mr. Greiner stated at the same time they're not trying to alienate the municipality or the residents.

Mr. Greiner stated in his 14 years of doing this, he thinks they have only had to sue municipalities twice, so it is not like every month they get the axes out and do this. Mr. Greiner stated they're

more sued than suing, to paraphrase.

Mr. Greiner stated they have a couple of exhibits that he would like to show the Board. Mr. Greiner stated the challenge here is that they have a hole in coverage and the way cellular works, it takes an area that is at a very narrow band of the radio frequency spectrum. He stated in this case, they're up over 800 megahertz. Mr. Greiner stated in order to use and to reuse those same frequencies, since they're very narrow, they have a series of cell sites that are very low powered.

Mr. Greiner stated, for example, in this particular one they propose, it is a sectorized cell site. He stated in other words, it will have three sectors of 120 degrees and there are antenna dealing with each of those 120 degrees or channels. He stated, for example, as people are riding around in their cars or talking on portable telephones, each one of these channels will be broadcasting at maximum of 100 watts and they'll be handling one call per channel at one time. Mr. Greiner stated that has been part of the problem here.

Mr. Greiner stated the increase in demand is so great in and around the airport. He stated on Chili Avenue, the airport, parts of 390, they're experiencing a capacity problem as well as a coverage problem. He stated there are holes in coverage as well as too many people using the existing system in this area, so that they have in a sense, a grid lock of telephone calls.

Mr. Greiner stated these are low power transmitters, and they're placed in proximity every several miles in order to use and reuse the same frequencies. He stated as a car is driving along, it is passing through a cell, and then as it leaves that cell, it is handed off to the next cell. He stated if there is a hole in that, in other words if there is no hand off, the phone call is simply lost. Mr. Greiner stated a person would have to start the call over again and hope for the best.

Mr. Greiner stated it came up at the Planning Board meeting what is the big deal about that. Mr. Greiner stated the big deal is not when they are going home and someone is asking what they need to get at the store before they get home. He stated if they were an ambulance and they were transmitting medical data via telemetry, the phone lines were transmitting heart data, or it were a police phone call or a citizen witnessing a crime or whatever, that becomes really dramatic. Mr. Greiner stated even when they are just simply trying to conduct business or whatever, the overlapping but not duplicate coverage is important to keep the phone call intact.

Mr. Greiner stated indicated on the exhibits the Rochester area. He stated the black hexagons were the sites in operation. He stated the red ones represent proposed or under construction towers. Mr. Greiner indicated where Chili was, the proposed location. Mr. Greiner indicated on the diagram the existing coverage they have today without that site. Mr. Greiner indicated on the exhibit where it is white, meaning there is no coverage.

Mr. Greiner explained when he says no coverage, there could be spotty mobile in-vehicle coverage but no portable coverage. Mr. Greiner stated the hand-held phone has a power of 6/10 of one watt and vehicle phones have 3 watts, so they're more powerful. Mr. Greiner stated it is either spotty mobile and no portable, which is why that is showing as white.

Mr. Greiner stated with the Chili site, he indicated on the exhibit a bluish horizontal line that indicates acceptable coverage. Mr. Greiner stated it will solve the problem on that section of 390, Chili Avenue and the airport. Mr. Greiner stated the airport is especially critical just because of the tremendous traffic. He stated the cellular traffic at the airport is great.

Mr. Greiner stated this type of transmission has no trouble or no problem either with people's televisions, radios or, in fact, with anything at the airport, any of the airport communications. He stated it is not allowed to have a problem and because it has been allocated a specific frequency in the radio spectrum, it doesn't interfere with something out of that frequency. Mr. Greiner stated anecdotally, several years ago they looked at putting a cellular antenna on the airport property on top of the building as a band-aid to just improve coverage right there. He stated it went through the County fine and the FAA and nobody had a problem with any kind of interference, radio interference issue at all. Mr. Greiner stated so this type of transmission won't cause a problem in

that respect.

John Castellani asked what made them decide not to use that location. Mr. Greiner stated rather than put a band-aid on it, they put one at Mt. Read, one at Elmgrove in Kodak and now this will be the third one to actually fix the whole problem.

Bill Oliver asked how did they arrive at that height. Mr. Greiner stated the 80 feet, the way this works is the cellular engineers have a program, and so what they do is start at the lowest possible height and work up until they get that acceptable coverage on the model. He stated they don't want to make it higher than they have to for many reasons, chief of which is probably the higher the tower, the more controversial. He stated the lower the tower, the less expense it is.

Mr. Greiner stated somebody said to him they were concerned because this is a tall tower and at different perceptions, it leads to different results. He stated it may seem tall to people not in the tower business. Mr. Greiner stated they look at it this as the shortest tower they have in the county.

Mr. Greiner stated they just installed one on University Avenue at 80 feet and that was their shortest one. Bill Oliver asked if it could be 60 feet. Mr. Greiner stated they could probably drop it to 73 feet. Mr. Greiner stated they could probably drop it to 73 feet and still have acceptable coverage.

Mr. Greiner stated they also have to see over trees and see over taller objects in the area. He stated something that is 50 feet tall 2,000 feet away or a 1,000 feet away may be a problem if they are only at 60, so they want to get above that so they have a line of sight to the automobiles or to the phones.

John Castellani asked if this is exclusive for Rochester Tel. Mr. Greiner stated it is. John Castellani asked would there be shared communication like Genesee telephone. Mr. Greiner stated they can share sites and they have. He stated it is not frequent. He stated they expect they'll probably be doing more of that in the future, but there are a few sites, one in Pittsford they did that they're sharing. Mr. Greiner stated the one in Ithaca, they are sharing. Mr. Greiner stated they're negotiating others where maybe they (Rochester Tel Mobile) want to be on one of their facilities or they (Cellular One) want to be on theirs. He stated they can't be on each others all the time. He stated the networks are different. He stated where they (Rochester Tel Mobile) might need one here, they (Cellular One) might need one a mile away.

John Castellani asked if they have a hole here, will their competitor have a hole here. Mr. Greiner stated not necessarily. John Castellani asked if it is a shared situation, will they avoid a second tower. Mr. Greiner stated that is a good question and one that always gets evaluated. Mr. Greiner stated one of the trade-offs to sharing a site or one of the trade-offs that they have in trying to reduce the number of towers is that the ones that remain are generally taller because there has to be 30 feet of vertical separation between the two facilities because they are so close in frequency that they have to have that kind of separation.

Mr. Greiner stated so, for example, if this were approved at 80 feet, and they wanted to share this, it would probably have to go up say over 100 feet. Mr. Greiner stated if they dropped theirs down to 70 some feet, theirs would have to be around 100 and they would have to be at 40. He stated he doubts they could be at 40 feet because the trees are too high in the area.

Mr. Greiner stated the other exhibit shows what they call the search area. Mr. Greiner stated the search area is the area within which the cell has to be, the cellular facility has to be to provide the kind of coverage shown in the propagation.

Mr. Greiner stated their site is on a split. Mr. Greiner indicated where there are two cells. Mr. Greiner stated what that means is that the system in this area is mature enough that enough people are using it that they now have to take what was a cell that covered traffic ten years ago when very few people had cellular phones, to nowadays where so many people have it, they actually have to increase the capacity or else their users get a funny signal because somebody else is using

the phone, so they split the cell. He stated to make a smaller cell, they reduce the height of the tower. He stated that is why they're at 80 feet. He stated they reduce the height of the tower and narrow the area that they are going to serve and correspondingly narrow the area where they have to locate the cell to provide that kind of coverage.

Ralph Barbaro asked do they have an overlay or anything that shows other companies' tower locations in this area of this Town. He stated talking about cellular towers, the only other competitor right now is Cell One. Mr. Greiner stated they could probably piece together the information where their towers are located. John Castellani asked does Cell One have a location in the Town.

Keith O'Toole stated no application has been made in the last couple of years. Ralph Barbaro stated it appears from looking at the exhibits, even with this tower, there are still going to be gaps in the coverage. Mr. Greiner stated that is correct.

Mr. Greiner stated there is something scheduled for the Scottsville area in 1997. He stated that would fill in the hole. Mr. Greiner stated he has been pretty much involved with this since Rochester Tel started this. He stated the idea was to take the biggest population centers and the roads, the Thruway, 490, 390 and 590 and put up towers to cover those areas. Mr. Greiner stated the tower put up in Riga was a 300 foot tower. Mr. Greiner stated that covered a big area because there weren't that many cellular users.

Mr. Greiner stated now that there are more users, the Riga tower still only has the same number of channels. He stated by jacking down the power and covering smaller areas, they can start filling it in. Mr. Greiner stated the FCC recognized they could not build it all at one since it is a big investment.

Bill Oliver stated he noticed it is a self-sustained tower. Bill Oliver stated they have had towers in the past where they have had to put in support. He asked why this 80 foot tower support is so good that it doesn't need structural containment. Mr. Greiner stated this is a self-supporting or freestanding tower. Mr. Greiner stated it has about a ten foot base or so. Bill Oliver stated the plans say it has an 8 foot base.

Mr. Greiner stated then it will taper up. Mr. Greiner stated the 8 foot for 80 feet is enough to make this extremely stable. Mr. Greiner stated the ones that have the guy wires are the ones that aren't self-supporters. He stated they don't start out wide and taper up. Mr. Greiner stated they're the ones that start out at 30 inches and stay 30 inches all the way up and have guy wires at different heights in the tower to hold those up. Mr. Greiner stated it is a trade-off. Mr. Greiner stated the guyed tower is thinner but requires a few acres because the guy wires are spread out. Mr. Greiner stated if they are in an area with a small piece of land heavily treed, they can go with the self-supporter to have it self-standing and pretty much screened.

Bill Oliver questioned how much this tower will sustain, regarding wind and everything else. Mr. Greiner stated they use a number of tower contractors that have been in existence for 40, 50 years. He stated one was one of the premiere tower builders in the country that just happens to be local. Mr. Greiner stated they have a big thick book on the wind characteristics and ice characteristics in every locale. Mr. Greiner stated what they do with something like this is build it to cover conditions where they have a half an inch of radial ice in a sustained wind of 80 miles an hour. Mr. Greiner stated if this was an issue for the Board, at the next meeting or when they do have another hearing, they would bring in an expert that could actually go through this in whatever level detail the Board would want.

Dan Melville asked how many towers do they have. Mr. Greiner stated with the cellular and the long distance towers for the phone company, there are probably 120 towers and there has never been a problem with a tower coming down. Beverly Griebel stated she thought the information would be beneficial to the people in the neighborhood that would worry about it coming down in an ice storm. Mr. Greiner stated they could provide it in a written report or through someone at the hearing.

Ralph Barbaro asked if approved, would all the area in the black circle of their exhibit receive acceptable coverage that they are looking for. Mr. Greiner stated it would. Ralph Barbaro stated it appears that the area along Beahan Road encompasses some railroad property and some airport property. Ralph Barbaro stated he was looking to see if there was any industrial property in there.

Ralph Barbaro stated the area within the circle includes a part of Beahan Road that is residential. Ralph Barbaro stated there may be some business activity there by the railroad tracks. Ralph Barbaro stated the area along Fisher Road is fairly residential also except for a power line.

Ralph Barbaro asked if it was as big a circle they could have with an 80 foot tower. Mr. Greiner stated that is right. Mr. Greiner stated that is one of the challenges. Mr. Greiner stated especially given the fact that they're next to the airport, that is a complicating factor.

Ralph Barbaro asked how then did they go about selecting first of all the actual site within that circle, and secondly, how did they determine the amount of land that they would lease. Ralph Barbaro questioned why they lease rather than buy.

Mr. Greiner stated the lease that they would have with the landowner is basically with option terms, renewal terms 25 years. Mr. Greiner stated as a Zoning Board, he did not know why they would ask the question about leasing, but he thought as a practical matter, it is a good question. Ralph Barbaro stated one of the reasons for asking is because they are asking for several variances. Ralph Barbaro stated that is why it is in the realm of the Zoning Board to be asked. Ralph Barbaro stated in leasing land, they could lease enough land so that they wouldn't need a 10 foot side variance. He stated they could have 50 foot on either side of the tower or the building. Ralph Barbaro commented with this site especially, they could lease enough land to avoid some of these variances that they have requested.

Mr. Greiner stated the only variance that they have requested that has to do with the setbacks is the one side setback. Mr. Greiner stated that is actually a combination of factors. Mr. Greiner stated it keeps them close to the existing blacktop so there is less blacktop they have to do, which is not only a cost concern, but it is a question of aesthetics, the owners' issues.

Mr. Greiner stated another one is it actually keeps them closer to the interior of the property. Mr. Greiner stated those tax lots are all related and are all owned by the same family. Mr. Greiner stated although they need a setback property, the properties are contiguous. He stated the same owner owns both of those lots. Mr. Greiner stated if they actually asked the Planning Board simply to recombine and do a resubdivision, that would take away their need for a site setback variance. Mr. Greiner stated he does not why all the different parcels are in different separate tax map parcels, but they are, so they need it. He stated it is not the usual setback where the next door lot is owned by somebody else. He stated it is actually the same family.

John Castellani there may have been a timing situation when it was purchased. Ralph Barbaro asked are those lines shown on the plans. Mr. Greiner stated the tax map parcels are shown on the plans. Mr. Greiner indicated on the plans where the various tax map parcels are. He stated those parcels are all owned by the same family.

Mr. Greiner stated to get back to the question about why lease rather than buy, if towers were going to be here for another 50 years, they would have bought it rather than lease because at the end of 25 years, the owner could just tell them to go away. Mr. Greiner stated he would be speculating if he said that maybe when they first started the cellular operations, nobody was sure it was really going to catch on. Ralph Barbaro commented that would have been a legitimate argument for the first couple of towers. Mr. Greiner stated he thinks it may just be inertia at this point.

Dan Melville stated as technology improves, it is possible they won't need as many cell sites and they can eliminate some. Mr. Greiner stated that may be. Mr. Greiner stated when the technical people were asked that question, they said that currently and in the near term, there is no chance that a satellite is going to be able to feed millions of customers. Mr. Greiner stated it is unlike

television where everybody is watching the same program. He stated they need a dedicated channel for each conversation. He stated satellites don't have that capability.

Mr. Germond stated one of the problems is the satellite covers way too much. Mr. Germond stated currently there is a satellite company that covers the eastern half of the United States with a satellite. He stated that is one problem. Mr. Germond stated it covers way too much. Mr. Germond stated they can only cover about 2,000 simultaneous conversations. He stated the cost is prohibitive. He stated it only works if they have an antenna on the trunk or the roof of a car. He stated they don't make a hand held unit that a person can walk in a building with and talk on.

Bill Oliver asked say the time comes that they won't need this tower, who is going to take the tower down. Mr. Germond stated they would take it down. Mr. Germond stated some people in the leases say they have to put it back the way they found it and whatever amount of foundation they could get out of the ground, they would have to take it out and then grade it over. Mr. Greiner stated some have bargained to keep the tower. He stated those are typically ones who are in the communications business and know they will be able to put a paging system on the facility. Keith O'Toole stated it is ultimately the proper owner's obligation.

Ralph Barbaro asked how did they select the site. Mr. Greiner stated the phone company has real estate people who will get from the technical people a search area like they have seen, and then they will get the tax maps, go to the Assessor's Office, get in a car and cruise around. Mr. Greiner stated the first thing they do is to look for existing towers in the area. Mr. Greiner stated the second thing they do is to look for tall buildings in the area because it is amazing how people don't mind if they put an antenna on top of a building as opposed to building a tower; so they look for friendly sites. Mr. Greiner stated then after that, they will just start looking for vacant land that meets the criteria.

Mr. Greiner stated in this particular case, there were a couple of considerations. Mr. Greiner stated one consideration was land in the area, in the proper area with a willing landowner willing to negotiate a deal. Mr. Greiner stated the second criteria from a land use perspective, it is a good site, better than most because there is extensive screening around the site such that although they have to build a tower, the effect will be minimized to a large degree because of some of the tree lines that exist on the front of the site as well as the growth of trees that exist surrounding the area to the rear and to the sides. Mr. Greiner stated so to look at a site like that with a willing landowner, a site that works from a technical point of view and then a site with this kind of screening, they jumped on this site. Mr. Greiner stated they looked at other sites, but this one looked particularly apt because of the natural screening.

Bill Oliver asked have they approached the airport on putting one near the edge of their property. Mr. Greiner stated they're talking to the airport on a number of fronts. Mr. Greiner stated one of the fronts they're looking at is the issue of air safety because there was concern expressed from County Planning.

Mr. Greiner stated some of the neighbors at the Planning Board were talking about trees getting topped in order to make sure a flight path is safe. Mr. Greiner stated they have been talking to the Airport about that. Mr. Greiner stated according to their calculations and the software that predicts the FAA response, they pierce the imaginary envelope at the end of Runway 1028 by between 2 to 4 feet. He stated if they are going to get approval from them at all, they have to drop this thing at least 3 or 4 feet. He stated so that is why they were looking at somewhere in mid 70s.

Mr. Greiner stated they're trying to solve a coverage and a capacity problem the best way possible. Dan Melville asked the closer they are to the airport, does that mean the lower the tower has to be. Mr. Greiner stated not necessarily. Mr. Greiner stated it all depends where they are vis-a-vis the flight paths. He stated they could be taller at the Airport than at the proposed location if they were out of the approach path.

Ralph Barbaro asked they are in the approach envelope for two runways, one being a commercial runway and the other being the private aviation runway. Mr. Greiner stated they did a good job

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locating themselves to the west of Runway 1028. Mr. Greiner stated at the Planning Board this came up and they talked about the fact they would be working with the airport and the FAA to make sure they would be okay or at least ascertain whether they would be okay.

Beverly Griebel stated obviously they can't do anything to start building or get final approvals until they get those FAA determinations. Mr. Greiner stated typically what will happen is they will always or next to always get local Town approvals before the FAA comes in. Mr. Greiner stated the local approvals are naturally conditioned upon obtaining other required approvals like a building permit or another federal approval, but without that condition, they can't do a thing without the FAA. He stated they can't do anything until they get that clearance.

John Castellani suggested they put a tower on top of the parking garage or the terminal. Mr. Greiner stated they're looking at what they can do here to solve the issue. He stated they're anticipating that based on what the County has said already, that it is an issue. Mr. Greiner stated it is possible the County will come back to him and say they have another site that is going to work and they'll withdraw this application.

Ralph Barbaro asked if they have looked at the Wegmans plant site at all. Mr. Greiner stated the high-rise freezer is too far away. Ralph Barbaro asked stated it is outside the circle a little bit. Mr. Greiner stated that is too far to the west.

John Castellani questioned the the Brooks Avenue warehouse as a location. Mr. Greiner stated the one next to the headquarters, that is outside, too. He stated it is really a small circle. Ralph Barbaro stated the new Wegmans site would be right on the western edge of that circle, very close to it. Mr. Greiner stated that is between Fisher and Lexington. Dan Melville commented he doesn't think they want to put one there. Ralph Barbaro stated there may be some sites more desirable and some sites less desirable.

Mr. Greiner stated they were told to look at alternate sites and they're doing that. He stated it is possible they'll come back to the Board and say there is something else that they can do elsewhere. Ralph Barbaro asked what would be the effect in the coverage if they were required to stay here and dropped the tower by 4 feet in height. Mr. Germond stated to drop it 4 feet, it won't appreciably change the coverage. Ralph Barbaro asked how much of a drop would change it. Mr. Germond stated 10 feet. Ralph Barbaro asked would that begin to appreciably change it. Mr. Germond stated he can see it in the predictive model. He stated dropping it 5 feet changes some of the coverage characteristics of the site, but the predictive model for the Chili site is based on the terrain database.

Ralph Barbaro stated he would like to see where they have a circle or a flower of coverage around their three antenna that go out, what would be the effect of different tower heights on their coverage area. He stated he would like to see what the effective coverage change would be. Mr. Germond stated they could do that.

Mr. Germond stated he could say with this site, if there were no trees around, they could get away with a 50 foot tower. He stated unfortunately they have significant trees in the area that degrade the service. Mr. Germond stated the antennas, even for cellular, if the trees are close by and they are beaming directly into the foliage, it causes reflections. He stated people will notice if they have cellular phone coverage, it is not as good in the summer as it is in the winter.

Beverly Griebel stated she would like to know where she could see a tower that is similar in height and configuration, structure and top configuration, because there are all kinds of different models at the top. Beverly Griebel asked is there any tower around now that will be similar to this. Mr. Greiner stated there is one at University and Culver.

Ron Popowich asked what is the difference with the Elmgrove one. Mr. Greiner stated the Elmgrove tower is 250 or 280 feet. Ron Popowich asked would it look the same, just shorter. Mr. Greiner stated this one would be less than 1/3 the height and it will also shrink in diameter. Mr. Greiner stated the Elmgrove one is probably 20 feet at the base and it tapers off.

Mr. Greiner explained where the University tower could be seen from. Ralph Barbaro asked if there were other locations around Town. Mr. Germond stated there is a 150 foot tower at Mt. Read. Beverly Griebel questioned the size of the one between Union Street and Washington on 531. Mr. Greiner stated that is a 150 foot guyed tower so that goes straight up, and that is about 150 feet. Mr. Greiner stated in terms of just the conditional use permit, this kind of facility is inert. Mr. Greiner stated this does not attract traffic. Mr. Greiner stated it doesn't have drainage or noise issues. Mr. Greiner stated it is an unmanned facility that is very secure.

Mr. Greiner stated the only issues he thinks that they have here are the visual issues and in this particular case, unlike most of them, they have the airport issue, as well.

Mr. Greiner stated the question of health effects comes up sometimes. Mr. Greiner stated people ask does this involve radiation, or is this the type of beams that are going to hurt people. Mr. Greiner stated they have submitted a report in one of the exhibits from Dr. Tom Ely who is a local doctor and a national expert. He stated he is a lifetime member of the National Council on Radiation Protection. He stated he has sat on any number of ANSI Boards. He stated he has been studying this frequency of radio transitions, these frequencies, the high spectrum for over 40 years.

Mr. Greiner stated cellular is beaming at about 100 watts per channel, so at any 120 degree sector, if all of the channels are being used at the same time and if there are 15 channels, there are 1,500 watts. He stated they're far below any possible health and safety standard. He stated they're thousands of times below any health and safety standard.

Mr. Greiner stated to let everyone know where this is on the spectrum, back before cable took off, there was Channel 71, 72, 75 and 80. He stated this is what this is. He stated the FCC took those UHF channels away from television and gave them to cellular when it became apparent that UHF was never going to need that many channels because of the advent of cable and then satellite.

Mr. Greiner stated the difference is where if this is conservatively broadcasting at 1,500 watts per sector total, Channel 31 is at a 1,200,000. He stated Channel 21 is broadcast at a million watts.

Mr. Greiner stated another way to look at it is that this is broadcasting at 3,000 times less than what a new microwave oven is allowed to leak out of the door, so it is really low power, low density broadcasting. Mr. Greiner stated the issue has been adjudicated any number of times in court. Mr. Greiner stated that doesn't stop people from saying they are not convinced, and they don't know what to say about that. Mr. Greiner stated they can never prove a negative, but the best available evidence shows there is no health issue. Mr. Greiner stated if that is something people are concerned about, he can put them in touch with Dr. Ely and he can reassure them, but it shouldn't be an issue.

Mr. Greiner stated in terms of conditional use, especially for a public utility, they would satisfy the burden there. Mr. Greiner stated the same thing with the height variance, he thinks when they look at the technology and they look at the topography, at the next hearing with further propagations, they'll show they're at the lowest height they can be at and still solve the problem. Mr. Greiner stated they meet the burdens for the variances.

Mr. Greiner stated the one outstanding issue they need to make sure they can satisfy is the airport issue that is still up in the air, and that they're working on with the FAA and with the airport.

Ralph Barbaro asked what about lighting. Ralph Barbaro asked will there be any high intensity strobe lights or marker lights on this tower. Mr. Greiner stated generally if they are under 200 feet, they don't need lighting. Mr. Greiner stated if the tower or the structure is under 200 feet, it doesn't need to be lit. He stated they're not proposing any lighting here. He stated the determination would be made by the FAA whether they would require lighting because of the proximity to the airport. Ralph Barbaro stated he was sure they would require it.

Mr. Germond stated they have been surprised before. He stated Cortlandville down south has a

similar situation where it is further away but happens to be on a hill at the end of the runway. He stated the FAA said they could build to 180 feet without having a light on it. Mr. Germond stated they're going to be lighting that tower regardless down in Cortlandville.

Mr. Greiner stated if it has to be lit, there are different methods of lighting. He stated they can have the high intensity strobe lights or the pulsating red lights or a combination. Mr. Greiner stated if they use pulsating red lights only, then they have to stripe it with alternating bands of the reddish orange and white with seven bands up to the top. Mr. Greiner stated if they have a white strobe during the day and red pulsing light at night, they don't have to stripe it. Mr. Greiner stated the one issue is if the FAA does not require it to be lit, but they light it anyway maybe because of the Town or the Pilots' Association would like them to do it, then if they're going to light it, they have to follow FAA requirements in terms of the striping or the lighting. Mr. Greiner stated they wouldn't be able to say they would have green lights for this one. Mr. Greiner stated they would have to follow their requirements as though they required them to light it.

Ralph Barbaro stated one of the runways that they are interfering with, the slope, the landing slope, to his knowledge they projected to increase the length of that to handle a larger number of cargo there. Mr. Greiner stated that's right. Ralph Barbaro stated they're planning on increasing the length of the long runway which they do not interfere with. Ralph Barbaro stated they're also planning to increase the 5,600 runway up to nearly 7,000 feet for Runway 1028. Ralph Barbaro stated if they do that, there is going to be even more interference because now the slope comes down lower.

Ralph Barbaro stated they may find that they are another 5 feet too high or something of that nature. Ralph Barbaro stated in their discussions with the FAA or the airport they should see how firm any of those plans might be and what the result would be in their tower height if those runways were lengthened according to their plan. He stated it probably will not be more than 4 or 5 feet because the whole slope will not come down 1,000 feet. Ralph Barbaro suggested that just so that they don't approve something today that will get them into hot water or get somebody in hot water a year or two from now. Ralph Barbaro stated if this is going to be a 25-year installation, they want to look at least beyond a couple of years.

Ralph Barbaro asked Mr. Greiner if he could supply in writing as an addendum to his pamphlet the answers to those three questions. Mr. Greiner stated he would.

Mr. Greiner stated what they expect here is that the Planning Board will do its environmental review. Mr. Greiner stated they already had the one meeting where they looked at the site plan. Mr. Greiner stated he doesn't think they have a lot to say about the site plan because once the building is there, it is there and it won't take but a visit or two a month, so it is not the type of facility that generally has a lot of site planning. He stated they'll be working as they have been since then on the airport issue.

John Castellani stated one of the issues they would have to look at is it would be an attractive nuisance to kids. Mr. Greiner stated there are things they can do for that. He stated that is one of the reasons for the variance regarding the height and the barbed wire. Mr. Greiner stated that does not mean it will stop everything. Mr. Greiner stated the kids are unlikely, though, on a lark to fool around with barbed wire. Mr. Greiner stated the phone company interest is to keep it as secure as possible from an operational, liability and good neighbor standpoint. He stated there are measures they can take to address that type of issue.

Ralph Barbaro stated that is why he thought they would want it further away from the parking lot. Mr. Greiner stated it is a trade-off really. Mr. Greiner stated it is close to the parking lot, but at the same time that is where the most activity at the Party House is, and so they are more likely to have people, except at the wee hours. He stated if they put it in a really secluded spot, then they have issues of people being able to monkey with it and less likely to be caught.

Mr. Greiner stated in some of the sites where they're far back from a road, they have gone to lengths to actually block somebody from taking a four-wheel vehicle across the field. He stated

they have built moats and have had big boulders brought in.

Ralph Barbaro asked would there be any lighting at the ground level. Mr. Greiner stated there would be one light on the building, just a little security light on the building, facing down by the door just for security purposes. Mr. Greiner stated there would not be a sign. He stated there might be a sign on the door indicating in case of emergency or whatever, who to call, but there wouldn't be any sign that lends itself to advertising.

Ralph Barbaro asked what will be in the building in way of equipment. He asked will there be receiving and transmitting equipment. He asked will there be any generators. Mr. Germond stated what they do with the buildings is in the event of a power failure, it has a battery back-up. He stated it has sealed gel plant batteries that will back the cell up for 80 hours. He stated in the event it is beyond that, they'll take a portable generator out there and hook it up only as long as they need to. He stated once that is done, they take the generator out.

John Castellani asked how noisy are the HVAC systems. Mr. Germond stated typically they are not all that noisy. He stated inside one can hear the HVAC going, but outside it is probably about what someone's residential HVAC is.

Beverly Griebel asked how tall is that building going to be. Mr. Greiner stated it is under 11 feet. Beverly Griebel asked if it is flat roofed. Mr. Germond stated it is. Beverly Griebel asked if it would be a non-collapsible roof in case there is like 3 feet of snow. Mr. Greiner stated the prefabs are pretty sturdy.

Ralph Barbaro asked what will the building be made out of. Mr. Germond stated it would be pebble aggregate. He stated it would be a concrete building with reinforced rebar. He stated they're bulletproof up to 6.3 feet with a 12 gauge or something like that. Mr. Germond stated they have had people shoot them, but they have never gotten inside yet. Mr. Germond stated mostly it is the doors they attack. Mr. Greiner stated they never had any problem with any kind of terrorism, or people never sabotaged one of these. Mr. Germond stated the only instance they had was out in the rural area with the 400 foot towers and people scooping beacons.

Mr. Greiner stated they submitted some materials at the end of the application regarding the public safety features of cellular and not to get mellow dramatic, but there is an article, a Readers Digest article from October of '94 in there called "Riding with the Cellular Posse," which contains an interview with the Director of the National Association of Police Chiefs. He stated there are some other articles there, too, but it really anecdotally talks about the increasing importance of cellular with respect to preventing crime or apprehending criminals after the act. He stated during the Ice Storm of five years ago, in part of Ontario County, cellular was the only form of communication they had. He stated it became really critical for people trapped in their houses that had no power. He stated there were anecdotes of deliveries of babies because they were able to call on the cellar and so on.

Mr. Greiner commented although this is almost always perceived as an adverse impact in terms of visual with nobody really wanting to see it, let alone near them, like any public utility, it has significant benefits just like they may not think an electric substation is not pretty, but try living without electricity. Mr. Greiner stated he would like the Board to consider in its weighing the benefits as opposed to simply looking at perhaps the disadvantages.

Bill Oliver stated they have some amateur radio men in the area, so they have already discussed some of that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

Teresa Judd - 669 Beahan Road

She stated if there is going to be lighting on it, they would like it set farther back than it is. She stated she thinks it is too close to the road and can be seen by the road. She stated they just don't think it is the kind of thing that they want people to see, just for the fact they're already concerned about it setting a precedent for things like this to come into the neighborhood, not only their

neighborhood, but other residential areas. Ms. Judd stated it is a bizarre structure, and if they let that come into a residential area with one of these variances, that will allow other people to say they want to put one up.

Beverly Griebel stated every application is considered on its own and the Board doesn't set a precedent. Ms. Judd stated they were concerned about if one thing comes in, will there be other people saying anything goes in Chili. She stated if they let this come in, she was afraid Cellular One would come in and question why couldn't they put one up. Beverly Griebel stated all applications are considered on their own merit.

Ms. Judd stated they can see why the landowner would want it; he would get some income from it. Ms. Judd stated nobody is against that. Ms. Judd stated they just want to make sure they're going to be able to live with it. Ms. Judd stated they look at their house as their biggest investment. Ms. Judd questioned how it will affect the ability to sell their home if they need to, what they would get for it compared to now or after the tower goes up.

Ms. Judd stated they know about them expanding the runway, so it may be that they may not be living there for the rest of their lives. Ms. Judd stated they're concerned about how it is going to affect the ability to sell their house and what they could get for it.

Ms. Judd stated as far as the health concerns, she was a little concerned with their last paragraph at the F tab, second page at the very bottom. Ms. Judd stated it talks about the electric power and the frequency that that is provided at.

Ms. Judd stated they have all heard the studies that they say these big electrical units do have an effect on people and they have bickered back and forth. Ms. Judd stated she just wonders about the health effects. She stated they use the microwave oven as an example, but a microwave oven is one a minute here, two minutes are there. She stated this is going to be 24 hours a day, every day that this is going to be sending out those waves.

Ms. Judd stated even if she was satisfied with it, if she were to go to sell her house, they would have to satisfy somebody who is going to be interested in buying this house that this isn't going to hurt them, and that could be a real disadvantage to them in selling their house, the ability to sell it, let alone what price or anything. Ms. Judd stated these days that has a big effect.

Ms. Judd stated the lighting is a problem. Ms. Judd stated if they don't have it, she would be concerned that the pilots couldn't see it. Ms. Judd stated they have a lot of airport emergencies. She stated the Airport is hoping that they get more air traffic. Ms. Judd stated they enlarged the airport. Ms. Judd stated it would be okay if the planes are doing all right. She stated a lot of times the planes aren't doing okay. She asked if there was a kind of emergency, would this tower be in the way.

Ms. Judd stated they question that as to whether it should have a light and if it has a light, how will it affect her house. She asked if all night she would have a blinking red light or whatever showing in the windows. Ms. Judd stated they had a problem with a small tower the airport put up on their property by the railroad, a red and white one. She stated it was a lower tower, but the light was screwed up on it and they could see it. She stated it was shining down on the ground and somebody complained and they revamped it.

Ms. Judd stated she thinks they have to remember this is a residential area. Ms. Judd stated then as far as being a utility, this isn't a telephone. She stated as far as she was concerned, a cell phone is something of a luxury item. She stated everyone doesn't have one. Ms. Judd stated the Fire Department has two-way radios. She stated she doesn't think they solely depend on cell phones. She stated they are handy and are also expensive. Ms. Judd stated she doesn't think that they have to cater to people who can afford to have these luxury items. Ms. Judd questioned whether they are really a necessity. Ms. Judd stated she doesn't think they're a necessity.

Beverly Griebel stated she has had one for a number of years and wouldn't be without it. Ms. Judd stated she doesn't have one, so she has a different view.

Ms. Judd stated she has a problem, too, with the barbed wire. Ms. Judd stated it is in a residential area, it just kind of doesn't go with her views of this residential area. She asked why do they need something that is going to have 2 feet of barbed wire on top of a 6 foot fence. Ms. Judd stated that is initially what turned her off of the idea. Ms. Judd stated she thinks that they shouldn't have to put barbed wire around anything in their neighborhood.

Ms. Judd stated there are a lot of deer. She stated they do have a dog problem in this neighborhood. She stated the dogs chase the deer. Ms. Judd stated there are dogs out there who chase deer and she was concerned about one of them trying to jump this fence.

Ms. Judd stated there are a lot of little kids around and they play back by the creek. She stated Fisher Road houses are cleared right back to that creek, so that is like their back yard. Ms. Judd stated the kids from Fisher Road, they do mess around back there. Ms. Judd stated so, there could be a need for it and not a need for it. Ms. Judd stated it is the kind of thing they are dealing with something that really doesn't belong in a residential area as far as she is concerned. She stated they are going to have these questions, where if it goes up, it will need these certain security things, but in the same respect they are in an area with children and animals and things like that and she doesn't want something like that in there.

Ms. Judd commented on how low the planes come in there. Beverly Griebel asked Ms. Judd where is she located in relation to the Party House. Ms. Judd stated she is the third house that the tower is going to go behind. Ms. Judd stated there is another house and then she is the next house, the very old brick house that she lives in.

Ms. Judd stated so she thought if there is a light on it, they're going to be able to see some portion from the top of their home. Ms. Judd stated she would like to see a picture with the trees and everything as to what it is going to look like because it is hard to visualize. Ms. Judd stated she would not want that to be able to be seen from her property just because of the property values and somebody actually wanting to buy her house or somebody saying they would forget it and move down the street or the next road.

Ms. Judd stated she would like to see where it is going to be in relationship to their house, the angles and if she can see where it is going to be. Ms. Judd stated there are a row of pines where the coverage doesn't start to maybe 10 feet up. Ms. Judd stated they're old fashioned pine trees. She stated they're not like a full pine tree, and they have a tendency to fall over when they get older. Ms. Judd stated her mother lives down the road and has them on her property. She stated when they get old, they have a tendency to fall down.

Ms. Judd stated if landowners want to, they can cut those trees down. Ms. Judd stated there is still a lot of damage from the Ice Storm. She stated it is very thick back there. She stated they don't want to thin it out, but there is debris they want to get down in case of a fire. Ms. Judd stated so it may end up getting thinned out as years go on because there is just an enormous amount of dead wood back there from the Ice Storm.

Ms. Judd stated basically they're going to have to wait to see what the airport says about it. Ms. Judd stated as far as the lighting, that is a big concern, the main concern. Ms. Judd stated she would like it if it could be set back farther on the property. Ms. Judd stated they would like it as far out of view as possible. Ms. Judd stated she would just have to say if there was someplace other than this that was nonresidential where it would be more appropriate, that would be better. Ms. Judd stated this is zoned residential. She stated that is why they have these zoning laws so they can sometimes keep these things out that are not appropriate to go into a neighborhood.

Ms. Judd stated with their master plan and whatnot, they might want to find out how many towers could possibly be put into certain areas. Ms. Judd stated Rochester Tel Mobile is not the only cell phone company out there. She asked a year or two down the road, will they come down the road or come to her backyard or somebody else's in that vicinity and offer money because they need to put another tower up in another backyard.

Ms. Judd stated they need to see what they can do to share usage or to find more appropriate ways. Ms. Judd stated if these things have to go in these certain little spots as far as master plans and things like that, they might want to look at that, find out where maybe in the future these things might need to go before they put in more houses or something else like that so they don't run into these problems all of the time.

Beverly Griebel stated they are looking at alternate sites. Ralph Barbaro stated he would encourage the people in the audience to find out when the Planning Board is going to hear this, so they could carry their interests to the Planning Board, because some of the things mentioned are really Planning Board issues where they are not Zoning Board issues.

John Bailey - 676 Beahan Road

He stated he has lived there since 1957. He stated the County came in and topped all of their trees on account of the safety of the airport, because they're on the west runway. He stated the last thing he heard was Wegmans wanted to put up a cold storage building so many feet high and they made them come down to 50 feet.

Mr. Bailey stated then they hear rumors they will extend over to Fisher Road for the right-of-way for the runway. Mr. Bailey questioned whether they would be tax exempt.

Mr. Bailey stated he wondered if the panels will withstand the turbulence from being in the runway path. Mr. Bailey stated when there is a fog or a snowstorm, people are swerving all over to find the runway there. Mr. Bailey stated there are days where they're just about at the tree tops at times. He stated some day there will be an accident like down at Sun Chemical where a small plane hit a one-story roof. Mr. Bailey stated they should keep it out of the runway path.

Beverly Griebel asked how much did the County top the trees. Mr. Bailey stated down to like 20 or 30. Mr. Bailey stated when he called the airport, the County, the FAA and the City, about the tower, they didn't know anything about the cellular phone tower going in there.

Tom Carpenter - 185 Fisher Road

He stated he is concerned with the effect on the air traffic. He stated there are times when those planes are jockeying around the air to try and find an approach. He stated it gets a little unnerving at times. Mr. Carpenter stated anything that will compound the airport problem for them is a concern.

Mr. Carpenter stated he has always had concerns over the Wegmans complex as far as aesthetics in the air.

Mr. Carpenter stated he has a concern about the health consequences of this. Mr. Carpenter stated he heard it said near microwave towers the workers are limited as to the time they can work within this frequency area. He questioned whether that was true. Mr. Greiner stated he has never heard that before.

Mr. Germond stated Mr. Carpenter may have heard something concerning the high power radio stations that broadcast the millions of watts or actual microwave dishes that are totally different frequencies. Mr. Greiner stated they're up in the gigahertz. Mr. Carpenter asked in this situation, do they have precaution for their workers. Mr. Greiner stated they do not.

Mr. Germond stated it in the wee hours of the morning, sometimes they take the site off the air. He stated they turn the transmitters off while they're actually physically touching the antenna in some cases, but those are totally different safety standards that apply for occupational standards.

Mr. Greiner stated the bar chart included in their information shows this is above where there could be health effects, and that is to the OSHA standards. He stated it is the general public safety standard.

Ms. Judd asked if the standards are for a tower that operates for 24 hours a day. Mr. Greiner stated the standards test was based on 24 hours a day, 365 days a year. Mr. Germond stated the

way the chart illustrates the effects this tower would have, it puts it from infancy to old age, as if a person were to live in this field their entire life.

Ms. Judd asked what do they have to substantiate this. She stated cellular phones have only been around for a while. Mr. Greiner stated what they hear about power lines and electric toasters and blankets and things like that, that is at 60 cycles. He stated that is called low electromagnetic. He stated this tower is high electromagnetic. He stated it has been studied since they have been studying radar, for 40 years.

Mr. Greiner stated the ANSI standards are based on thousands of documents and studies over all these years. Mr. Greiner stated ANSI, the American National Standards Institute, looks at these things every five years to make sure that their standard is still okay, so it is pretty well documented. Mr. Germond stated the frequency is actually in the old Channel 78 range, so TV frequencies themselves are in that range.

Mr. Carpenter asked are they looking into some other sites. Mr. Greiner stated the County has suggested in their comments that they look at alternative sites. Mr. Greiner stated that is why they're doing it. Mr. Greiner stated he really can't elaborate right now, but the search area is pretty tight. Mr. Greiner stated they'll be looking strictly in that area.

Mr. Carpenter asked if it was a possibility to use the location at the airport. Mr. Greiner stated a building location at the airport won't work to cover the hole that they're looking at. Mr. Greiner stated they're looking to see what they can do.

Mr. Greiner commented if they're on top of the Psyche Center in the city, nobody knows, nobody cares. Mr. Greiner stated the health issue goes away generally. He stated a lot of it is a perception of an issue rather than simply a health issue itself.

Mr. Carpenter stated he is a real estate broker and knows the effects of just the threat of an item being there, whether it be a substation, a microwave tower, an airport. Mr. Carpenter stated he has done business in the Dearcott Drive area in Gates, a landfill area. He stated it has been deemed not be a health threat to the environment, but is a factor in the area. He stated it hasn't affected values, but it limits the number of people that will locate there.

Mr. Greiner stated at Beacon Hill in Penfield, there is a 400 foot tower there. Mr. Greiner stated they have a lot of reports from appraisers that have studied not only the sale value of houses but the resale history of houses being sold that are near there. He stated when they look at the appreciation of houses, generally they follow along pretty well.

Mr. Greiner stated actually the creation and the building of subdivisions in close proximity to towers on Whitney Road and the one on Beacon Hill demonstrates that at least in the market, although an individual may have a problem with it, there are enough individuals out there that it doesn't depress the value.

Mr. Carpenter stated he thought if they were to restudy that today, they would find a difference because the market is down and there are less buyers and people have a choice. He stated during the '80s when there was a limited number of subdivisions and everyone was looking for a house, if they found a house, they bought it. He stated today people are much more selective.

Chris Judd - 669 Beahan Road

Mr. Judd stated he is a neighbor. Mr. Judd stated one of the things he wanted to bring up was an article he read right before coming to the meeting. He stated Mendon is facing two lawsuits regarding a cell tower.

Mr. Greiner stated Mr. Casperson had made an offer to sit down with the neighbors to talk about the locations at the Party House. He stated they would like to know if that is still open, for location, and to meet the landscapers. Mr. Greiner stated it was.

Mr. Greiner stated they also have an alternative to a freestanding tower that they could consider if

it were something that would be considered of less of an impact, which would be a monopole, which starts out at about 3 feet and it goes up and tapers slightly maybe to 2 feet, as opposed to something starting out at 8 feet like an open-latticed metal tower. He stated they could look at the location. He stated they could look at landscaping. He stated they can look at the monopole. He stated it is a lot more expensive, but it is something that they could certainly consider.

Mr. Judd stated where they are now, their house is located just on the other side of the property line. He stated the lighting is an issue, and the visual. Mr. Judd stated they have a 150-year-old home that they have spent many years grooming the yard. He stated it is a park like yard and they want to keep it like that.

Mr. Greiner stated that is another thing they do. Mr. Greiner stated they could probably put together some type of simulation from the road in front of their house, or with their permission, from their house. Mr. Greiner stated they could look at doing that to give them a real good idea what it would look like from their property. Mr. Greiner stated it may be better than they expect or worse, depending what they find out.

Mr. Judd stated his concern is to get it as far away from the house as possible. He stated they would just like to have those options if it comes down to the fact it will be there. Mr. Greiner stated the Party House landowner did make that offer. Mr. Greiner stated he has not followed up yet. He stated he wanted the Zoning Board meeting under their belt.

Beverly Grisbel asked how tall are the trees that are there now, the pines. Mr. Greiner stated they didn't have them surveyed. Ms. Judd stated they're not real full. She stated they don't start until further up. Ms. Judd stated her mother had them, and a lot of them fell over.

Supervisor Kelly

He asked if the existing tower on University and Culver off of Winton Road is comparable to what would be put up at this location. He commented with all of the decoration on the top of it, it looks like a launch pad.

Mr. Greiner stated that is nothing like what they are proposing. Mr. Greiner stated that is his neighborhood. Mr. Greiner stated that is the Cell One tower. He stated they have more antenna. Mr. Greiner stated they can vary that to some extent depending where they are. He stated they need the antennas, but they can vary the type of support structure for the antennas themselves. Mr. Greiner stated they could address that with an artist's rendering.

Keith O'Toole asked if they have a portfolio of some tower configurations. Mr. Greiner stated they do not, but they could put something together. He stated there are different things they can do. He stated a monopole is something they can do.

Mr. Germond stated it has to support 8 foot wide panels, so there are a couple things they can do. Mr. Judd asked if the panels on top are 8 feet. Mr. Germond stated they are 8 feet.

Mr. Greiner stated this is fully taxable. He stated they have not gotten any taxing authorities to come out and exempt them from taxes.

Mr. Greiner stated he might disagree about whether or not this is a luxury, or whether or not this is now becoming a common household item. He commented a VCR 15 years ago was a luxury item and now everybody has two of them. Mr. Greiner stated the courts of the State have said this is a public utility. He stated it is a transmitting utility. He stated the reason it is permitted in all districts is because it is a utility. He stated that is why the Chili ordinance permits it in all districts. Mr. Greiner stated that is why they have things that transmit utilities that are in residential districts, because they transmit and convey the utility service; whether it is substations or pipes or telephone poles or whatever, it is because they provided a service, transmit the service throughout an area.

Ms. Judd stated it seems like they need an awful lot. He stated he thinks everybody is concerned about is the place going to get littered with towers.

Beverly Griebel stated she thinks that the idea of a neighborhood meeting would be good because there are probably a lot of other people in the neighborhood that might have questions. Mr. Greiner stated they'll be happy to do that. Mr. Greiner stated the Party House owner has offered his facilities.

Beverly Griebel stated they would close off the discussion at this point. She stated there will be more meetings, planning and zoning. Beverly Griebel stated can they table it to the February meeting. Keith O'Toole stated they can table it to the next meeting which comes up after the next Planning Board meeting. Keith O'Toole stated they can't vote until SEQR is taken care of.

Beverly Griebel stated the next Planning Board meeting is February 13th. She stated the next Zoning Board meeting is February 27th. Beverly Griebel stated this will have to be readvertised with new signs.

Rick Casperson, owner of the Party House, was also present to represent the application. Mr. Casperson asked if they would get together before the 27th to have the neighborhood meeting. Mr. Greiner stated they would call Kathy Reed to alert the Board. Mr. Greiner stated he would assume they would want to do it before the Planning Board meeting. Mr. Casperson commented it seems most of the comments centered around aesthetics.

Mr. Greiner stated there is a technology that is pretty interesting now where they will take a photograph of a site and then digitize the photograph into the computer, and then they can build something just using software, and then when they reprint it, it comes out and it looks like a real photograph.

John Castellani made a motion to table the application and to give the Planning Board their permission to be lead agent for SEQR, and Bill Oliver seconded the motion.

All Board members were in favor of the motion.

DECISION ON APPLICATION #1: Unanimously tabled by a vote of 6 yes to table for the following reason:

1. Tabled until February 27, 1996 pending further information.

DECISION ON APPLICATION #2: Unanimously tabled by a vote of 6 yes to table for the following reason:

1. Tabled until February 27, 1996 pending further information.

DECISION ON APPLICATION #3: Unanimously tabled by a vote of 6 yes to table for the following reason:

1. Tabled until February 27, 1996 pending further information.

The meeting ended at 9:42 p.m.

CHILI ZONING BOARD
February 27, 1996

A meeting of the Chili Zoning Board was held on February 27, 1996 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, Dan Melville, Bill Oliver, 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 if anyone was present for the cellular phone tower application tabled from the last meeting, that will not be heard tonight. She stated that has been tabled for a longer period of time. She stated they're not sure what is going to happen with that, and if anyone is here tonight for that, they're not going to discuss it at all. She stated anyone interested could call the Town Hall at a later date to check on the status or watch for further announcement in the paper or a sign on the property.

1. Application of Frank Kissel, owner; 125 Wickens Road, Scottsville, New York 14546 for variance to create an undersized lot to be 1.99 acres (5 acres req.) at property located at 125 Wickens Road in A.C. zone.

Gary Kissel was present to represent the application. Beverly Griebel stated this was also heard at the Planning Board. Keith O'Toole stated it was tabled at the Planning Board pending Health Department approval because there was a question about the well. Beverly Griebel stated their action would be pending approval from the Planning Board.

Mr. Gary Kissel stated he lives on the property now. Mr. Gary Kissel stated they want to create a lot that is 1.9 nine acres. Mr. Gary Kissel stated it is to the west of the home farm house. Mr. Gary Kissel stated it is a parcel that is between the farm house and their west property line. Mr. Gary Kissel stated it just finishes the block off there. He stated that is why they're asking for it. Mr. Gary Kissel stated it is all in the family.

Beverly Griebel stated this house has been present there for sometime. Mr. Gary Kissel stated since 1970, when they moved in. Beverly Griebel asked if at that time there were two houses on that very large lot. Mr. Gary Kissel stated no, there was not. Mr. Gary Kissel stated there was one house and they built the house that he is living in in 1970. Beverly Griebel stated there is another blue house that is on a different parcel. Mr. Gary Kissel stated that is his parents' home. He stated that is the farm house to the farm.

Mr. Gary Kissel stated the original farm was 149 acres when his parents bought it in 1945. He stated that parcel that his house is on now used to be an apple orchard that they did away with.

Dan Melville stated any decision they make would be subject to Planning Board approval tonight. Dan Melville asked if the Health Department doesn't approve it, will the Planning Board then not approve it. Keith O'Toole stated at this point it has just been tabled. He stated the issue was the Health Department approval, but the Planning Board still has full jurisdiction over the approval. Dan Melville asked do they have to have the Health Department approval before they can approve it. Keith O'Toole stated no, he did not think they do. Keith O'Toole stated as it turns out now, the property doesn't have a dedicated water source. He stated it shares from the neighboring parcel and the Planning Board might want to pose an easement or maintenance agreement to

make sure the carved off parcel has a permanent water source.

John Castellani asked what caused them to come before this Board for this action if the house has been up since 1970. Mr. Gary Kissel stated they're doing some estate planning, his parents are, and they wanted to get the house separated from the farm. Mr. Gary Kissel stated it takes a period of years to get that taken care of. John Castellani asked if it was Town action. Mr. Gary Kissel stated no, it was not.

Ralph Barbaro asked where on the map is it. Beverly Griebel stated to the right of the blacktop driveway. She stated there is a T-shaped blacktop driveway. Keith O'Toole stated it is parcel one. Ralph Barbaro asked if it is next to the Johnson's. John Castellani stated that's right.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel stated this was sent to the Monroe County Planning Department and came back as a local matter.

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

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

1. Subject to Planning Board approval.

The following findings of fact were cited:

1. Pre-existing, non-conforming lot.
2. Subdividing to relatives.
2. Application of Barbara Galbraith, owner; P.O. Box C, Scottsville, New York 14546 for variance to create an undersized lot to be 1.1 acre (5 acres req.) with a lot width of 222' (275' req.), variance to allow existing dwelling to be 48.1' from proposed side lot line (50' req.), garage to be 6' from proposed side lot line (50' req.) and barn to be 14.6' from proposed side lot line (50' req.) at property located at 2310 Scottsville Road in RA-20, FPO, FW zone.

Peter Skivington was present to represent the application. He asked if the applicant could be called next because they were waiting for their surveyor to show up.

3. Application of Ace Swim Service, 3313 Chili Avenue, Rochester, New York 14624, property owner: Upstate Properties; for variance to replace existing freestanding sign with a 9 1/2' x 8' double-faced freestanding sign at property located at 3313 Chili Avenue in G.B. zone.

Beverly Griebel stated this was sent to the Monroe County Planning Department and came back as a local matter.

Ronald Easton was present to represent the application. Mr. Easton stated the store, there was a sign existing on the top for the Chili Lanes that has been down for three or four years. He stated Advantage Auto is renting a part of their property there, the building, and they want to put a sign up. He stated they were going to put a new sign up that they would like to put up on top with Advantage Auto in the middle and with Pizza Villa on the bottom. Mr. Easton stated that is the way they told him to put it down, 8 by 9, but it is actually two 4 ft. by 9 ft. signs. He stated it is actually two signs.

Beverly Griebel stated the Board had the sketch that was provided. Beverly Griebel asked if two of the signs that are 4 foot are going to be added on top of the existing one that is 4 foot also. Mr. Easton stated the blank place where the Auto Value sign is pointing to is where the Ace Swim

sign is now. Mr. Easton stated when it gets decent weather, the poles will be painted, too.

Ralph Barbaro asked they are going to use the existing sign structure. Mr. Easton stated the structure would be the same, yes. Ralph Barbaro asked will they change the sign faces. Mr. Easton stated they would. Mr. Easton stated he submitted to the Board a colored illustration of the new sign. Ralph Barbaro asked are they changing the overall height of the structure. Mr. Easton stated they are not. He stated they're just going to move the sign to the top of the poles. Ralph Barbaro asked will there be just the three sign faces. Mr. Easton stated that's right. Ralph Barbaro asked if the existing Pizza Villa sign would stay there. Mr. Easton stated it would stay there. He stated the Pizza Villa owner is in the process of looking to move someplace else.

Keith O'Toole asked what the hours of illumination are. Mr. Easton stated he thinks it is until 11 or 11:30 at night. Mr. Easton stated maybe sundown to 11:30 p.m. Beverly Griebel stated they would correct the 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 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 finding of fact was cited:

1. Sign change needed to identify new business in the plaza.
4. Application of Daniel Susa, owner; 791 Marshall Road, Rochester, New York 14624 for variance to erect a garage and family room addition to be 4' from side lot line (10' req.) and 52' from front lot line (60' req.) at property located at 791 Marshall Road in R-1-12 zone.

Beverly Griebel stated this was sent to the Monroe County Planning Department and came back as a local matter.

Daniel Susa was present to represent the application. Mr. Susa stated right now the existing structure is on a slab. He stated it doesn't appear there is any type of foundation on it. Mr. Susa stated he would like to make a two-car garage out of the family room that is there now and put the family room off the back. Mr. Susa stated there does appear to be other houses on the street that have received variances in the past.

Mr. Susa stated he has been there a year and he has seen the family room has shifted to where he has had to adjust the doors because they do not even close. Larry Smith asked is this John Hanna's old house. Mr. Susa stated it is. Larry Smith stated that family room is moving quite a bit.

Beverly Griebel asked why is that. Larry Smith stated there are some problems with that family room. Mr. Susa stated that is why he would like to convert it back to a two-car garage with a foundation, or convert it to a two-car garage from a one-car garage, which is what it was before.

Beverly Griebel asked if he would put the family room in the back. Mr. Susa stated he would like to add that. Beverly Griebel asked would the front of the garage be even with the asphalt driveway. Mr. Susa stated it would. Mr. Susa stated it may not come out that far, but that would be the most it would come out.

Ralph Barbaro asked on the side lot line that the applicant wants to be 4 feet from, is there any growth along there now. Mr. Susa stated there are some trees over farther but nothing they would have to take down to build. Mr. Susa stated there are trees there. Ralph Barbaro asked how far from the lot line is it to the next structure. Mr. Susa stated the next house is probably 20 yards back and probably 20 yards over. Beverly Griebel stated there is quite a distance between the homes. Mr. Susa stated the next house is way back and way over. Beverly Griebel stated he

will not be way on top of them. Mr. Susa stated they would not. He stated there is a driveway next to it.

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 finding of fact was cited:

- 1. Will enhance appearance and will not be detrimental to the neighborhood.
- 5. Application of Convenient Food Mart Franchising of NY, 5820 Main Street, Williamsville, New York 14221, property owner; D.D. Davis; for variance to erect a 60' x 25' canopy over fuel pumps to be 6' from front lot line (75' req.) at property located at 3774 Chili Avenue in G.B. zone.
- 6. Application of Convenient Food Mart Franchising of NY, 5820 Main Street, Williamsville, New York 14221, property owner: D.D. Davis; for variance to erect an 8' x 10' double-faced freestanding sign to be 8' from front lot line (20' req.), variance to erect three 3' x 3' signs on canopy over pumps at property located at 3774 Chili Avenue in G.B. zone.

No one was present to represent the applications.

Application Number 2 was recalled.

Peter Skivington was present to represent the application. Mr. Skivington stated Mr. and Mrs. Galbraith are attempting to separate this off of the entire farm on Scottsville Road. He stated they have been in front of the Planning Board. Mr. Skivington stated he had a decision letter dated February 21st. Keith O'Toole stated the Board has a copy of that. Mr. Skivington stated they were granted Planning Board approval subject to the Zoning Board approval and some other conditions with respect to the map, putting it into a consolidated drainage district and doing some stuff with the driveway.

Mr. Skivington stated looking at the map, there is a proposed contract on this that has not been closed yet subject to municipal approval. Mr. Skivington stated the intent here was to try and create somewhat of a regularly shaped lot while also excluding the two barns on the north side of the property that are now used in the agricultural horse operation on the property. He stated that is why there are variances with respect to the side and the back. Mr. Skivington stated there is also one with respect to the house.

Mr. Skivington stated also they would like to keep the driveway there so they don't have to do any new curb cuts. He stated the gravel driveway could serve both the farm and the double house on the property. Mr. Skivington stated they have tried to draw this to minimize the variances needed by the Board while also providing an acre lot for the use of the people that are buying the property. Mr. Skivington stated if they extended the line to the north, they would have to run it through one of the barns, or to run it on the north side of the barns, would then take the barns out of the operation of the horse farm. He stated the people that are buying the one acre parcel don't want the barns.

Beverly Griebel asked if they want the garage that is back there, so that would go with the house. Mr. Skivington stated that's correct. Mr. Skivington stated the other shed will be removed and torn down so there won't be an overlap on the boundaries. Dan Melville asked is that the one in the back corner of the lot. Mr. Skivington stated it is. Mr. Skivington stated that was formerly used in the horse and dog operation by the Wehle family.

John Castellani asked if this whole parcel was part of the original Wehle farm. Mr. Skivington

stated that's correct. John Castellani stated they have seen a number of these, but they were across the road. Mr. Skivington stated this particular house used to be the housing for the farm manager that ran the Wehle farm. John Castellani asked if this Zoning Board action is a sale contingency then. Mr. Skivington stated that's correct.

Bill Oliver stated it is in a flood plain. He asked are the people that are purchasing it aware that they're in a flood plain. Mr. Skivington stated they are. Bill Oliver asked what is the height of the land in that area. Mr. Skivington stated he didn't know. John Castellani stated it is an existing dwelling. Mr. Skivington stated it has been there for a number of years. Mr. Skivington stated it previously has been rented as a two-family, and these people will move in it and it will still remain a two-family.

Beverly Griebel stated this was sent to the Monroe County Planning Department and came back as a local matter.

ANYONE IN FAVOR OR OPPOSED: No one.

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

1. Acceptable compromise to preserve agricultural nature of rest of property and, in doing so, requesting minimum variance to accomplish this.

In regard to Applications 5 and 6, Beverly Griebel stated the Board discussed whether to wait for the applicant to show up. Ralph Barbaro made a motion to close the public hearing portion of the meeting and to proceed with the decision portion of the meeting, and Bill Oliver seconded the motion. The Board all voted yes on the motion.

DECISION ON APPLICATION #5: Unanimously tabled by a vote of 5 yes for the following reason:

1. Applicant failed to appear in time for the public hearing. Tabled until March 27, 1986. Applicant to obtain new signs at the Building Department and post as per Town regulations.

DECISION ON APPLICATION #6: Unanimously tabled by a vote of 5 yes for the following reason:

1. Applicant failed to appear in time for the public hearing. Tabled until March 27, 1996. Applicant to obtain new signs at the Building Department and post as per Town regulations.

The meeting ended at 8:17 p.m.

CHILI ZONING BOARD
March 26, 1996

A meeting of the Chili Zoning Board was held on March 26, 1996 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, Dan Melville, Gerry Hendrickson, Ron Popowich, Bill Oliver, 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 asked if anyone had any problems with the signs. The Board indicated there were no problems.

1. Application of Convenient Food Mart Franchising of NY, 5820 Main Street, Williamsville, New York 14221, property owner: D.D. Davis; for variance to erect a 60' x 25' canopy over fuel pumps to be 6' from front lot line (75' req.) at property located at 3774 Chili Avenue in G.B. zone.
2. Application of Convenient Food Mart Franchising of NY, 5820 Main Street, Williamsville, New York 14221, property owner: D.D. Davis; for variance to erect an 8' x 10' double-faced freestanding sign to be 8' from front lot line (20' req.), variance to erect three 3' x 3' signs on canopy over pumps at property located at 3774 Chili Avenue in G.B. zone.

Don Avery and Tom Gentile were present to represent the application. Beverly Griebel stated this was discussed at the Chili Planning Board and it was approved with two conditions: Pending approval of the Town Engineer, and indication on the final map the minimum turning radii of the sample vehicles.

Mr. Avery stated they have been before the Planning Board and they were able to move the canopy back a little bit. Mr. Avery stated rather than being 6 feet from the front line, the front property line or right-of-way line, they're now 11 feet. He showed the Board a new plan. Mr. Avery stated Convenient Food Market wanted to expand their distance between the pumps. He stated they would not have any more pumps than they have now. He stated it would be more convenient for their customers to use their facility.

Mr. Avery stated they're going to take the old canopy down that is shown in yellow and put the outline up that is shown in blue. He stated they would separate the pumps. He stated in moving the canopy back from where the present one is, somebody could pass and there won't be the congestion they have there presently. Mr. Avery stated they would be glad to answer any questions on it.

Mr. Gentile stated as far as the islands, there are presently two dispensers. He stated they're able to service four cars at one time. He stated, however, because of the lack of separation between the dispensers, it is very difficult for the four cars to service at the same time. Mr. Gentile stated he had a photo for the Board. He showed the Board a photograph of their existing canopy. He showed the Board a photograph of some shots looking from Chili Avenue and Route 259.

Mr. Gentile showed the Board a drawing he thought does a better job of trying to show how the cars now are able to be serviced because the islands are separated further. Mr. Gentile stated that would create a distance which allows a car or vehicle to also be able to pass in between the two

islands while there are vehicles there, so it is really making the facility much more functional and efficient.

Beverly Griebel asked if they have a car that is parked at the pump, would the canopy cover both pumps. Mr. Gentile stated that's correct. Mr. Gentile stated if by accident they strategically position themselves, it does not. Beverly Griebel commented but if they move up in a normal fashion, it covers cars at two pumps. Mr. Gentile stated that's correct. Mr. Gentile stated the increased canopy dimension really is to cover the separation that they're creating. Mr. Gentile stated it is to illuminate and cover from the elements their fuel customers. Mr. Gentile stated the illumination adds both for the customers' point of view to see what they're doing on self-service facility and for them inside the store to be able to monitor what is going on outside.

Beverly Griebel asked if the canopy is required for the fire extinguisher system. Mr. Gentile stated in addition to the canopy, they would install a new fire suppression system.

Mr. Gentile stated to talk about the whole scope of their proposal, they hope to also change fuel brands. He stated they would like to renovate and change the fuel island configuration and install a new canopy, new fire suppression system, new underground piping to the fiberglass tanks on the site. He stated all facilities need to be upgraded within a short period of time, and the need to spend additional money to meet new requirements for fuel facilities places a burden on them to some degree to be able to provide a facility that is capable of handling a reasonable amount of volume to justify the sale of gasoline. Mr. Gentile stated their store has been there since 1979 and it was really pretty innovative in its time. Mr. Gentile stated it was probably one of the first stores with a convenience store and gasoline.

Mr. Gentile stated what has happened since then is now they are not innovative any more. He stated many convenience stores now offer gasoline. He stated many service stations that primarily offered fuel before now offer convenience store products, so to have a somewhat outdated facility puts them at a competitive disadvantage with others in the marketplace. He stated it is a combination of trying to put forth a facility that is consistent with what is the way it is done by most everyone in the business nowadays.

Beverly Griebel asked for the record, do they need a larger canopy to give protection to the customers. Mr. Gentile stated that's correct. Beverly Griebel asked does the canopy contain the fire suppression system. Mr. Gentile stated yes, it does. Beverly Griebel stated they are making it longer. Mr. Gentile stated that's correct, it is longer.

John Castellani stated he had some concerns around the entrances and exits. He asked is that really big enough to get cars in and out safely. He stated it doesn't look very big on the drawing. John Castellani stated it is not very big today. Mr. Gentile stated the separation as far as the placement of the driveways, that has been recently changed from how it has been in the past. Mr. Gentile stated what is shown on the drawings that were before the Board now reflects a wider separation between the driveways. Mr. Gentile stated he was not sure how recent it has been since they have been there. John Castellani stated he was there Sunday.

John Castellani stated it was tough. John Castellani stated he was thinking to get to the convenience store with the gas pumps extended will make it more difficult. He asked will they cause a traffic jam on Chili Avenue. Beverly Griebel stated at the Planning Board meeting that was discussed there. Keith O'Toole stated they submitted graphics to demonstrate the turning radii of various vehicles and the Town Engineer seemed satisfied. Keith O'Toole stated it is a tight space, but it is doable. Beverly Griebel stated they're also limiting hours for fuel deliveries so they won't have that interfering with the purchasers' traffic.

Ralph Barbaro stated he wasn't at the Planning Board. He stated what they have shown is the minimum car turning path. He stated that is the tightest path that the car can turn. He stated he doesn't say that is what people normally do, but it is the tightest path a car can turn. Ralph Barbaro asked if a car is backing out between, if they turn their wheel all the way, sometimes they bump into the cars on either side of them.

Ralph Barbaro stated he lives three blocks from here, three blocks to the east. Ralph Barbaro stated he travels through this intersection at least 12 times a day, 4 times on the way to and from his part-time job as a school bus driver and another 5 or 6 times through that intersection as a school bus driver in a variety of different size buses. Ralph Barbaro asked in addition, he goes every morning and has coffee and is very familiar with the former owners and is very familiar with the traffic patterns there. Ralph Barbaro stated he has seen at least a dozen accidents at that intersection since this facility was put in. Ralph Barbaro stated he has participated in at least a couple near accidents in there in that area, and a lot of those accidents are attributed to the placement of the gas pumps.

Ralph Barbaro stated recently the easternmost driveway was moved about 10 or 12 feet further to the east. Ralph Barbaro stated that alleviated a lot of the problems that used to take place at that intersection because that eastern entrance was the suggested or recommended ingress to that property. He stated prior to that driveway being moved, it was difficult to get into that driveway when there were cars waiting at fuel pumps to get fuel. He stated the cars waiting to get fuel, waiting for someone to clear away from the pumps so they could get in and get fuel were blocking the driveway. He stated when they moved the driveway over, that alleviated that problem.

Ralph Barbaro stated right now the way things are placed, a car waiting to pull up to the pumps, waiting for someone else to finish and pull in is not blocking the driveway. Ralph Barbaro stated what they're proposing is to recreate the situation that was hazardous in the past. He stated he has seen four or five accidents that were due to traffic was stopped out on Chili Avenue waiting to try and get into that driveway because the driveway was blocked by cars trying to pull up to the gas pumps. He stated right now what they're proposing to do is to bring back that situation. He stated it was taken away three or four months ago when the driveway was moved and now they're proposing to bring it back by bringing the gas pumps down closer to the driveway.

Ralph Barbaro stated if they take the drawing that shows the cars in place and put one more car behind the one that is already fueling at the pump, that car would stick out far enough to block the driveway, one half of the driveway. He stated it would block people from coming in and getting lined up for the gas pumps and would block other people from going out. He stated what that has done in the past is stranded people out on Chili Avenue that are eastbound trying to pull into that gas pump.

Mr. Avery stated when they separate them here, that would only happen if there were four cars using the pumps at one time. Ralph Barbaro stated they were assuming everyone pulling in would look for an empty spot and swing around. Mr. Gentile stated before they could not swing around. Ralph Barbaro stated right now they don't have the problems because the pumps are where they were originally and the driveway has been moved out. Ralph Barbaro stated the problem doesn't exist, but if they do this, they will bring the problem back. Ralph Barbaro stated that is a significant safety hazard. Ralph Barbaro stated there have been four or five accidents at that intersection. He stated looking at the State highway records, they will find there are a dozen accidents there every year.

Beverly Griebel stated they're not being asked to comment on the site plan. She stated that was something discussed and approved by the Planning Board. She stated they're only being asked to approve 6 foot from front lot line, amended to 11 feet. She stated the new diagram shows they can stack another car waiting in there to get access to the pumps. She stated they don't have the jurisdiction over the site plan. She stated that has already been approved. She stated they have the canopy size. She stated it is a larger canopy, but the whole configuration has been pushed back from the road a little bit. She stated they also have the approval variance for the freestanding signs and the signs on the pump. She stated that is all they can do on this Board. She stated the site plan has already been approved.

Ralph Barbaro stated that is part of the problem of the Planning Board issuing the decisions before it gets any input from the Zoning Board. Beverly Griebel stated they did discuss that issue at length at the Planning Board. Ralph Barbaro stated what they have done is recreated a hazardous situation. He stated they're showing minimum car turning radii backing out of the

driveway.

Mr. Avery stated that is an AASHTO car, and that is a big car. Mr. Avery stated that is a big pickup truck. Mr. Avery stated most cars are two-thirds of the cars shown on the drawing. He stated he used the biggest one. Ralph Barbaro stated sometimes he sees bread trucks 24 feet long parked in there unloading. Ralph Barbaro stated there are a variety of trucks. Ralph Barbaro stated they can't always use the minimum turning radii.

Ralph Barbaro stated if the zoning regulation is the only regulation that they have of preventing the recurrence of a hazardous situation, they'll have to deal with that issue beyond the scope that is within their jurisdiction. Ralph Barbaro stated the sign they're requesting and the location they're requesting would be obstruction of the line of sight from traffic coming down Union Street, heading south wanting to turn easterly on Chili Avenue or across the intersection. He stated he has driven through there and looked from his pickup truck, from his car and several different size school buses. He stated a school bus is especially a problem because the driver's head is sitting up about 9 feet off the ground. He stated they're proposing to put that sign in that line of sight, looking up eastward up Union Street. Ralph Barbaro stated that would be very hazardous not only to school buses but to any truck at that intersection. He stated they would be blinding a person's line of sight to the east on Chili Avenue.

Mr. Gentile asked Mr. Barbaro if he felt the minimum clearance is too low. Ralph Barbaro stated that was correct. Mr. Gentile stated he understood the Town has a minimum height of 20 feet. Mr. Gentile stated adding it together is 19 feet. He stated he tried to stay below 20 feet. He stated if there is truly a concern of sight clearance, they would be happy to move it up to 20 feet to alleviate the visibility of the ground clearance. Ralph Barbaro stated that is part of it. Ralph Barbaro stated the sign is too big. He stated the sign that they have at the convenience store at Westside Drive and Buffalo Road would be more appropriate. He stated that sign consists only of the Citgo logo and the pricing mounted on a single pedestal. He stated that sign appears to be about 6 to 8 feet long and 3 or 4 feet high.

Mr. Gentile showed the Board pictures of the store on Westside Drive just outside of the Town. Ralph Barbaro stated that sign would be more appropriate and still conveys the same message. Ralph Barbaro stated it would convey the Citgo logo and the three prices of gas. Ralph Barbaro stated the convenience store already has a sign which meets or exceeds the allowable square footage. He stated the sign that they're proposing in itself is exceeding the allowable square footage of signage for that business by 60 percent. He stated they have asked for another 27 square feet. He stated they have asked for another 27 square feet on top of that for the logos on the canopy, and then there is still the sign that is on the store which also has to be added into that square footage. He stated nowhere in the request have they asked for a variance for increased square footage for signage.

Ralph Barbaro stated also nowhere in any of the data or the maps have they shown the setback distance to the right-of-way on Union Street. Mr. Avery indicated where he showed it on the plans. Ralph Barbaro stated that right-of-way is a curved right-of-way and is part of the turn. Mr. Avery stated it is the official right-of-way. Ralph Barbaro stated there is a straight portion also. Mr. Avery indicated where there is a straight portion and where he took it off 90 degrees. Ralph Barbaro asked where is the straight portion going north. Mr. Avery stated he took it 90 degrees from the right-of-way. Mr. Avery explained the plans.

Ralph Barbaro asked what is the dimension of the sign, 8 feet. Mr. Avery stated eight foot. Ralph Barbaro stated if the sign were moved back, they could meet the 20 foot requirement for the distance from Union Street and they could meet the 20 foot requirement from Chili Avenue. Mr. Avery stated it would be in the parking lot. Ralph Barbaro stated he did not think so. Ralph Barbaro stated it would end up behind the telephone pole. John Castellani stated it is proposed by the telephone pole.

Ralph Barbaro indicated where he proposed a simple freestanding sign. Ralph Barbaro stated that would take it out of the line of sight and raise it up a little bit. Ralph Barbaro stated it would still give them the freestanding sign they would like, which for him would be a compromise since he is

against freestanding signs all together.

Mr. Gentile stated as shown on the photo of the Convenient Food Mart with Citgo near by, some of their stores have different sign requirements. He stated to start off with, on the canopy, what they're proposing are the 3 x 3 Citgo emblems. He stated previously they understood the Zoning Board granted an approval for Coastal signage consisting of two 3 x 10 signs. He stated they never installed those signs as shown on the photos they submitted. He stated he understood the Board granted an approval to put up some canopy signage. Beverly Griebel stated there was one application they could not hear because of other problems with the site plan. Mr. Gentile stated he thought he was approved. Beverly Griebel stated that was that about two years ago.

Ralph Barbaro stated that was pending resolution. Mr. Gentile stated he had a copy of the approval. Beverly Griebel stated there were many problems with the property that had to be remedied. Mr. Gentile stated that is why they were not able to put up the signage.

Mr. Avery stated Mr. Barbaro was concerned coming south on Union Street and making a left-hand turn at the intersection. Ralph Barbaro stated that's correct. Mr. Avery indicated on the plans where when a car is down there making a left-hand turn, they normally make it with the stoplight, so that cars would be stopped coming west. Ralph Barbaro stated that's correct. Ralph Barbaro stated they should be. Ralph Barbaro stated they cannot rely on a traffic light. He stated the Town code calls for a line of sight of 60 feet.

Mr. Avery stated he had someone stand out there with the location of the sign and checked it with photographs in each direction and didn't see a problem. Mr. Avery stated the sign is 100 feet from the lane on Union Street. He stated to the sign is well over 120 feet, 130 feet.

Ralph Barbaro stated that is looking to the very edge of the intersection. He stated it has to be 16 feet beyond the intersection. Mr. Avery indicated on the plans from the lane on Union Street to the sign is more than 50 feet. He stated the cars would be stopped coming west. He stated they could make a right-hand turn. He stated he didn't see that as a problem, the site distance. Mr. Gentile stated as far as the canopy signage, that is what he believed was approved by the Board and never installed because of the need to bring the site plan into compliance.

Larry Smith stated they were approved but they wouldn't let them do it until they had the final site plan and that did take place. He stated those signs at one time were approved.

Ralph Barbaro stated he had no problem with the small logos they're proposing on the canopy. He stated the problem is they already have a big sign on the store that has been approved and in existence. He stated they are not about to change that. Ralph Barbaro stated they're proposing to add 27 foot for the logos and a 160 square foot sign. He stated he did not think they need to say that there is Convenient Food Market there. He stated the Citgo sign and the prices are adequate, just like they have up in North Chili. He stated that is an adequate sign that tells the whole story. He suggested they not put any more than that up.

Mr. Gentile stated they are a Convenient Food Mart first, and they are going to become a branded gasoline outlet second. Mr. Gentile stated what has happened over the course of time, in any number of their locations, inside store sales may have decreased because of increased competition. He stated he can document the fact their store sales have decreased over the course of time. Mr. Gentile stated that places a greater burden on the need to provide other income which they hoped is accomplished by the fuel sales and by improving the island configuration.

Mr. Gentile stated the location on Buffalo Road is different from the location on Chili Avenue inasmuch as the visibility at the other location is much greater. He stated as is shown on the other side of the photos he submitted to the Board, it is very difficult to see the location of the existing structure to the east with the trees in that area, to pick up the fact that there is activity taking place on a commercial site near the intersection. Mr. Gentile stated they hope that the sign with an eight foot setback will help vehicles, customers traveling on Chili Avenue in a westbound direction to be able to pick up this business.

Mr. Gentile stated the store itself is not really visible from Route 259 when they're heading towards the intersection until they're almost right on top of the traffic light. He stated the traffic count on 259 is near comparable to what exists on 33-A. Mr. Gentile stated the important thing is they have to emphasize they're not just a service station with fuel. He stated they want to be known as Convenient Food Mart, offering another branded product. He stated fuel is identified purely by the signage and is sold primarily by price. He stated what they presented to the Board was the 6 x 8 Citgo, that standard type signage, and what that sign shows over and above Buffalo Road is the credit card panel on the bottom, which is another way people mostly buy fuel today. He stated then they show the 4 x 10 Convenient Food Mart sign.

Mr. Gentile stated there is a specific reason for the size inasmuch as the Citgo signage comes in varying widths and heights, and it is that configuration, the Citgo free standing signage is the smallest package showing the emblem, the price and the credit cards. He stated they wanted to keep a Convenient Foot Mart sign, not to lose identity to Citgo. He stated it is important to identify the store. He stated in some other towns they have obtained approvals from other towns for larger signs. He stated their typical freestanding sign is 8 x 8 and the next smaller is 6 x 8, and he stated they chose the smallest sign to try to maintain a level type of a playing field in a package which would present all the components of their operation.

Mr. Gentile stated they have a need, a real financial need to improve their sales at this location, and he stated they feel they have real difficulty in the visibility that exists there now. He stated they tried to come forward with a package that is reasonable and still gets the job done.

Beverly Griebel stated the sign at Westside is just the gasoline and the prices. Mr. Gentile stated that's correct, on the freestanding sign. He stated they can see the store sign underneath, but that is on the building. Beverly Griebel stated all that is on there is really the gasoline, which wouldn't serve their needs in that they want it noted that they are also a Convenient Food Mart. Mr. Gentile stated that was correct.

Ralph Barbaro stated the store on Buffalo Road has the same identity problem that they describe as for Route 259. Ralph Barbaro stated it has no signage facing Westside Drive or Buffalo Road for people coming from the east. He stated it is only identifiable from the west, and yet that sign was adequate for their needs. He stated he saw no reason why that same sign wouldn't be adequate here. Ralph Barbaro stated the intersection at 259 and Chili Avenue is better. Ralph Barbaro stated Route 259 is a local feeder route. He stated all of the traffic are people on the way to and from work going up to the expressway. He stated they get very little traffic up 259 that is not people that live in that area. He stated they know that the convenience store is there because they have been shopping there for 20 years.

Mr. Gentile stated there are a certain amount of people that will turn right and a certain that will turn left on 33-A from 259. He stated that is the way he travels to the store when he comes from the Buffalo area. He stated every time he tries to see when he can pick up the store. He stated he knows it is there. Mr. Gentile stated convenience store and fuel shopping is a little more impulse related than it is destination related. He stated the major oil companies spend millions of dollars on signage. Mr. Gentile stated he understood the sensitivity of the Town to get by with as little signage as possible.

Ralph Barbaro stated they failed to mention the signs on the posts that support the canopy. He stated he assumed they are double-sided, making them 24 foot square each, so there would be another 48 square foot of signage they have not included in the request for the variance. Mr. Gentile stated those are non-illuminated type signage.

Mr. Gentile presented the Board a document showing all the different gasoline stations around the area, showing what everybody else is doing around the area. Ralph Barbaro asked if there were any signs that approach 100 square foot in size. He stated there was one possibly for Coastal across the road from the Buffalo Road location. He stated most of the signs show the name of the gas station, the prices and that is it. Mr. Gentile stated that was his point. He stated they're not just a gas station. He stated Red Apple identifies the store and the gas brand.

Dan Melville asked if the freestanding sign would face Union Street more. Mr. Gentile stated it is a slight angle. Mr. Gentile stated the weak visibility to the site seems to be from the north. He stated he wants to pick up visibility from the north along Route 259. He stated there is visibility primarily from the traffic that is traveling westbound on Chili Avenue, so it is a bit of a turn to it. Dan Melville stated when a person is on a corner lot like that, he thought they were allowed to have a sign facing each road. Larry Smith stated they're allowed a foot and a half square sign for every linear foot of frontage on the building. He stated what he would be permitted here without special variances is 128 square feet of a double-sided pole sign. Mr. Gentile stated they're 16 foot square foot over what they would be permitted.

Ralph Barbaro asked is that only what is permitted on a freestanding or total signage. Larry Smith stated that's on the freestanding. Keith O'Toole stated on a corner lot they permit three signs: Two identification signs and one freestanding. He stated everything beyond that needs a variance.

Dan Melville asked are they allowed the freestanding and two identification signs. Keith O'Toole stated that was correct. Dan Melville asked if that meant one facing each street if it were a corner lot. Keith O'Toole stated presumably, that's correct. Ralph Barbaro asked what square footage is allowed for a freestanding sign. Keith O'Toole stated 64 square feet per face, and they're requesting 80 square feet per face.

Ralph Barbaro stated if they took the Convenient Food sign off there, they would be well within the amount that they are limited to and they would not need a variance. Keith O'Toole stated in order to build it as is without a variance, still requiring a setback variance, they would have to knock off 16 square feet per face. Ralph Barbaro stated that could be done in several different ways. He stated they could knock the credit card portion off the bottom of the Citgo sign or they could knock the Convenient Food Market off the top and put it on the building.

Mr. Gentile stated to give them an idea how important these signs are, by changing fuel brands, sometimes there are funds available by the oil company to identify the brand. He stated whether they be franchise stores or corporate stores, they have chose to spend money to identify the store.

Mr. Gentile stated again it would be easy to say knock off the credit card panel because they have a store without one. Mr. Gentile stated he would hope the Board would consider the fact that this is a store that they need to have all they can going for it, and they really want to identify that. Larry Smith asked how high is the credit card portion. Mr. Gentile stated it is 6 x 8 across. He stated it is about 2 x 8 for the credit cards. John Castellani stated that is 16 feet right there. Larry Smith stated if they took the credit cards off, the signs would be legal without a variance.

Ralph Barbaro stated a single post moved back further would be more desirable. Bill Oliver asked if there has been a problem with the single post holding a sign up against various winds or elements of nature. He asked why do they have to have two posts. Mr. Gentile stated it is a combination of two panels for two signs. He stated to support it, it is harder to design a sign like that with a single pole. He stated the double posts can be foundationed well enough to make them structurally sound. Larry Smith stated a double post is probably stronger than a single post.

Mr. Gentile stated the height, they could move it up certainly a foot or more if that is a concern. He stated they don't want to block visibility. He stated that is a strange corner already. He stated most intersections come to a point. He stated the State has already accomplished a taking for sight purposes. He stated there is plenty of sight distance at this intersection. He stated a little higher would not hurt. Mr. Gentile stated he chose to try to set it back 8 feet. Mr. Gentile stated to build it and not to have it visible doesn't make a lot of sense.

Mr. Gentile stated Mr. Avery took measurements from different directions, sight distance. John Castellani stated assuming that this credit card portion which represents the square footage they're over makes the difference of them getting signage approval or not, are they willing to take it down. Mr. Gentile stated if he had to give up any part of it, he would give up that part. Mr. Gentile stated that identifies other types of credit cards rather than Citgo's card. John Castellani stated the one thing that they gain ultimately is another two feet of line of sight which would

probably satisfy Ralph's concerns with his bus.

John Castellani asked if they were to assume that was going to be the case, would they be willing to give that up to provide the recommended line of sight based on testimony they have heard from a Board member plus the fact that they're 16 square feet over the maximum allowable signage, which the Board would probably hold to. Mr. Gentile stated that would be a reasonable compromise.

Beverly Griebel stated Ralph mentioned the other signs that are above the signs between the pumps and the canopy. She stated those are not in the application. She asked if those need to be in the application. Keith O'Toole stated that is a question better posed to the Code Enforcement Officer. Larry Smith stated they would have to be included. Larry Smith asked the applicant if they would want to amend the application to include those signs, the two by six spandrel signs. Mr. Gentile he would like to amend the application in that regard.

Mr. Gentile stated they're non-illuminated, the spandrel signs. Beverly Griebel stated they're double-faced on either pump. Mr. Gentile stated that was correct. John Castellani asked if the freestanding sign would be 8 x 8. Mr. Gentile stated it would be 8 x 8 instead of 10 x 8.

Ron Popowich asked are the store and gas pumps open 24 hours. Mr. Gentile stated they are.

ANYONE IN FAVOR OR OPPOSED: No one.

DECISION ON APPLICATION #1: Approved as amended by a vote of 6 yes to 1 no (Ralph Barbaro) with no conditions, and the following findings of fact were cited:

1. Improved front setback.
2. Expanded canopy needed to protect customers from elements and provide holder for fire suppression.

DECISION ON APPLICATION #2: Approved as amended by a vote of 6 yes to 1 no (Ralph Barbaro) with no conditions, and the following findings of fact were cited:

1. Applicant expressed financial need to advertise both fuel and convenience store.
2. Size of freestanding sign was reduced to comply with local zoning allowances.
3. Application of Robert Parina, owner; 25 Sunderland Trail, Rochester, New York 14624 for variance to erect a 17'4" x 8'8" addition to house and 13' x 11' deck to be 35' from front lot line (60' req.) at property located at 25 Sunderland Trail in R-1-15 zone.

Beverly Griebel stated this was submitted to the Monroe County Planning Department and came back as a local matter. Mr. Parina stated he needs the variance for two reasons. Mr. Parina stated with putting the addition on, he would be able to open up the existing inside of his home. Mr. Parina stated there are two walls that he would be removing. He stated he would add another wall to enlarge a room downstairs.

Mr. Parina stated along with the deck, he would incorporate a wheelchair ramp, which is really the sole reason of him putting up the addition. He stated he has a 13-year-old handicapped daughter. He stated at this point it is difficult for his wife and him to get her in and out of the house with the existing door on the side of the house shown on the blueprints. He stated with this ramp and with the addition, he would be able to take her out of the car, bring her into the house and also open up the whole house to adapt the home more for her and make it better for the family.

Mr. Parina stated he had a final drawing. He stated he only brought one. He stated it is a finalized drawing of everything he wants to do. Larry Smith asked if the size of the dimensions

would change. Mr. Parina stated they would not, Larry Smith stated he would want the final dimension drawing later on for the file.

Ralph Barbaro stated the house right now comes out to the point where they're saying they would remove the two bay windows. He asked is that the front of the house now. Mr. Parina stated that's correct. Ralph Barbaro asked if they're adding 8.8 feet onto that. Mr. Parina stated that's correct. Ralph Barbaro stated he read that the front setback would be 35 feet instead of 60 feet. Mr. Parina stated there is an existing addition on there. Ralph Barbaro asked they are already sticking out. Mr. Parina stated that addition was put on in 1984 prior to him purchasing the home. He stated he has only been there a year.

Ralph Barbaro asked what are the setbacks for the rest of the houses. He asked are they more in line with back where the garage is or the original entranceway. Mr. Parina stated they're in line with the original entranceway. Ralph Barbaro asked what is the visual impact on the neighbors by them adding another 8.8 feet on a house in front of them. Mr. Parina stated there is none. He stated he is at the end of a dead end street. Larry Smith stated it is a driveway. He stated he is on a private drive. Mr. Parina stated he is at the very end of a private drive. Mr. Parina stated he has woods on the one 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 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. No impact on neighbors.
2. Applicant demonstrated need for handicapped access.
4. Application of Frederick Beggs, owner; 19 Alfred Avenue, Rochester, New York 14623 for conditional use permit to allow an office in home for catalog sales of sporting goods and firearms at property located at 19 Alfred Avenue in RAO-20 and FPO zone.

Frederick Beggs was present to represent the application. Beverly Griebel stated this was submitted to the Monroe County Planning Department and came back as a local matter.

Mr. Beggs stated this is really just a simple hobby that has turned into a little bit of a complication because there are a lot of laws in reference to selling this product. Mr. Beggs stated even though New York State doesn't forbid the selling of ammunition, many of the local dealers won't sell ammunition without a firearms license, so therefore, he obtained his firearms license and because of the overhead, it would be wise to use it as a profiting venture. He stated ammunition and firearms is not the only category of sales.

Mr. Beggs stated he wrote to the New York State Department of Taxation and Finance about what he was doing. He stated this is mail order sales combined with the personal approach toward the customer's unique specifications in a certain category. He stated since this approach requires a great deal of knowledge per category, he can only maintain one category of personal sales at opening. He stated he doesn't anticipate a large profit in the category of ammunition and firearms. He stated he would supplement his business with self-selling goods which require little background knowledge but have high profit margin.

Mr. Beggs stated he also would like to leave on an open door for growth if it fares well to also include wholesaling, possibly opening a store, hiring knowledgeable people to work in certain categories and/or to have separate phone lines. Mr. Beggs stated this is really mail order and phone-in orders.

Beverly Griebel asked the applicant if he has applied for his federal firearms license. Mr. Beggs stated he has. Mr. Beggs stated it in the workings right now. Mr. Beggs stated it has only been about a week since he put it in. He stated he understood it takes about five months for actual approval to go through. He stated then he would have to go through the State also.

Ralph Barbaro asked the applicant what is his present job. Mr. Beggs stated he works for Wegmans. He stated he has been a baker for 16 years. Ralph Barbaro asked how long has he lived at Alfred Avenue. Mr. Beggs stated for approximately eight years. Ralph Barbaro asked how long has he been engaged in selling firearms and ammunition. Mr. Beggs stated he only received his resale certificate. He stated it has been about three weeks. He stated he cannot sell firearms at all until he receives his license.

Ralph Barbaro asked the applicant if he has done anything like this prior to this. Mr. Beggs stated he has not. Ralph Barbaro clarified the applicant is not applying for this conditional use because he has been in the business and the federal government requires him to have local approval. Mr. Beggs stated right. He stated this is in order to get it started.

Ralph Barbaro asked the applicant has he given consideration to starting this business somewhere other than his home. Mr. Beggs stated it is really such a simple operation, it just requires him picking up the product and delivering it to the home of the customer.

Ralph Barbaro asked the applicant if he belonged to any skeet shooting clubs or rod and gun clubs. Mr. Beggs stated not at the present time. Ralph Barbaro asked the applicant what brings him to pick this particular field. Mr. Beggs stated because of interest. He stated it has to do with years of interest in hunting and his comradeship with many of his fellow friends. He stated he has always enjoyed looking for the best deals on his own products. He stated he has always found that sporting good stores just don't seem to supply that personal requirement. He stated a person may go in and they may not have the ammunition today.

Ralph Barbaro stated the reason he asks the question is they have, in the past, considered for approval people to get conditional use permits for this purpose in the Town who have been in the business for an extended period of time and were caught by the change in the laws in 1986 requiring them to have local approval as well as the federal firearms license. Ralph Barbaro stated many of the people are associated with rod and gun clubs and skeet shooting clubs and things like that. Ralph Barbaro stated were the applicant associated with those clubs, he would find people like himself that are willing to buy this merchandise at cost for their friends, because most of them that come in before the Board make three to five sales a year and it is primarily for their friends. He stated if he was only looking to do this for himself, there are plenty of opportunities to do that.

Ralph Barbaro asked the applicant if he is interested in hunting. Mr. Beggs stated he is. Ralph Barbaro asked the applicant how many firearms does he have now. Mr. Beggs stated approximately four. Ralph Barbaro asked what are they. Mr. Beggs stated two shot guns. Mr. Beggs stated he has five guns. He stated he has one 22 rim fire rifle and two handguns. Ralph Barbaro asked what are the handguns. Mr. Beggs stated a 357 magnum and a 32 Smith & Wesson revolver.

Ralph Barbaro asked the applicant if he had any antique military weapons. Mr. Beggs stated he does not. Ralph Barbaro asked the applicant if he had any military weapons of any kind. Mr. Beggs stated that is an area that he is not interested in.

Ralph Barbaro asked the applicant if he has been at any of the trade shows as a dealer. Mr. Beggs stated no, he has not been. Mr. Beggs stated he has been at those as a consumer only.

John Castellani asked the applicant what kind of protection has he got for the house. Mr. Beggs stated at this present time all he has is manual alarms. He stated in other words, if he senses an intruder and they are in the bedroom, the alarm is loud enough to wake up his neighbor. He stated that is all he has at the present time. John Castellani stated this Board in the past has required centrally monitored alarm systems, safes for all ammunition and locked gun cabinets for all weapons. John Castellani stated they have required a minimum amount of both to be kept in

the house. Mr. Beggs stated the stock really would be coming and going out.

John Castellani stated once the applicant becomes a dealer, his personal weapons are counted. John Castellani told the applicant he is embarking on a venture that may be a long and hard road that is very costly. Mr. Beggs stated he doesn't expect to make a lot of money in this category. Mr. Beggs stated everything will be coming in and going out. Mr. Beggs stated it is a matter of a person putting an order in. John Castellani stated this is no different than a half a dozen or dozen that they have had in here. John Castellani stated he wanted to let the applicant know what he is facing, because for an alarm system, he will spend money getting into that.

Mr. Beggs asked is that a law in reference to keeping product on personal property. John Castellani stated that is a condition they would set, so that he would not be able to go into business without it. John Castellani stated most of the people coming in here already have it, and those that have not had it, wound up having to get it.

John Castellani told the applicant he will find his neighbors will not be too happy with this operation either. Mr. Beggs stated he didn't want to get into firearms, and even the federal government says he doesn't need a firearms license to sell ammunition, but he stated he had several suppliers say they would not sell any ammunition without a firearms license. Mr. Beggs asked if the reference to the alarm system is a legal matter. John Castellani stated to do business like this here, in the past they have required everybody to do that. Mr. Beggs stated he has already gotten some quotes on alarm systems. Mr. Beggs stated it is not really all that steep. He stated he would have to pay the initial hook up and then a monthly fee. He stated he would appreciate having that anyway on his home.

Keith O'Toole stated the conditions of the permit as issued, assuming the Board issues a permit, are legally binding. He stated if the applicant violates the issues of the permit, the Town could haul him into court.

Beverly Griebel stated they are applying for a conditional use, so this Board can set the conditions that they deem necessary. Beverly Griebel stated normally on an application like this they would set the conditions, one being the centrally monitored alarm system, gun safe, proper storage of the ammunition subject to even inspection by the Fire Marshal if there is a lot of storage of ammunition.

Beverly Griebel stated on the application on page 2, number 3, for the hours, the applicant has no customers or trucks. Beverly Griebel asked if he is was aware of the method of delivery of firearms. Mr. Beggs stated they have to come to him. Beverly Griebel stated in the past she has heard they're mailed UPS. Mr. Beggs stated they have to come directly to him. Beverly Griebel stated or a responsible adult must sign for them. She stated they would have trucks delivering to them to him. Beverly Griebel stated if the applicant is not there, they make one attempt and then he would have to pick them up at the UPS office.

Beverly Griebel stated her understanding of the regulations are when the guns come in, the applicant would notify his customers the guns are available, the people have to pick them up at his house and they would complete the paperwork at his house. Mr. Beggs stated it would only be friends that would come over and pick them up. Mr. Beggs stated he didn't want his address to be known. Mr. Beggs stated he can deliver them personally or mail them to another firearms dealer.

Beverly Griebel stated but there would be trucks. Beverly Griebel stated they would not mail these to a post office box or a mailbox. Mr. Beggs stated that is the only thing he can't get around. He stated it has to come directly to him. Mr. Beggs stated that is not his main objective, to sell firearms. He stated it would be there if his customers have a request.

Beverly Griebel asked the applicant what is the main thing that he is going to be selling. Mr. Beggs stated he would be specializing in personalized ammunition. He stated if a person is a skeet shooter and likes a specific type of shell, he would do his best to give him the best price that he likes, or if he is a marksman and he happens to like a certain load, he would do his best to look

for that and give him the best price. Mr. Beggs stated that is what he would really be doing. Mr. Beggs stated it would be a combination of selling ammunition and the service.

Beverly Griebel asked the applicant does he plan to stock the ammunition. Mr. Beggs stated very little. Mr. Beggs stated he gets special discounts if he buys 25 boxes at a time. He stated if he has to extend another five or six boxes to make the extra discount, he would do it. Mr. Beggs stated all this is based upon already recorded information from his customers. He stated he would know this product would eventually sell. He stated he would not stock it and then have to try to find somebody to buy it. Beverly Griebel stated but he would be stocking some of this for a period of time. She stated he wouldn't get a delivery one day and then the next day he deliver all of that to the customer. She stated he could potentially be stocking some of this in his home. Mr. Beggs stated that's correct. He stated he would imagine it could be within a couple days before actually going out. Mr. Beggs stated there would be weekends, too.

Beverly Griebel asked the applicant if he didn't want the whole order, would he be stock piling some of that. Mr. Beggs stated that is what he wants to avoid. Mr. Beggs stated that is why he has ordered this around this type of a system so he doesn't have to stock. Mr. Beggs stated he already has people that have asked for certain ammunitions, and all he has to do is go, pick it up and deliver it to them. Mr. Beggs stated he would deliver it to them himself or through the U.S. Postal Service. He stated if he gets a cheaper price for a larger volume, he would stockpile them until someone wants the extra volume.

Beverly Griebel asked where would he plan to store the extra volume. Mr. Beggs stated an area in the basement where he would store his own ammunition.

John Castellani asked how long would it take to get the license. Mr. Beggs stated he understood it takes as long as a regular pistol permits, and that took five months. John Castellani suggested the applicant apply for an office in the home for catalogue sales of sporting goods and not firearms, because if this Board approves this conditional use permit, it is only going to approve it for a year. John Castellani stated this would give him time to firm up whether he is going to get into the business of firearms or not. John Castellani stated it would be certainly less offensive to his neighbor if he did not get into the business of firearms. John Castellani stated it would be more received from the Board if it were sporting goods excluding firearms to get the business going. John Castellani stated he may find in the course of that first year that it turns out not to be what he wants to do. John Castellani stated when the applicant gets his license, he can always come in on his renewal and ask for an upgrade to firearms.

Beverly Griebel stated but that then would exclude the ammunition. Mr. Beggs stated that would exclude the ammunition. John Castellani disagreed. Mr. Beggs stated not legally, but most of the suppliers have a personal code of ethics, and they won't sell unless they have a federal firearms license. Mr. Beggs stated he doesn't want to be enemies with companies demanding they have to sell to him.

Dan Melville asked with the federal firearms license pending right now, before that is issued, do they have to have approval from this Board, or can they issue it first. Mr. Beggs stated they will investigate any Town ordinance or any Town zoning. Mr. Beggs stated the federal government would investigate to make sure that he has gone the whole route. Dan Melville asked do they have to have approval here before they will issue the license. Mr. Beggs stated he would imagine that that would be part of their investigation. Keith O'Toole stated that was his understanding.

John Castellani asked is that something new. Keith O'Toole stated a lot of these people have been operating illegally and there just hasn't been any enforcement in terms of the licenses. He stated they're basically giving everyone an opportunity to come into compliance. Beverly Griebel stated before they rubber stamp his application approved, he has to prove to them that he has been approved by the Town for this variance. Dan Melville asked if the Town says no, will he get the license. Keith O'Toole stated not at least to operate out of his home.

Beverly Griebel stated to modify it would not help him at all. Beverly Griebel asked the applicant where does he plan to store this ammunition. Mr. Beggs stated he does have lock boxes that are

waterproofed for up to a dozen boxes of ammunition. Mr. Beggs stated if it ever gets to the point that he does have to have a locked area, he already has a place planned to put a lockable cabinet, but there may be some other legal ramifications of locking it up in a safe. Mr. Beggs stated he does have that particular area designed. Mr. Beggs stated it is an area in his basement set apart from everything else.

Beverly Griebel stated if this Board approves this, they would require a gun safe and some waterproofed, fireproof place to store ammunition. She stated the centrally monitored alarm system is something they would also require. Beverly Griebel asked would there be objections to any of that. Mr. Beggs stated there would not be.

Bill Oliver asked will he be stocking parts for ammunition, such as, powder. Mr. Beggs stated he would not. Bill Oliver asked would he stock casings, shells, the bullets themselves. Mr. Beggs stated he may get into components of reloading, but before he can start selling powders and stuff, there are other legal ramifications. He stated if he doesn't have to get into any more legal matters, he wouldn't. Bill Oliver asked the applicant if he was looking to sell gunpowder per se. Mr. Beggs stated he knew he can legally handle so many of the caps. Mr. Beggs stated he prefers not to get into that. He stated he would rather someone go through another dealer. He stated he would gladly provide them with brass, bullets, casings and the reloading equipment itself.

Bill Oliver asked the applicant if he has gone over the cost of what is going to be required for this in light of the fact he is going to be operating on a small scale. He stated he is going to be putting thousands of dollars into this. Mr. Beggs stated he already has thousands of dollars into it.

Mr. Beggs stated he would have to ask for recommendations on just what type of safe and stuff like that that the Town is actually looking for, because they come in a variety of sizes. Bill Oliver stated the safe that they're going to be looking at would be one of the large safes for putting guns in that can't be burglarized. Bill Oliver stated it would not be a little box. Mr. Beggs commented he would need something if someone comes in, they can't carry it off. Bill Oliver stated he would need one that they would have a hell of a time getting out of the house.

Bill Oliver stated the Fire Department would have to know about this, because if a fire should happen in his home, they would have to know there is ammunition in that house. Mr. Beggs stated he would keep his house open for inspection from the Board and the Fire Marshall. Bill Oliver stated the Board was not trying to discourage him, but they have to point out what he can get into. Mr. Beggs stated a lot of these things he has considered for his own safety. He stated the gun safe is an excellent idea. Mr. Beggs stated the alarm system is an excellent idea for a home. Mr. Beggs stated it is not just a business cost, but it is a combination of personal protection as well.

Dan Melville asked if they were to approve this application tonight, can they approve it under the condition that if his federal firearm license is denied, this conditional use will also become null and void. Keith O'Toole stated frankly he did not see any linkage between the two. Keith O'Toole stated obviously he has an obligation as a citizen to comply with federal law.

Ron Popowich stated he could still have fishing equipment, not just firearms. Bill Oliver stated he has been shooting for 50 years and it is a lot of fun, but the whole point is with today's atmosphere, it is very difficult. Mr. Beggs stated if it doesn't work out for him, he would have an alarm system, a safe and a computer.

Ron Popowich stated he would rather do something he would make money at. Beverly Griebel asked who is the family member carrying on the business. Mr. Beggs stated that would be him, the owner. Beverly Griebel asked how many persons will be employed outside the family. Mr. Beggs stated just himself. Beverly Griebel stated so then there would be no outside employees. Mr. Beggs stated that's correct. He stated he misunderstood the question on the application in that regard. Beverly Griebel stated they would amend the application to indicate no outside employees.

Beverly Griebel asked if the hours would be 7 a.m. to 11 p.m. for phone lines. Mr. Beggs stated

that's right. Beverly Griebel questioned there being customers at the home. Mr. Beggs stated there would be no customers. Mr. Beggs stated he only legally has to supply his street address because of the mail order company, but there would be no customers at his home.

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 the following conditions:

1. Granted for a period of one year.
2. No on premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to obtain required Federal, State and local licenses.
7. Minimum 4 1/2" house numbers (Arabic) to be installed in a color to contrast with the house.
8. Security system to be centrally monitored and maintained.
9. Gun safe to be installed.
10. Ammunition storage in an appropriately listed ammunition storage container.
11. No sales of ammunition components.

The following finding of fact was cited:

1. Customary Home Occupation as defined in the Town Code.
5. Application of Michael Davison, owner; 2 Glenlivet Drive, Rochester, New York 14624 for variance to erect a 16' x 25' deck to be 20' from rear lot line (40' req.) at property located at 2 Glenlivet Drive in R-1-15 zone.

Michael Davison was present to represent the application. Mr. Davison stated the purpose for the variance is they would like to build a deck for recreational purposes. He stated it would also ease slightly ingress and egress from the back door. He stated purpose for the variance is for the placement of the house. He stated the house itself is built on a variance, so therefore they would need that anyway.

Beverly Griebel stated they have a problem lot. She stated the corner lots are often a problem for various things with this Board. Beverly Griebel stated she had a concern about one comment. She stated they wrote they would like to erect a deck off the back of the kitchen and possibly erect a gazebo. She stated that was not part of the application. She asked what is the intent on that.

Josie Davison was also present to represent the application. She stated they would like to have a gazebo built at the same time as the deck. She stated it would come already assembled. Beverly Griebel stated they have a little sketch that puts the gazebo out further from the deck and closer

to the back of the property line. Mr. Davison stated it would be a little bit beyond the end of the deck, but it would still not be beyond 20 feet. He stated it wouldn't extend beyond the 20 feet.

Mrs. Davison stated Gary Cusick, also present to represent the application, is going to help them build it. She stated he drew it extending a little beyond the deck. She stated when she came and applied for the variance of 20 feet, she didn't tell him to bring the gazebo back so it was even. Beverly Griebel asked will it be put on the side then. Mrs. Davison stated they are still deciding what they want, but they are kind of leaning having like the corner of the deck taken off and having it kind of recessed in.

Bill Oliver asked if that will be encompassed in the deck. Beverly Griebel stated that is right. She stated so they will not go any closer to that rear property line. Mrs. Davison stated they would not. Mrs. Davison stated they had originally drawn it that way, and that would have put them 16 foot closer to the property line. Mrs. Davison stated when she did resubmit the application, she thought she crossed off that corner and made a notation that it was to be brought back even with the deck itself. Beverly Griebel stated that doesn't infringe any more on the rear setback.

Larry Smith stated he would like to have them amend the application to say deck and gazebo. Larry Smith stated the setback would include the deck and the gazebo. Beverly Griebel asked how tall would the gazebo be. Mrs. Davison stated she called the company and was told the gazebos are 10 feet tall. Larry Smith asked how far off the grade is the deck going to be. Mrs. Davison stated 24 inches, but if, in fact, it turns out to be 12 feet, then there is not a problem with putting the gazebo at ground level and making a step down into it. Larry Smith stated that is the maximum height they can have.

Beverly Griebel asked is it measured from the deck or from the ground. Larry Smith stated it is from the ground. Beverly Griebel asked what is the maximum off the ground. Larry Smith stated 12 feet. Mrs. Davison stated when they applied, she was told there is a height restriction. Mrs. Davison stated they allowed for the height of the deck that if the gazebo is 12 feet, it is not a problem to just set it on the ground. Beverly Griebel stated if the deck stays at two feet, then it would be okay. Mrs. Davison stated yes, there would be a step down into the gazebo instead of level with the deck.

John Castellani stated they need to modify the drawing. Larry Smith suggested on the application, get rid of the word "possible." John Castellani suggested they amend the official advertisement to indicate a variance to erect a 16 by 25 foot deck and gazebo. The Board amended the application in that regard.

Larry Smith suggested the applicant and Board amend this to include a two foot variance on height if the Board would be interested in letting them amend it. Mrs. Davison asked if that would mean if the gazebo is 12 feet, they could still put it level with the deck. Larry Smith stated there is 12 feet maximum. He stated they could have a 14 foot maximum off the ground if they asked for a two foot variance. Mr. Davison stated it is not that critical. She stated they could live with the height requirement whatever it is. Larry Smith stated the less variance the better.

Mr. Davison stated these are pre-made gazebos and he does not know the height. He stated they'll stay within the height requirement. He stated it is already established at 12 foot. He stated they're not going to try to add a variance above the 12 foot.

John Castellani stated the thing that they're trying to suggest, is right now while they are here, the additional request is minimal. He stated if they leave here and want to do that later, it is going to cost money to come back again. John Castellani stated it is almost worthwhile to do it now, but if they don't need it, they don't need it.

Mrs. Davison stated if they could say positively that the gazebos are 10 feet, then they would say no problem. She stated she was told by the representative he thinks they're 10 feet. Mrs. Davison stated if they have to amend it, it is probably better to be safe than sorry.

Ralph Barbaro stated if they want the gazebo floor level to be the same as the deck level, now is

the time to ask for an extra two feet. John Castellani stated it is a minimum addition. Mr. Davison stated he supposed they should ask for the two feet. He stated they don't intend to use it. Beverly Griebel stated they might decide not to. Beverly Griebel stated if they say the maximum height of the gazebo can be 14 feet, whatever they decide, that should give them enough leeway to do whatever they want with it.

Ralph Barbaro stated the same is true of the deck. He stated they have only got 37 feet from the rear property line to the back of the house. Mr. Davison stated he thinks that is what is on the survey. Ralph Barbaro asked so if they build something out 16 feet, they're going to be within 1 foot of that 20 foot line. He stated that means the gazebo can't stick out beyond the deck by more than a foot or they're going to run out of space to be in compliance. Ralph Barbaro asked is that okay.

Mr. Davison stated their intent is to have it be the corner or to have it extend out horizontally so it would be in the same plane as the deck. Mrs. Davison stated it won't go out any further than the deck. Ralph Barbaro asked if 20 foot is adequate. Mrs. Davison stated it is.

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. Deck should have no significant adverse impact on the neighborhood.
 2. The corner lot setback problems cause need for variance.
6. Application of Timothy Hurley, owner; 703 Westside Drive, Rochester, New York 14624 for variance to erect a 20' x 20' addition to house to be 5' from side lot line (10' req.) at property located at 703 Westside Drive in R-1-20 zone.

Timothy Hurley was present to represent the application. Mr. Hurley stated he was just looking to pick up some more living space. He stated he wants to put a living room on. He stated the best way to do that is to go that way. He stated the way the house is set up now, that is the only way he can go. He stated the garage is on the other side and the driveway is on the other side.

Beverly Griebel stated they have all of the land on the other side of the garage, but they can't put the room there. Mr. Hurley stated that's right. Beverly Griebel stated there is not enough room between. She stated there is not a whole lot of choice. Mr. Hurley stated the interior of the house is set up nicely to do it that side of the house.

Beverly Griebel stated the property line has a row of trees Mr. Hurley stated there is a stockade fence there now. He stated he is a foot inside of his new stockade fence.

Ralph Barbaro asked the applicant has he considered building it between the house and the garage so that he would end up with an attached garage. Mr. Hurley stated he has. He stated it is more of a tandem garage. He stated it is aluminum. He stated it is not a wood built garage. Ralph Barbaro asked if it is a metal shed. Mr. Hurley stated basically it is.

Larry Smith commented the applicant's taxes would go up when he connects the garage. Bill Oliver asked is that living space that will be next to the house. Mr. Hurley stated the edge of his new addition would be five foot from his lot line. Mr. Hurley stated his house is even towards the road and he sits further back.

Dan Melville asked how far away is the neighbor's house. Mr. Hurley stated at least 100 feet. Beverly Griebel stated the neighbor is set forward close to the road. Mr. Hurley stated that's

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 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. No impact on neighboring property.
 2. This is the only logical place to put addition.
7. Application of VFW Post 412 c/o Larry Dachille, 447 Humphrey Road, Scottsville, New York 14546, property owner: Pritchard Trust; for variance to erect a 50' x 60' recreational building to be built at a floor elevation of 525' (527' req.) at property located at 360 Ballantyne Road in A.C., FPO & FW zone.

Don Avery, Larry Dachille and Charlie Pallela were present to represent the application. Beverly Griebel stated this was before the Planning Board, and it was being held for more information. She stated apparently there has been no decision on that. Keith O'Toole stated that's correct. He stated it was tabled.

Mr. Pallela stated one of the reasons they're requesting the variance is the Town Planning Board was interested in the aesthetics of the building and looking at it from the road, they didn't want it way up high, so if they could get a variance two feet lower, that would help in lowering the building. Mr. Pallela stated there is an additional cost involved to raise it two feet. Mr. Pallela stated the elevation of the road in front of the proposed building is 521.2, and for 100-year flood, the water would be 3.8 feet over that road, over Ballantyne Road. He stated it has never occurred, and the closest resident at 403 Ballantyne Road has lived there since 1965, and the worst flooding occurred in March of 1993.

Larry Smith asked what has never occurred, the road getting flooded. Larry Smith stated the whole road was under water in '93. Mr. Pallela stated not at 3.8 feet. Larry Smith stated he wouldn't have wanted to walk down there. Mr. Pallela stated he has lived there since 1965, and the worse flooding occurred in March of '93, and the high water elevation was below 520 feet.

John Castellani stated their zoning is 527. Larry Smith stated their zoning is two foot above the established federal base flood elevation. Larry Smith stated it is 525. He stated they require 527. John Castellani stated they always require two feet above. Larry Smith stated they're requiring a variance on 527.

Bill Oliver stated right on the drawing is 519. Ralph Barbaro stated they have built the land up. Mr. Avery stated the print here says the first floor would be 527, which is two feet above the 100-year flood plain, 525. Larry Smith stated if they were higher than the building, the building would be underground. Ralph Barbaro stated they have already brought in 6 feet of fill. Mr. Avery stated that's right.

John Castellani asked if this will be habitable space. Mr. Pallela stated nobody will be living there. John Castellani asked if anyone would be sleeping there. Mr. Pallela stated no one would. Larry Smith stated the base flood elevation is at 527 per their code. He stated the federal is 525. He stated they can give them a two foot variance that will not affect their community rating.

Beverly Griebel stated that would not affect any of the flood insurance ratings. Keith O'Toole stated that's correct. John Castellani commented especially since it is not habitable space. Larry Smith stated even if it was habitable space, it is okay. Beverly Griebel stated their requirements are more conservative than the federal requirements.

John Castellani stated they have done that before. Larry Smith stated recently they granted one below the base flood elevation. Beverly Griebel stated that was a pre-existing structure. Larry Smith stated not the new part. Beverly Griebel stated that makes a difference versus new construction.

Beverly Griebel stated they are seeking to be allowed to build at 525. She asked now what is pending at the Planning Board. She stated are there going to be changes to this site plan. Mr. Pallela stated there will be no changes. He stated they just weren't happy with the aesthetics of the building being so high. He stated with the variance, they could lower it two feet. He stated they're moving it back to make it appear lower, and if they could lower it two feet, that would be good.

Beverly Griebel stated so the first floor would be 525. Mr. Pallela stated that's correct. Larry Smith stated it would have to be certified at 525. Mr. Avery stated the Planning Board doesn't like the looks of it. Mr. Avery stated building it up that way, they have to get their footings down there to virgin soil and that would be expensive, to set it on there. Larry Smith stated they will still have to do that. Mr. Avery stated yes, but they're saving two feet.

Mr. Avery stated the next thing was they did test the neighbors to see where the water actually came in the years that they were there, and they found that they didn't have a problem. Mr. Avery stated during the major flood they expected to have in January, the thaw, they took some pictures and there wasn't any water on the land where the building would be. Mr. Avery stated there wasn't any water on the land where the spot would be.

Ralph Barbaro stated that section of road, and that intersection, both legs of Ballantyne Road and the beginning of Archer Road over to the creek there flood every couple of years. He stated looking at the culvert under Ballantyne Road, the part of the Ballantyne Road that heads to the south, that culvert is always full up to the top 2 inches, so there is not a heck of a lot of capacity for flood waters in that area. He stated once there is accumulation of snow and rain, if it thaws fast, it floods that whole intersection.

Mr. Avery stated one other thing in regards to the VFW, they do plan on having recreational fields. He stated the plan shows it. He stated they are quite extensive. He stated on the other side they will not do anything. He stated it will be forever wild. He stated they'll have trails back there.

Beverly Griebel asked if this purchase is dependent upon obtaining all these Planning Board and Zoning Board approvals. Mr. Dachtile stated it has been purchased. He stated it was purchased in January. Beverly Griebel stated the variance from the Board would allow them to save money on two feet of fill material. Mr. Pallela stated that's correct. Beverly Griebel stated that would be quite a savings. Mr. Pallela stated that's correct.

Mr. Avery stated also the aesthetics, the visual pollution that the Planning Board was concerned about would be relieved. Mr. Avery stated they have to have a handicapped ramp, and that would cut down on the length of that that would be needed.

John Castellani asked has Planning Board declared SEQR. Larry Smith stated they have.

ANYONE IN FAVOR OR OPPOSED: No one.

DECISION: Unanimously tabled by a vote of 7 yes for the following reason:

1. Pending site plan approval by the Planning Board.

Note: Application tabled until April 23, 1996 at 7:30 p.m. or upon approval by the Planning Board. Application to obtain new signs at the Building Department and post as per Town ordinance.

The meeting ended at 10:42 p.m.



CHILI ZONING BOARD

April 23, 1996

A meeting of the Chili Zoning Board was held on April 23, 1996 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: Dan Melville, Gerry Hendrickson, Bill Oliver, 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 was out on Saturday the 13th and did not see signs for Applications 1, 6, 9 and 11. She asked if anyone saw signs on them. Gerry Hendrickson stated he saw no signs on 1 and 9. Bill Oliver stated he did not see a sign for number 1 or 9. Gerry Hendrickson stated on 9, there was a post up but no sign. Gerry Hendrickson stated 11 had a sign.

Shirley Wheelpton, owner of the property involved with Application 9, stated she did not know anything about the sign. Mr. Hertzal, present in the audience, stated the sign went up April 10th and is still in the yard. Beverly Griebel stated she was there the 13th and it was not up. Mr. Hertzal stated he was on vacation, and if the sign went down, his neighbor put it back up. He stated it is there now.

Ralph Barbaro stated the sign for Application 1 was over on the right-hand side. Larry Smith stated he did see the sign there. He stated the applicant is not here anyway. Beverly Griebel stated they go out looking for the signs. She stated they're put there for the general public's information, and if they can't find them, the general public can't find them. Ralph Barbaro stated it was directly under the freestanding sign for that property.

Beverly Griebel stated on Application 1, she would recommend it be tabled until next month. Beverly Griebel stated Application 5 would be tabled at the applicant's request until the May 21st meeting of the Zoning Board.

OLD BUSINESS:

1. Application of VFW Post 412, c/o Larry Dachille, 447 Humphrey Road, Scottsville, New York 14546 for variance to erect a 124' x 40' recreational building to be built at a floor elevation of 525' (527' req.) at property located at 360 Ballantyne Road in A.C., FPO and FW zone.

Charles Palella was present to represent the application. He stated he is co-chair of the Site Committee with Larry Dachille. He stated the Chili Planning Board has declared itself lead agency under the State Environmental Quality Review Act and their preliminary site plan was approved.

Beverly Griebel stated this building has increased in size. She stated the last time when they heard it and they had to table it because of the SEQR, the building was 50 by 60. She stated in a month it has grown. Mr. Palella stated yes, it has. Mr. Palella stated it has been revised. He stated the plan that went to the Planning Board was the larger building, the one they approved. Beverly Griebel stated the old one had an expansion area, a proposed building and an expansion. Mr. Palella stated it would now be 124 x 40.

Beverly Griebel stated that change doesn't really change anything on their concerns. Keith O'Toole stated it does not. Beverly Griebel stated this application is just regarding the 525 foot elevation.

Ralph Barbaro stated the change in location of the drive now includes front setback parking. Mr. Palella stated they decided to relocate the parking to the rear, including the handicapped spots. Larry Smith stated he was going to require the handicapped spots be in the front because that is where the accessible entrance is. He stated the State code would override the zoning there.

Beverly Griebel stated the application was not advertised for front parking. Ralph Barbaro stated there would only be four handicapped spots in the front. Beverly Griebel stated they could amend the application. Larry Smith stated he would. Keith O'Toole stated it could be interpreted as part of the legal notice. Beverly Griebel stated there needs to be handicapped parking. Keith O'Toole stated he would have preferred the application had stated it was for handicapped parking and for the recreational building. Beverly Griebel stated it is only for four spaces. Keith O'Toole stated it is the Board's discretion.

Ralph Barbaro stated the Board has to ask them to amend their plan. Mr. Palella stated they would like to amend the application to include front parking for the four handicapped spaces.

ANYONE IN FAVOR OPPOSED: No one.

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

- I. Preserves the character of the neighborhood.

PUBLIC HEARINGS:

1. Application of Michael Stefaniak, 12819 Rt. 31, Albion, New York 14411, property owner: S. Whelpton; for variance to erect a logo on building to be 1 1/2' x 3 1/2' at property located at 3187 Chili Avenue (Canalside Bike Shop) in G.B. zone.

No one was present to represent the application. Shirley Whelpton stated she is not the presenter. She stated she is the property owner and was here to speak in favor of it. Beverly Griebel stated they would hold the application until the end of the meeting to see if someone showed up from the bike shop.

2. Application of Marla Guarnieri, owner; 299 Chestnut Ridge Road, Rochester, New York 14624 for renewal of conditional use permit to allow a bakery business in home at property located at 299 Chestnut Ridge Road in R-1-15 zone.

Marla Guarnieri was present to represent the application. She indicated her name was misspelled on the application.

Beverly Griebel stated the Board did not get the original conditions list in their boxes. Larry Smith stated original conditions were approved for period of year. He stated he would presume they would want to increase it to three years this time. Beverly Griebel stated most recently they have been going with five years depending on the situation and the type of renewal it is.

Larry Smith stated the other conditions were no on-street parking pertaining to the business; no signs on property; no advertising; Arabic numbers 4 1/2 inches in height must be posted on the house; no outside employees; New York State licensing and inspections required; hours per application, evenings 'til 6.

Beverly Griebel asked how has business been. Ms. Guarnieri stated she has not started. She stated she had family problems in the last year. She stated there was a death in the family. She stated financially she wasn't able to start in 1995. She stated she did get the building permit at the end of December of '95. She stated they're at the point now where she needs to get a

ventilation system for the commercial stove in the basement.

Beverly Griebel commented there have been no complaints because she hasn't done anything yet. Ms. Guarnieri stated that's correct. Beverly Griebel asked the applicant if she would still intend to work in the evening hours. Ms. Guarnieri stated that's correct.

Ralph Barbaro stated it appears everything is the same as it was when application was made last year. Ralph Barbaro stated he thinks they should probably renew it for one year, though, because she has not been in 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 Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

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

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

The following finding of fact was cited:

- 1. Customary Home Occupation.
- 3. Application of Bonnie Schwingle, owner; 62 Bellmawr Drive, Rochester, New York 14624 for renewal of conditional use permit to allow a beauty shop in home at property located at 62 Bellmawr Drive in R-1-15 zone.

Bonnie Schwingle was present to represent the application. Beverly Griebel asked if they have been doing this now for the past year. Ms. Schwingle stated that's right. Beverly Griebel asked how has it been going. Ms. Schwingle stated it has been going very well.

Beverly Griebel asked if she would operate during the same hours as last year. Ms. Schwingle stated that's right. Beverly Griebel asked if there still would be no business on Sunday or Monday, and then various times on the other days. Ms. Schwingle stated that was correct.

Bill Oliver asked have there been any complaints. Larry Smith stated there have been no complaints. Ralph Barbaro asked if there have been any problems with traffic or parking. Ms. Schwingle stated there have not. Ms. Schwingle stated they're very careful about that. Beverly Griebel commented they have a wide driveway. Ms. Schwingle stated that's right.

Keith O'Toole asked the applicant if the square footage of her house is 2100 square feet. Ms. Schwingle stated that's correct. Keith O'Toole asked if the business space is 10 by 13. Ms. Schwingle stated that's correct. Beverly Griebel stated the Board would reverse those two dimensions on the application form as they were in reverse order.

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 the following conditions:

- 1. Granted for a period of five years.
- 2. No on-premises advertising.
- 3. No on-street parking pertaining to the business.
- 4. Customers by appointment.
- 5. No more than two customers at one time.
- 6. No outside employees.
- 7. Hours of operation as per application.
- 8. Applicant to maintain required state and local licenses.

The following finding of fact:

- 1. Customary Home Occupation.
- 4. Application of Dale Foster, owner; 124 Stover Road, Rochester, New York 14624 for renewal of conditional use permit for an amateur radio tower at property located at 124 Stover Road in R-1-15 zone.

Dale Foster was present to represent the application. Beverly Griebel asked if everything is still the same as before, the same antenna. Mr. Foster stated everything is the same as when he put it up. Beverly Griebel asked the applicant if he can raise the antenna up. Mr. Foster stated he can. He stated he keeps it lower most of the time. Beverly Griebel asked the applicant how often does he use the antenna, daily or weekly. Mr. Foster stated he works for General Motors and travels around the country for them, so sometimes he is gone a week or two at a time. He stated he is retiring in 24 days, so he hopes to get a little more use out of it.

Dan Melville asked have there been any problems with it. Larry Smith stated there have been no problems.

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 5 yes with the following conditions:

- 1. Permit granted for five years.
- 2. Permit granted for one tower.
- 3. Attach anchor from home to tower.
- 4. Building Inspector to check existing structure.
- 5. Owner to correct any problems to neighbors due to interference of electronic communications from broadcasting.

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The following findings of fact were cited:

1. Not detrimental to neighborhood.
 2. No complaints from neighbors.
 3. Best location of tower on property for neighborhood.
5. Application of Richard Weitz, Jr., owner; 1997 Westside Drive, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for catalog sales of firearms at property located at 1997 Westside Drive in R-1-15 zone.

DECISION: Tabled for the following reason:

1. Applicant requested application be tabled to the May 21st, 1996 meeting.

Note: Applicant to obtain new signs at the Building Department and post as per Town regulation.

6. Application of William Felluca, owner; 12 Barn Swallow Lane, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a seasonal driveway sealing business at property located at 12 Barn Swallow Lane in R-1-15 zone.

William Felluca was present to represent the application. Mr. Felluca stated he was present to renew his conditional use permit to have a home office at his house. Beverly Griebel stated they had a lot of discussion about this a year ago. Mr. Felluca stated everything is working fine for him.

Beverly Griebel asked the applicant is he able to move his trucks elsewhere and not have to park them there. Mr. Felluca stated his trucks and trailers are being held at Rochester Jet Black. He stated he is paying a monthly rental fee to Rochester Jet Black. Beverly Griebel asked if the trucks are out of the neighborhood. Mr. Felluca stated that's right.

Ralph Barbaro stated he would like to see the same conditions applied to the renewal. Beverly Griebel stated the conditions were: On premises parking and vehicles only related to residential use; no employee parking; no on-street parking; no signs; no storage of business-related materials. Mr. Felluca stated those conditions are fine.

ANYONE IN FAVOR OR OPPOSED:

Dave Storie - 15 Barnswallow Lane

He stated he lives across the street from the applicant. He stated in the last year he can vouch for him, his equipment has not been kept on the premises. He stated there is really no indication there is a business operating from there, so they're really pleased with that.

Beverly Griebel stated the Board would hold the application open until they received comments from Larry Smith, since he was out of the room.

7. Application of Mary Marcera, owner; 694 Marshall Road, Rochester, New York 14624 for renewal of conditional use permit to allow a beauty shop in home at property located at 694 Marshall Road in R-1-12 zone.

Salvatore Marcera was present to represent the application. He stated Mary Marcera was ill. Mr. Marcera stated everything on the application has not changed in the last four years.

Beverly Griebel asked how is the business. Mr. Marcera stated it is slow. Beverly Griebel stated this was sent to the Monroe County Planning Department and came back as a local matter. Beverly Griebel asked if the hours have changed. Mr. Marcera stated nothing has changed.

Ralph Barbaro stated in the original application, there wasn't any statement as to how many customers were expected. Mr. Marcera stated he thinks she had down there two or three. Ralph Barbaro asked if that would be two vehicles at a time. Mr. Marcera stated that's right. Ralph Barbaro asked has that been the case. Mr. Marcera stated it has been less. He stated it is really slow. He stated they were all concerned about the traffic because it was a dead-end street, and they were the first house to the right, and most of the cars were all going the wrong way. He stated it is still most of the problem.

Beverly Griebel asked if there have been any complaints on this. Larry Smith stated he did not recall any, but he was looking at the book of complaints right now and did not see anything at all.

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 the following conditions:

- 1. Granted for a period of five years.
- 2. No on-premises advertising.
- 3. No on-street parking pertaining to the business.
- 4. Customers by appointment.
- 5. No more than two vehicles at one time.
- 6. No outside employees.
- 7. Hours of operation as per application.
- 8. Applicant to maintain state and local licenses.

The following finding of fact was cited:

- 1. Customary Home Occupation.

On application number six, Beverly Griebel asked if there were any complaints on the application. Larry Smith stated he thought there was a complaint, but could not find it in the file. He asked the applicant if he had been contacted by Sherry Thrash. Mr. Felluca stated she did not contact him. Larry Smith asked the applicant if he came in to talk about a problem he was having there. Mr. Felluca stated he came in to reapply for his renewal. Mr. Felluca stated it was not because of a complaint.

Mr. Felluca stated when he had the renewal or the permit last year, it was for one year. He asked what would be the normal course, would he have to come here every year. He stated he had received the letter in March or February and his permit had expired at the end of December. He stated when the summer is over, he kind of forgets about this business.

Mr. Felluca asked at the end of this year, assuming he is approved, does he still have to come in on a yearly basis. Beverly Griebel stated it is the Board's option. She stated if something of this type is approved by the Board on the initial approval, it is always for one year, no longer than that. She stated then depending on any problems or whatever, it would be renewed for a year, three years.

Mr. Felluca asked if he would have had to come in regardless, whether he had forgotten or not. Beverly Griebel stated that's right. Beverly Griebel stated even if something is renewed for five

years, if there is a disregard of any of the conditions that are brought to the attention of the Building Department, then that person and/or business can be immediately issued a cease and desist order, so that there is that protection also, because some times the people are wary that in five years people will do whatever they want. She stated that is not true. Beverly Griebel stated if there have been no problems, the Board will usually renews it then for three years or five years.

Beverly Griebel stated with the lady that had a one-year renewal, she came back, but she had not been in business during this past year, so they have no way of knowing if it is going to be a problem in the neighborhood. She stated so in her case, they might likely renew for one year because she has not really gotten started in what she is planning.

Mr. Felluca asked would the time period be stated on the permit. Beverly Griebel stated it will be on the letter he gets.

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

- 1. Granted for a period of three years.
 - 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.
8. Application of John Montgomery, owner; 13 Omega Drive, Rochester, New York 14624 for conditional use permit to allow an office in home for sales of bodycare products at property located at 13 Omega Drive in R-1-15 zone.

No one was present to represent the application. Beverly Griebel stated the Board would hold the application until the end of the meeting.

- 9. Application of Gerald Hertzal, owner; 6 Harmony Circle, Rochester, New York 14624 for variance to erect an 8' x 10' storage shed to be 2' from side lot line (8' req.) at property located at 6 Harmony Circle in R-1-15 zone.

Gerald Hertzal was present to represent the application. Beverly Griebel stated she peeked in the backyard in the rain and saw fencing around on three sides. Mr. Hertzal stated that's correct. Beverly Griebel stated they have large drainage easements in the back and the side. Mr. Hertzal stated that's correct. Larry Smith stated he and Joe Carr have both approved of his building in the easement if he gets the variance.

Mr. Hertzal stated actually his lot sits the highest. He stated if one looks past his lot, he slopes down 3 or 4 feet, so he is the driest of anybody there. He stated he has been there 20 years and there has never been any water.

Beverly Griebel stated they have a few trees in the backyard. Beverly Griebel asked why couldn't the shed be further from the property line. Mr. Hertzal stated mainly aesthetics. He submitted a picture showing the area and what he wanted to do. He stated the lot line he wants to move toward has some large pines down it, so they will shield it. He stated if he moves away from the large pines, there is a swimming pool of his neighbors that sits right there, so it will open it up to view of their swimming pool. He stated also along the back line, there are some Arbor Vitae, but if they go further away, it could open up the view to eight or ten houses. He stated adjacent to that, the back street, there is a house there and it will open it up to view for them. He stated this is really the best place from an asthetics point.

Beverly Griebel questioned what if he put it on the other side near the bisection of the two drainage easements. Mr. Hertzelt stated there is no cover there. He stated that would open it up to view by the neighbor in the back where their family room is. He stated also his neighbor on his right side, as he looks at the house, has a deck in their backyard and it opens it up to direct view to them. He stated he thought this proposal would shield it as much as possible.

Beverly Griebel stated normally they don't approve anything that would be closer than 4 feet. Mr. Hertzelt stated he could move it to four. He stated the only reason he did it is aesthetics because there are large pines there that will completely shield it over at the two feet. Mr. Hertzelt stated if he has to, he can move it over.

Ralph Barbaro asked the applicant would he agree to amending that figure to 4 feet. Mr. Hertzelt stated that's no problem. Dan Melville asked if having only two feet that would cause a problem. Mr. Hertzelt stated he would put it the 8 feet if he has to, but he is trying to think of the aesthetics for the neighbors.

Ralph Barbaro asked what will the construction be. Mr. Hertzelt stated it would be 8 x 10. Mr. Hertzelt it will be a wood structure with vinyl siding on it, and a shingled roof. He stated the vinyl would match his house. Ralph Barbaro asked will it be built on a wood floor. Mr. Hertzelt stated it will be a concrete slab. Ralph Barbaro asked if it would be fastened to the concrete slab. Mr. Hertzelt stated it would be.

Keith O'Toole commented the Board has the option of granting less relief than the applicant asks for.

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 5 yes with no conditions, and the following findings of fact were cited:

1. Location limited by slope of the land, drainage easements, and nearby plantings.
 2. Location takes advantage of landscape plantings for screening from neighbors.
10. Application of Francis Siebert, owner; 2725 Chili Avenue, Rochester, New York 14624 for Land Use Variance to allow a dental office with an apartment at property located at 2725 Chili Avenue in R-1-12 zone.

Francis Siebert was present to represent the application. Beverly Griebel stated this was submitted to the Monroe County Planning Department and came back as a local matter.

Mr. Siebert stated he believed he was classified as a special use permit or conditional use permit. Keith O'Toole stated that is the same thing. Mr. Siebert stated they're seeking permission for a future owner of the practice and the house to be able to not live on the premises and to be able to rent the house out to someone else. Mr. Siebert stated he intends to stay on for an indefinite time in both the practice and the home, but the buyer does have his own home and would want to keep the practice there and live elsewhere.

Beverly Griebel asked the applicant if he is selling the property right now. Mr. Siebert stated they are selling the practice and the property. Beverly Griebel asked the applicant if right now he owns the property, he lives there and has his office there. Mr. Siebert stated he practices dentistry there. Beverly Griebel asked the applicant if he wants to sell the house and live there then in the apartment and keep doing his practice.

Mr. Siebert stated that was not correct. He stated the new buyer is a dentist. He stated he

would be buying the practice and the property, and he (Mr. Siebert) would stay on as a tenant for an indefinite time. He stated he would also stay on in the practice for at least a year, possibly longer.

Ralph Barbaro stated he did not understand why it needs a land use variance. Larry Smith stated when the original variance was granted, it was granted to Dr. Siebert only, which is probably not correct, because a Board can't grant a variance to an individual.

Ralph Barbaro asked was the applicant granted a conditional use permit. Larry Smith stated it was a use variance granted to Dr. Siebert only, but in discussing it with counsel, they came to the conclusion this should not have been granted to Dr. Siebert's use only.

Ralph Barbaro asked did the applicant have a conditional use permit or a variance. Larry Smith stated he had a use variance. Keith O'Toole stated an area variance involves dimension. He stated a use variance adds a use that is not permitted in a given zone. He stated the applicant has an apartment and a professional office in one building in what is essentially a residential zone. He stated that is not permitted.

Ralph Barbaro asked if the applicant was never given a variance running to the land. Keith O'Toole stated he was. Keith O'Toole stated all variances ultimately run with the land. He stated what the previous Board attempted to do was to grant a use variance which runs with the land and conditioned it on his personal ownership, and that is kind of questionable. He stated they can do it under certain circumstances, but generally speaking, the ZBA regulates land use, not individuals.

Ralph Barbaro stated that essentially made it like a conditional use permit rather than a variance. Keith O'Toole stated in a sense that was true. Keith O'Toole stated it becomes self-terminating after a point. Ralph Barbaro stated generally they tend to want these things to be conditional use permits.

Keith O'Toole stated he is not asking for a conditional use permit. He stated he is asking for a use variance. He stated they should vote on it as such. He stated he can also apply for a rezone to Neighborhood Business. He stated the likelihood of that being enacted is a different issue.

Beverly Griebel asked when was this granted. Larry Smith stated 10/28/69. Keith O'Toole stated should the Board consider granting this variance, they would be better advised to grant it based on the use, so they could restrict it to a dental office rather than a particular dentist owning that office. Larry Smith stated they can't tie it to a particular individual.

Keith O'Toole stated inasmuch as they made it a condition that Dr. Siebert be the owner of the practice, Mr. Smith is of the position, and Mr. O'Toole stated he concurs, one should generally not make it a condition that one particular individual owns the property. Keith O'Toole stated that is not to say they can't do it, but frankly it opens them up to a challenge. He stated they would have to show something in their findings that there is something unique about Dr. Siebert's circumstances as they relate to the land that requires it to be made a condition as to his ownership. Keith O'Toole stated in this instance, he does not see it.

Beverly Griebel stated this was like a conditional use without conditions. Larry Smith stated this was a land use with a condition that goes along with the dentist. Keith O'Toole stated all variances under State law can be enacted with conditions. Keith O'Toole stated that doesn't make it a conditional use permit.

Beverly Griebel stated it was a land use with him being the only owner. Larry Smith stated that's correct. He stated that was probably not correct when they did that. Larry Smith stated they could restrict it to a dental practice only or a medical practice only, but they can't say a medical practice with just Dr. Jones; it would have to also be to Dr. Smith, Williams & Brown.

Beverly Griebel stated so essentially he doesn't want to do anything different on that property; he wants to keep it as a dental office. Larry Smith stated the use is not changing; the doctor is. Keith

O'Toole stated the application in a sense is to delete the one condition. Larry Smith stated that condition shouldn't have been there in the first place.

Ralph Barbaro stated it has a 27-year history of being a dentist office under whatever was granted. Beverly Griebel stated they want to keep it the same without the stipulation that it be this certain dentist. Larry Smith stated for the last 27 years it has been a dentist office, and they're just trying to remove the name of the office and have it be the same use.

Beverly Griebel asked if everything else will stay the same, the configuration, the parking. Mr. Siebert stated that is right. He stated nothing is changing other than the fact the new owner does not wish to live in that house.

Ralph Barbaro stated traditionally when granting offices in the homes and things such as this, small businesses in the homes a residential area, they have refrained from the granting of a variance running to the land and instead have chosen to grant conditional use permits because of the additional reviewing authority that they have over it from time to time. Ralph Barbaro stated they can't necessarily revoke a land variance once it is granted. Ralph Barbaro stated he would like to state his feelings to the Board that they continue to not deviate from that position because by granting a variance, they have just dedicated a residential property to a commercial use and that is de facto rezoning. He stated rather than do it, he would rather stick with a conditional use permit, so he would like to encourage the applicant to do that rather than to ask for a land use variance.

Beverly Griebel stated but this is not the typical home occupation. Keith O'Toole stated this is not a conditional use. Beverly Griebel stated Ralph is saying he would prefer to see it as a conditional use, so there would be that ability to review it periodically and have conditions put on it. Larry Smith stated but it has been there for 27 years. Ralph Barbaro commented that is 27 years with this individual. He stated obviously that has been fine and satisfactory, but they are getting into a situation where they are having another individual and he did not know what that might bring a few years down the road.

Mr. Siebert stated the house was originally built for an M.D. He stated there was an M.D. in there, a second M.D., and he is now the third owner. He stated there has always been a professional in there. Beverly Griebel stated it was originally built that way to be a medical office or dental office.

Larry Smith stated he came in and made the application to allow a dental office instead of allowing the dentist. Bill Oliver stated it will be specifically for a dental office. Beverly Griebel asked if someone wants it as a medical office, would they be allowed to do that. Bill Oliver stated it would have to be a dentist office.

Keith O'Toole stated they have a land use variance with the conditions written and there is nothing the Board can say or do to change it. He stated if they are concerned about the character of the use and what is essentially a new use variance application, they can impose the conditions. Keith O'Toole stated if he wants it to be just a dentist office, he would just ask for a dentist office.

Keith O'Toole commented inasmuch as the gentleman has been there for 27 years, and there hasn't been a history of complaints, there is certainly a good argument to make that he hasn't harmed the area of the neighborhood. Keith O'Toole stated if the only thing they're going to do is switch the name plate on the door and the character of the practice isn't going to change, the Board should make sure they make inquiry into that and put that in their findings, so then the use variance should fly.

Keith O'Toole stated if they turn down Mr. Siebert, he still has his use as it is. Larry Smith stated the only other condition placed on it at that time was no on-street parking. He stated it was to Dr. Siebert with no on-street parking.

Beverly Griebel stated there is a large parking area there. Beverly Griebel asked have there been any complaints. Larry Smith stated there have not been any complaints. He stated he does not

know what happened before, but in the last eight years, there have not been any complaints.

Beverly Griebel stated it has been a rather low profile office there. Dan Melville stated it is really hard to tell it is there. Larry Smith stated in '87, there was also a variance granted for a 3 1/2 foot double-faced freestanding sign to be 10 foot from the lot line with two conditions: No lighting of the sign, and the present sign had to be removed. Larry Smith stated that's all the activity on the parcel. Larry Smith stated the County said this is a local matter.

ANYONE IN FAVOR OR OPPOSED:

Dallas Benedict - 8 Hillcrest Drive
He stated the office has always been a good asset to the community as far as he is concerned.

Shirley Reifsteck - 24 Gary Drive
She stated she has never experienced any problems in her 35 years there. Beverly Griebel commented someone living on Gary Drive would always be passing through that corner of Hillcrest. Ms. Reifsteck stated that's correct.

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 the following condition:

- 1. No on-street parking pertaining to the business.

The following findings of fact were cited:

- 1. The conditioning ownership to only Francis Siebert made property unmarketable in an area of comparable values.
- 2. The hardship created is unique and does not apply to a substantial portion of the district or neighborhood.
- 3. The variance would not alter the essential character of the neighborhood.
- 4. The hardship is not self-created.
- 5. The variance is the minimum necessary to grant relief from the hardship.
- 6. The variance will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- 11. Application of Martin Maron, owner; 10 Lexington Parkway, Rochester, New York 14624 for variance to erect a 10' x 12' storage shed to be 4' from rear lot line (8' req.) at property located at 10 Lexington Parkway in R-1-15 zone.

Martin Maron was present to represent the application. Beverly Griebel stated this was submitted to the Monroe County Planning Department and came back as a local matter. Mr. Maron stated his name is spelled M-a-r-o-n.

Mr. Maron stated he wants to erect a shed from the lot line. He stated he is not erecting it. He stated it is being delivered. Beverly Griebel stated when she was out there, she questioned why it couldn't be put on the side and in the corner. Mr. Maron stated he is not positive on directions, but he would say facing his house on the west side, he was going to run a stockade fence. He stated he has an existing chain link fence. He stated he wants to run a stockade fence down there and a little bit across the back to incorporate the shed that will be 10 by 12 into a dog kennel in the corner using part of the shed as the corner for that.

Beverly Griebel asked if the dog kennel will be in the back corner to the left rear, the highest point of their land. Mr. Maron stated that is correct. Beverly Griebel asked if this is going to be part of one side they are going to use the shed. Mr. Maron stated that's correct.

Larry Smith asked the applicant if he would put the fence on his own property. Mr. Maron stated it would be on his property. Mr. Maron stated on the one side it is on the line, and the side he was going to put it on, if it is the west side, he still will have extra footage on that side. He stated he is pretty much just going to use the chain link there as the guide for the fence. Mr. Maron stated they just want a little privacy in the backyard.

Dan Melville asked will that be on a slab. Mr. Maron stated it would be just on the ground. He stated it is pressure treated on the bottom.

Keith O'Toole stated Question 10 of the application asks whether any officer or employee of the State of New York, County of Monroe or Town of Chili has any interest in this application pursuant to Section 809 of the General Municipal Law. He stated that question was not answered. Mr. Maron stated he did not know what that means. Larry Smith asked the applicant if anybody in his house works for the State, the Town or the County. Mr. Maron stated no one does.

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. Stockade fence will screen back of property.
- 2. Shed will be part of one side of kennel boundary.

Beverly Griebel stated recalled Application Number 1. No one was present to represent the application.

Beverly Griebel stated recalled Application Number 8. No one was present to represent the application.

Beverly Griebel stated those two applications will be tabled over to the May 21st Zoning Board meeting. Bill Oliver made a motion to carry Applications 1 and 8 over to the next meeting without prejudice. Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

Keith O'Toole stated when they close this meeting tonight, those particular public hearings will remain open until May.

DECISION ON APPLICATION #1: Unanimously tabled by a vote of 5 yes to table for the following reason:

- 1. Applicant failed to appear for hearing.

Note: Applicant to obtain new signs at the Building Department and post as per Town regulations.

DECISION ON APPLICATION #8: Unanimously tabled by a vote of 5 yes to table for the following reason:

- 1. Applicant failed to appear for hearing.

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Note: Applicant to obtain new signs at the Building Department and post as per Town regulations.

The meeting ended at 9:40 p.m.



CHILI ZONING BOARD

May 21, 1996

A meeting of the Chili Zoning Board was held on May 21, 1996 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, Dan Melville, Gerry Hendrickson, Ron Popowich, Bill Oliver, 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 a sign for Application 7. Dan Melville, Ron Popowich and Bill Oliver indicated they did not see one either. John Castellani stated it was there but it was past the bulldozers. Larry Smith stated it was on the road next to LAI. Larry Smith stated it was back on the property that is going to be changed to Trade Court.

Dan Melville stated he did see one back there, but should it have been on Paul Road. Larry Smith stated there is no property on Paul Road. He stated until last night it was all one property. He stated it was subdivided last night. Dan Melville asked what that had to do with ten days prior to tonight. Larry Smith stated that is the property where it is going to be.

Beverly Griebel stated the address was given as 401 Paul Road. She asked why was there no sign visible on Paul Road. Larry Smith stated that is the parcel where they told them to put it. Beverly Griebel stated there were seven Board members who could not see it that were looking for it. John Castellani stated he found it. Dan Melville stated if that is where they were instructed to put it, they can't hold the applicant responsible for the location.

Beverly Griebel asked if there were any other sign problems. There was no indication of any problems.

Beverly Griebel stated there was a correction on one application. She stated Application 4 of Forest Creek Equity regarding the renewal to allow ten signs, it should have been five. She stated it was copied wrong apparently from the prior decision.

1. Application of Michael Stefaniak, 12819 Rt. 31, Albion, New York 14411, property owner: S. Whelpton; for variance to erect a logo on building to be 1 1/2' x 3 1/2' at property located at 3187 Chili Avenue (Canalside Bike Shop) in G.B. zone.

Michael Stefaniak was present to represent the application. Mr. Stefaniak stated first of all he would like to apologize to the Board because the last meeting he completely forgot. Larry Smith stated they weren't going to hear the application anyway because they didn't have the sign up. Mr. Stefaniak stated he did have it up, but it blew off the pole he had it on. He stated this time he tied it onto the pole sign.

Mr. Stefaniak showed the Board the exact logo they want to put up on the front of the building on the right side as one faces the building itself.

Bill Oliver asked would it be lit. Mr. Stefaniak stated it would not. He stated the only lighting on it will be the lighting that is on the building itself. He stated there will not be any spotlights. He stated it will not be backlit or anything. He stated it would be just the fluorescent lights that run along the top of the overhang now that will be lighting it. He stated there will not be any special

lighting.

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. Logo symbolizes the business.
2. Application of John Montgomery, owner; 13 Omega Drive, Rochester, New York 14624 for conditional use permit to allow an office in home for sales of body care products at property located at 13 Omega Drive in R-1-15 zone.

John Montgomery was present to represent the application. Mr. Montgomery stated his business is called Royal Body Care. He stated he would sell alternative health care products from the father of aloe vera, a scientist who discovered the aloe vera plant, who ten years ago introduced that to the retailing market, and then after those accomplishments retired.

Beverly Griebel asked the applicant what he would be doing in his home. She asked would there be customers or would they have deliveries. Mr. Montgomery stated it would just be telephone sales. He stated maybe there would be an occasional customer coming to the property. He stated mostly it is telephone solicitation. He stated basically it is a mail order company. He stated there will be no storage of products. He said everything is drop shipped from Dallas, Texas or Vancouver, Canada.

Mr. Montgomery stated all the products would go directly to the customer's home. He stated if that was not possible, they would have to pick it up at his property. He stated he had a catalogue he could pass around if anyone was interested in reviewing the products.

Beverly Griebel asked how often would there be customers there. Mr. Montgomery stated not very often. He stated it is not a retailing business. He stated he will not be retailing from his home. He stated it is more or less a direct mail order drop ship business as an independent consultant of Royal Body Care.

Beverly Griebel asked how often would he anticipate customers at his home. Mr. Montgomery stated if a customer came to his home, probably 30 to 45 minutes. Beverly Griebel asked how often would that be, every hour, one a day, one a month. She asked how often would there be customers there. Mr. Montgomery stated any one of those he is hoping for. Mr. Montgomery stated there is no way of telling, but if any one of those occurred, he would be lucky. He stated he may have one a week as an average. He stated basically it is not a retailing operation or an outlet of any sort. He stated it is just his private home and there is solicitation by home, by mail, drop ship orders. He stated basically it is the same type function he had previous to this with the building maintenance products, however now it is health products.

Gerry Hendrickson asked the applicant how much stock would he have. Mr. Montgomery stated he stated he may have something on the order of \$200 worth of products. He stated they're small containers, tablets. He stated they're in powder form, tablets or liquid cosmetics. He stated he has aloe vera juice. He stated that is basically it. He stated there are variations. He stated there are 200 variations of herbs and aloe-based products. Gerry Hendrickson asked how long would that stock last. Mr. Montgomery stated he orders on a monthly basis once a month, and he has products for his own consumption and a little extra in case someone happens to want to purchase locally. He stated most of his orders are filled from the factory and are direct shipped. He stated sometimes if he has it on hand, he can sell it at a retail price and do that through the mail.

John Castellani asked what the name of the business is. Mr. Montgomery stated it is called

In-house Products. He stated recently a year ago he obtained permission through this Board for building maintenance products with the Southwestern Petroleum Corporation. He stated he has since dropped that as his product and he is concentrating on a more useful product, more consumable for the average person, alternative health remedies. He stated there are millions of people that can use the products and do use them. John Castellani stated the applicant submitted a d/b/a saying it was In-house Products, but at the meeting the applicant said it was Royal Body Care. Mr. Montgomery stated that is the manufacture of the products, but the In-house Products is the d/b/a. John Castellani stated the conditional use permit would be in the name of the business, not in the name of the major company. John Castellani asked if the other business which the applicant was in for in 1995 is now defunct. Mr. Montgomery stated he would just have the one business now.

Bill Oliver stated if this were granted, he could not have signs indicating the business out in front of the property. Mr. Montgomery stated he was aware of that. Bill Oliver stated he could not have a sign in a residential area. He stated he wanted to make it known to the applicant one of the specifications of this office in a residential area is that they do not want it to be commercialized. He stated that is why there would be no advertising allowed at the premises notifying the fact he has such-and-such a product.

Mr. Montgomery stated he was aware that one has to make application for a permit of any given change in any permit. Mr. Montgomery asked if that is a possibility. Bill Oliver stated it is not even a consideration. Beverly Griebel stated there are no signs allowed. She stated for the prior business in the home, there were no signs allowed on the property or advertising for the business. She stated that is a customary condition that they have for an in-home 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 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 one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application (Monday thru Friday 9:00 am. - 5:00 p.m.).
5. No outside employees.
6. Applicant to obtain required state and local licenses.
7. Minimum 4 1/2" house numbers (Arabic) to be installed in a color to contrast with house.

The following finding of fact was cited:

1. Customary Home Occupation.
3. Application of Jane VerDow, owner; 3048 Chili Avenue, Rochester, New York 14624 for renewal of conditional use permit for a physical therapy practice in home at property located at 3048 Chili Avenue in R-1-12 zone.

Jane VerDow was present to represent the application. Ms. VerDow stated the original conditional use permit was granted in 1989. She stated she renewed it in 1991. She stated this is

the next renewal. She stated nothing has changed. She stated she is still working with chronic low back pain patients, approximately one to two patients per hour, one-on-one service. She stated they're basically modifying their lives after back injury.

Ms. VerDow stated parking has been ample for that volume of people. She stated she has not seen an obstacle to not having a sign. She stated her referrals are from physicians.

Beverly Griebel stated she has lived in the area and never knew this was back there. Ms. VerDow stated it is to her benefit not to have a sign, especially on a Sunday afternoon at 2 o'clock. She stated when somebody reads in the phone book who is in the area, it is nice to not to have a sign out there.

Beverly Griebel stated there was a letter which came in from Randy Allen, a Chili Avenue resident in regards to this renewal of conditional use permit to operate. The letter indicated Mr. Allen could find no reason why this conditional use permit should not be granted, that the property is always maintained and there is no evidence of a business being operated out of the home. The letter will be on file with the Building Department. Ms. VerDow stated Mr. Allen, back in 1989, also wrote a letter of support. Beverly Griebel stated the letter she referred to was dated yesterday.

Ron Popowich asked have there been any complaints at all. Larry Smith stated there have been no complaints. Dan Melville asked if the original conditions are still okay. Ms. VerDow stated she reviewed the original conditions and they are still being followed.

Beverly Griebel stated the times are changed on the application. She stated the new application has 8 to 8 on Monday, Tuesday, Wednesday, Thursday; and Friday is 8 to 12. Ms. VerDow stated Friday is an optional 8 to 12. She stated she usually does paperwork on Fridays. Beverly Griebel stated it used to be 7 a.m. to 8 p.m., and she has reduced the hours.

Larry Smith stated if the applicant is still doing paperwork in the afternoons there, she should still keep the same times. He stated she was asking the Board to be more restrictive, maybe she does not really want to do that. Ms. VerDow stated that does not bother her, those hours.

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 the following conditions:

- 1. Granted for a period of five years.
- 2. No on-premises advertising.
- 3. No on-street parking pertaining to the business.
- 4. Hours of operation as per application (Monday through Thursday, 8:00 a.m. to 8:00 p.m., Friday from 8:00 a.m. to 12:00 noon).
- 5. No outside employees.

The following finding of fact was cited:

- 1. Customary Home Occupation.
- 4. Application of Forest Creek Equity Corp., owner; 3240 Chili Avenue, Rochester, New York 14624 for renewal of variance to allow five 2' x 2 1/2' freestanding signs advertising model home at property located in the Wellington Subdivision at Paul/Marshall Roads in R-1-15

zone.

Alan Plantone was present to represent the application. He stated as notified by the Town, they need to renew the variance for the directional signs in the Wellington Subdivision. He stated they have been a huge benefit for people new to the subdivision that would like to visit the model and to check out the Wellington Subdivision for a future home. Mr. Plantone stated since the model is deep within the subdivision, the signs have been a benefit, and they would like to allow to keep that.

Beverly Griebel stated when they came in originally, they asked for the ten signs and were granted five. She stated she was driving around there and sees a need for three signs. She stated one needs to be at the Marshall Road entrance, one at the Paul Road entrance and another sign in that grassy knoll at White Oak Bend, that little curved road near Cornwall Crossing.

Mr. Plantone stated their model home has moved since the last time they made the application. He stated he was thinking perhaps one more just to keep the people on the straight and narrow as opposed to people going left to Toni Terrace. Beverly Griebel stated if they come in off Paul Road, they would go straight until they get to the back of the model home. She stated if there is no directional sign for someone to make a change, they would continue to go straight. Mr. Plantone stated one would think that, but the salespeople had pretty frustrated people showing up at the model saying they weren't sure where to go because it looks like activity of construction there, so they start going the other way and they get lost.

Beverly Griebel stated if they come in off Marshall, they go down Cornwall Crossing and then they would see the sign if there was one there at Oxford Bend, the grassy knoll. Beverly Griebel stated originally they had granted a sign as one comes in off Marshall Road. She stated there was a sign right near White Oak Bend, but there wasn't any when she looked on Sunday, so it would lead people straight along Cornwall Crossing until they come to White Oak Bend. Mr. Plantone stated they would go right. Beverly Griebel stated if they install a sign there, they would see that and continue up to the model.

Mr. Plantone stated the only place where he sees a difficulty is on Toni Terrace, that perhaps one could just stay located there. He stated there is a small grassy knoll. He stated while one were to continue straight towards the model home on the back, just on the left-hand side, between 269 and 235, if they could continue to keep one there, they will see a sign and arrow to continue up to the new model home.

Ralph Barbaro stated he had no problem with the five signs. John Castellani stated he doesn't think they should even question that. He stated they should be allowed to have up to five and they should let them strategically place the signs. He stated he had no problem with five signs.

Dan Melville asked how much longer do they think they will need the signs for. Mr. Plantone stated they have roughly 60 homes left. He stated he hopes they do not need them after this year, but even if they go at a brisk space of 30 homes per years, at least two years. Dan Melville stated so they could come back in another year. Mr. Plantone stated they could.

Ron Popowich stated he agreed with the five signs. He stated the one sign past Toni Terrace, it is quite a drive and he said he thought that sign lets a person know they're going on the right path.

Dan Melville asked have they received permission from the Homeowners' Association to place those on the Homeowners' Association property. Mr. Plantone stated he would double check on that, but he stated it was his understanding from the first time, it was granted. He stated he was not sure whether there is a renewal process. Dan Melville asked would they have to issue another letter stating it is okay for those signs to be on that property. Keith O'Toole stated he was not familiar with their declaration of covenants. He commented whatever permits the Board gives today, don't count for a hill of beans until they have the permission of the landowners.

Larry Smith asked does the developer control the Homeowners' Association still. Dan Melville stated they do not. Mr. Plantone stated he did not believe so. Larry Smith stated at the time this

was granted initially, he believed the developer controlled the Homeowners' Association. Mr. Plantone stated if it has switched ownership, they would need to reapply to them. John Castellani stated they, as the Town, don't get involved. Keith O'Toole stated that is a trespass action.

Beverly Griebel stated a prior condition was the builder would give written notice to the Town for permission to place signs on Homeowners' Association property. Larry Smith stated going through the file, he has found the Town never got that. John Castellani commented they have addressed restrictive covenants in other areas, and they don't have impact on what the Board grants here. He stated they have to police their own covenants. John Castellani stated it is not up to the Board to enforce those regulations.

Dan Melville asked when was that approved the last time. Beverly Griebel stated March 24th, 1993. Larry Smith stated his suggestion was to approve the two spots at the opening and let them put the other three signs wherever they find them necessary. Beverly Griebel commented with a maximum of five signs allowed. Dan Melville commented if they put another model up, they may need to move them again. Mr. Plantone stated that suggestion would be very helpful.

Ralph Barbaro commented actually the signs serve to keep the traffic out of the areas where the property has already been sold. Beverly Griebel stated right now they don't have those up except at Paul Road and Marshall 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, as amended, by a vote of 7 yes with the following conditions:

1. Approved for five signs for a period of 12 months.
2. No signs to be placed in road right-of-way.

The following finding of fact was cited:

1. Complex roadways show need for signs in tract to locate model home.
5. Application of Garold Hopkins, owner; 12 Stillmeadow Drive, Rochester, New York 14624 for variance to erect a 21' x 9' open porch to be 23' from rear lot line (40' req.) at property located at 12 Stillmeadow Drive in R-1-15 zone.

Garold Hopkins was present to represent the application. Mr. Hopkins stated last year he decided to build a porch on the side of his house because he wanted to put an exit door out of that side. He stated he wasn't going to put a cover over it, but after the winter last year, he was sure he has to put one up there. He stated it serves two purposes in the winter: It protects it from the weather; and in the summer, it gives them shade because they have a great deal of sun there. He stated it will just provide them some protection on the steps and the porch.

Beverly Griebel stated in looking at the diagram, it looks like they have a corner lot problem. Mr. Hopkins stated they do have a corner lot. Beverly Griebel stated without the porch, it is only 33.2 feet from the lot line. Mr. Hopkins stated the house needed a variance to be built because it was on a corner lot. He stated he is not interfering with anybody.

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 described need to cover porch against seasonal snow or sun.
 2. No change in the character of the neighborhood.
6. Application of Kevin Foster, 24 Baylor Circle, Rochester, New York 14624, property owner Lyell Foster; for conditional use permit to allow an office in home for a lawn maintenance business at property located at 24 Baylor Circle in R-1-15 zone.

Ernest Foster was present to represent the application. Mr. Ernest Foster stated he is Kevin Foster's grandfather. He stated Kevin and his father both were in Knoxville, Tennessee attending the Home Schooling Association Convention. He stated Kevin asked him to come and represent him.

Mr. Ernest Foster stated as far as an office is concerned, the only office is a blue box under his bed. He stated he wants to advertise the telephone number of the telephone in the kitchen of the home. He stated Kevin is 17 years old. He stated he will be 18 on July the 9th. He stated he is completing in-home schooling his senior year of high school, and he has been working part-time since he was 11 or 12 years old.

Mr. Ernest Foster stated his grandson delivered papers faithfully in the morning for a number of years. He stated then now for two years he has been doing lawn mowing in the summertime and shoveling driveways or plowing with a blower in the wintertime.

Mr. Ernest Foster stated the conditional use permit that he is applying for is simply to advertise on his trailer his name and a telephone number on the trailer itself. He stated that is the only sign he is asking for. Beverly Griebel stated what he is applying for is to have the office in the home. She stated he is not applying for a sign. Beverly Griebel stated any sign on a vehicle is extraneous. Keith O'Toole stated that is correct. He stated they don't regulate that. Larry Smith stated that is true only if it is a licensed vehicle. Mr. Ernest Foster stated it is a licensed trailer. He stated originally it was a trailer that had been built to move a boat around, and it has been revised so that he can run his tractor up onto the trailer and move it safely.

Beverly Griebel asked if that was in the driveway on Sunday. Mr. Foster stated it was. Mr. Foster stated he has not put a sign on it. Mr. Foster stated really all he is asking for is to be able to advertise a telephone number from his trailer so that he can receive calls of lawns that need to be cut. Beverly Griebel stated that is something that they don't regulate at all if there is a business name on a truck; this Board doesn't have any jurisdiction. Larry Smith stated because the phone number on the trailer goes to that home, the applicant is requesting a customary home occupation to work out of the home as an office, he stated even if he is just answering the phone to say he will be there in an hour.

Mr. Ernest Foster stated the blue box is a small blue box. He stated his grandson is not really maintaining an office other than he is trying to keep a good record of who he has worked for. Beverly Griebel stated he is applying for a home office, however small the office is. Beverly Griebel stated it could be for some people a whole room or other people one drawer in a file cabinet. Mr. Ernest Foster stated he did not know if the application includes what his grandson wanted to call his business or not. Beverly Griebel stated it was on the application.

Beverly Griebel stated there were some questions on the application that were not answered. Larry Smith stated they were not answered on his. Beverly Griebel stated page 2, part 6 was not answered. Larry Smith stated he doesn't need a license. He asked how big is the home. Mr. Ernest Foster stated he did not know. Mr. Ernest Foster stated it is a two level home. Larry Smith stated it is probably around 1,500 square feet. Mr. Ernest Foster stated he thought so. Larry Smith asked relating to the business, how big is the blue box. Mr. Ernest Foster stated it is smaller than the top of the meeting room desk. Larry Smith stated that is approximately two

square feet.

Larry Smith asked if it would be his grandson only operating the business. Mr. Ernest Foster stated that was correct. Larry Smith asked if there would be any outside employees. Mr. Ernest Foster stated there would not be any outside employees. Larry Smith asked how many vehicles can be parked in the driveway. Mr. Ernest Foster stated three plus the trailer. Beverly Griebel asked if it is a single width driveway. Mr. Ernest Foster stated it is a single width, but as it goes close to the house, there is room enough for two cars.

Larry Smith asked how many cars does the family have. Mr. Ernest Foster stated they have one. He stated temporarily they have been using one of his vehicles, so sometimes there are two cars in the driveway.

John Castellani asked when the approval of the project was denied by the Building Inspector. Larry Smith stated that date was 4/17/96. Ralph Barbaro asked Mr. Ernest Foster what vehicle are they using of his right now. Mr. Ernest Foster stated the family is using is an '85 Plymouth Horizon that his son uses, Kevin's father, to drive to work in the city. He stated Kevin is using his father's vehicle which is a station wagon. He stated he put a trailer hitch on it and did all of the wiring to haul the trailers with the family station wagon. Mr. Ernest Foster stated the use of his car is just occasional use when Kevin has the station wagon tied up.

Ralph Barbaro stated in the past, thinking back on several of these businesses that have had vehicles associated with them, they have not allowed trailers parked in a residential neighborhood, like a trailer with a tank on it for blacktop sealing. He stated they made such an applicant park his trailer on commercial property. Ralph Barbaro stated this is a trailer with a lawn mower, trimmers and whatever associated equipment is used with lawn mowing. Ralph Barbaro stated they generally have required trailer to be parked in some other areas. He stated he did not remember ever saying that a sign would be allowed if it were on a vehicle. He stated granted if there is a commercial vehicle parked there, they're allowed one commercial pickup truck or something like that with a sign painted on a door that they would allow, but he doesn't recall they have ever allowed a sign on a trailer.

Dan Melville stated he can have a sign on a car. Ralph Barbaro stated signs on cars, that is correct. Dan Melville stated if it is a licensed vehicle, they can't regulate it. Mr. Ernest Foster stated the purpose of the sign is for encouragement of business while he is out doing other lawn mowing, and any time that the trailer is at home, the trailer is empty. He stated he unloads it, and the tractors are in the garage normally with the door shut.

Ralph Barbaro stated he would be satisfied if the sign was such that it was removable so that he did not have, in fact, a de facto sign on the property. Dan Melville stated they're not addressing the sign tonight. Ralph Barbaro stated he was discussing the sign on the property. Dan Melville requested the Chairperson to make a ruling that they stick to the application.

John Castellani stated it is part of the application.

Ralph Barbaro stated if that sign is removable when parked in the neighborhood, that would be satisfactory for him. He stated the problem is in the past, a commercial trailer has not been allowed in a residential neighborhood.

John Castellani asked is the garage capable of handling the trailer. He asked could he back that in that garage and secure it. Mr. Foster stated they would not be able to get the trailer in. Mr. Foster stated it is a large family, and they are using the garage for storage, and they would not be able to get the trailer in. John Castellani stated he was looking at that as a possible alternative. Mr. Foster stated he thinks that he could easily make a sign that would be removable when he was home.

Dan Melville stated they're looking at something a little different than a trailer with a blacktop tank on it. He stated they're looking at an empty trailer there. John Castellani stated they also had a person over on Chestnut Drive that parked his stuff normally in a commercial area, but

when he was coming home, he would bring the trailer home. Dan Melville stated but it is not illegal for a homeowner to have a trailer in the driveway. Bill Oliver commented but there would be the signage. Dan Melville stated they're discussing the trailer. He stated he has no objections to the sign.

Larry Smith suggested the Board grant it for a year and see what happens. Beverly Griebel commented the applicant takes the equipment off anyway when work is completed.

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.

Bill Oliver made a motion that the sign on trailer to be removed or covered when trailer is parked on premises, and Gerry Hendrickson seconded the motion. The vote was 6 yes to 1 no (Dan Melville) 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 advertising.
3. Sign to be removed or covered when trailer is parked on premises.
4. No on-street parking pertaining to the business.
5. No outside employees.
6. Minimum 4 1/2" house numbers (Arabic) to be installed in a color to contrast with house.
7. Application of Ron Ink Co. Inc., c/o Thrall Enterprises, 181 W. Madison Street, Suite 4750, Chicago, Illinois 60602; property owner: Rochesters Cornerstone Group; for variance to erect a 30,000 sq. ft. manufacturing building to have front parking for 29 vehicles; variance for total number of spaces required by code; variance to allow 13 contiguous parking spaces (10 req.) at property located at 401 Paul Road (Lot 203 Trade Court) in L.I. zone.

David Weisenreder was present to represent the application. Larry Smith stated as a note, they were in last night for approval to the Planning Board and the Planning Board did give them approval for the site plan. Keith O'Toole stated the Planning Board is lead agency.

Beverly Griebel stated the Zoning Board got information back from Monroe County Planning, and this was deemed to be a local matter.

Mr. Weisenreder stated what they're proposing is the construction of a 30,000 square foot manufacturing facility on Lot R203A of the Rochester International Commerce Center development. He stated they did receive subdivision approval last night at the Planning Board meeting and tonight they are seeking three variances for this project. He stated those three include to allow parking in the front yard.

Mr. Weisenreder stated the main offices would be located in the southeast corner of the structure, and an employee entrance is located also on the east side of the building. Mr. Weisenreder stated in this particular case, they are on the south end of Trade Court. He stated it is approximately 600 feet south of Paul Road, so there would be no through traffic in this instance. Mr. Weisenreder stated they also have provided landscaping on the north side of the parking lot and also an additional berm and landscaping on the east side to buffer the parking area from Trade Court.

Mr. Weisenreder stated the second variance that they're seeking would be for the total number of parking spaces per code. He stated a 30,000 square foot manufacturing facility would require 75 parking spaces. He stated Ron Ink currently has 45 employees at their Halstead Street location. He stated they're anticipating a maximum addition of ten employees at their new facility. He stated that would be a maximum of approximately 55 employees. He stated they're proposing 63 spaces. He stated they have also shown additional parking area reserve for parking at the southwest corner of the site should the need arise.

Mr. Weisenreder stated the third variance would be to allow 13 contiguous parking spaces. He stated they originally showed two banks of ten on the north side of the building. He stated in developing the plan, they have a proposed mechanical room in the northeast corner of the building where the backflow preventer would be placed on the water service. He stated also in that area there would be a fire connection extending through the north side of the wall. He stated in order to provide clear access for fire engines on the north side of the building, they have slid the island slightly to the east to provide clear access to that fire connection. He stated that was somewhat at the request of the Fire Marshall and the Building Inspector, one of their suggestions.

Mr. Weisenreder stated the manager of Ron Ink lives in Chili and he is on his way with that plan change right now. He stated they would have a colored rendering of both the site plan and the building shortly. He stated Bill Rampe was also present, the contractor who will be building the building.

Beverly Griebel commented the drawing shows the parking reserve for the future. Mr. Weisenreder stated that was set up as a bank. He stated it is the standard module of 64 feet where there would be parking going in both directions. He stated they set it up such that they would be able to have a loop around that parking area also.

Beverly Griebel stated in the letter of intent, it indicates a total of three parking spaces. Mr. Weisenreder stated that is a typo; that should have been 63.

Ralph Barbaro asked where do they expect to take deliveries. Mr. Weisenreder stated they have shown a loading dock area on the west side of the building. He stated that would be for tractor-trailers. He stated as required by the zoning ordinance, they would have four parking spaces for 18 wheelers. Mr. Weisenreder stated they will have maybe three to four trucks a day, two in the morning, two in the afternoon. Ralph Barbaro asked where are the parking spaces for those. Mr. Weisenreder stated there is a loading dock located in the center of the building and there are two additional parking spaces immediately to the north.

Ralph Barbaro asked if the loading dock would have two spaces. Mr. Weisenreder stated that's correct. He stated they also have shown landscaping on the north side of that area to buffer it from the Life Time Assistance immediately adjacent.

Ralph Barbaro questioned the delivery of mail. Mr. Weisenreder stated UPS and Federal Express, they have a small overhead door located on the northwest corner. Ralph Barbaro asked if they expect them to come in at that location. Mr. Weisenreder stated that's correct. Ralph Barbaro asked if they do not expect to take delivery of mail up in that front main area because there is no turnaround. Mr. Weisenreder stated for mail, there will be a small truck. He stated most likely, they would have a mailbox out on the street.

Ralph Barbaro stated they mentioned that they have 63 spots, of which 4 of those are handicapped. Mr. Weisenreder stated that's correct. Ralph Barbaro stated that is 59. He asked do they have handicapped employees at the present time. Mr. Rampe stated he did not know if they currently have any handicapped employees, but they would be required by code to meet the requirement. Ralph Barbaro questioned the number of customer spaces. Mr. Weisenreder stated that is part of the 63. He stated with the 55 employees, that is basically additional.

Ralph Barbaro stated the only problem he had with the plan is that in the winter, with snowplowing, they tend to lose a number of spots generally around the perimeter. He stated that

have a potential for probably more than 8, probably closer to 12 or 14 parking spaces being lost. Mr. Weisenreder stated they do have a significant amount of green area around the perimeter. He stated all that area could be used for snow storage. He stated there are drainage bales proposed along the north side of the property line and along the west side of the parking area. He stated all the storm water would tributary to the storm water quality basin at the southeast corner of the site.

Ralph Barbaro asked will they have a front loader that will lift it out of the parking lot and deposit it somewhere else. Mr. Weisenreder stated he was not positive, but he stated there is ample area for the snow. He stated most frequently when snowplowing occurs, it can be pushed southerly off the south end of that parking area. He stated there is a significant amount of area along the north property line.

Ralph Barbaro stated it might save them a couple spots down at the end to the left. He stated he is just concerned out front along the side of the building facing Lifetime that they are really not going to have enough parking area the way they have it assigned here. He stated they will need a few more spots, because by the time they erase eight or ten spots due to plowing, they are going to have less than what they need for their employees.

Ron Steinmiller, also present to represent the application, stated they have 45 employees total working in Rochester, which 3 of those are on a night shift. He stated the parking lot they have now, they actually double park each other in in their current facility at Halstead. He stated the contractor they use has a front loader and they try to clear out as much as possible for the spots. He stated they're hoping to add ten employees within the next couple of years. He stated he thinks they would be satisfied even losing a couple at this point due to the snowplows. He stated they want to have things cleared out because they'll have trucks coming in and out of that traffic area.

Ralph Barbaro asked is this a shift operation. Mr. Steinmiller stated it is a two-shift operation. Ralph Barbaro asked do they have overlap between shifts. Mr. Steinmiller stated basically when one finishes, the others come in; basically a half-hour overlap. Ralph Barbaro asked does 45 include all shifts. Mr. Steinmiller stated it is 45 total. Ralph Barbaro asked what is the maximum they have there at one time. Mr. Steinmiller stated right now it is currently four on the night shift, so it would be 41 on the day shift.

Ralph Barbaro asked will they have a rear entrance for these people parking in the back of the building. Mr. Weisenreder stated there is a door on the west end of the building located between the dumpster and compactor.

Beverly Griebel asked how many customers might they have at a time. Mr. Steinmiller stated at their current facility, they don't encourage customers to come to their building. He stated it is an old building. He stated they don't have a whole lot of customers right now. He stated they're trying to increase their base here in Rochester for a lot of smaller companies. He stated they're going to encourage more people coming to their facility, but it would be mostly salespeople coming in. He stated on a daily basis, they'll have maybe two to four people a day plus some walk-ins that come in to try to get appointments. Beverly Griebel commented so that would take up just a few parking spaces on an average day. Mr. Steinmiller stated that was correct. Mr. Steinmiller stated the most at one point would be three.

Ralph Barbaro asked will the parking area be curbed so they don't have people parking over in the grassy areas. Mr. Weisenreder stated the area that is curbed would be adjacent to the sidewalk, and then they would have curb stops along the perimeter of the other parking area. Ralph Barbaro questioned how about along the driveway in the back. Mr. Weisenreder stated to the north, they have sheet drainage. He stated there is a drainage swale proposed along the north side of that area. Mr. Weisenreder stated looking at the utility and grading plan, there is a storm sewer system that is in the grass area in that area, so that there is sheet drainage off the parking lot through the grass swale and into the storm sewer system.

Ralph Barbaro stated he was just concerned that their plan looks good on paper, but in practical

reality, the people will pull over there in the grass instead of parking all the way out back to make life easier for themselves. He stated they will have to exercise some kind of discipline as to how they manage that parking facility if they will not provide more spots.

Mr. Weisenreder stated if the need for additional parking arises, they plan on expanding that parking area. Ralph Barbaro stated they have a location for one dumpster and one compactor. He asked is one of those a separate cardboard dumpster. Mr. Steinmiller stated that's correct. Ralph Barbaro stated now they're requiring separate cardboard dumpsters. He asked if they had an area for hazardous materials waste. Mr. Steinmiller stated that is inside the building.

ANYONE IN FAVOR OR OPPOSED: No one.

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

1. Applicant demonstrated satisfactorily that a fewer number of parking spaces will meet their needs as well as meet requirements of the Town.
2. Contours of land make front and extra contiguous parking arrangement more beneficial.
3. Applicant provided future parking area.

The meeting ended at 9:00 p.m.

CHILI ZONING BOARD
June 25, 1996

A meeting of the Chili Zoning Board was held on June 25, 1996 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, Dan Melville, Gerry Hendrickson, Ron Popowich, Bill Oliver, 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 was out this past Saturday night after the storm and did not see a sign on number 1. Gerry Hendrickson stated it was there. Beverly Griebel stated there was a problem with wind and rain.

Beverly Griebel stated another problem was on number 7, she did not see a sign on Fenton Road when she went around there. Gerry Hendrickson stated it was there.

Beverly Griebel on number four, the application was for floor elevation of 523 feet. She stated the actual sign on the property said 525 feet. Keith O'Toole stated there is substantial compliance.

1. Application of Grace Mason, owner; 14 Minute Man Trail, Rochester, New York 14624 for conditional use permit to allow an office in home for student financial aid assistance at property located at 14 Minute Man Trail in R-1-15 zone.

No one was present to represent the application. Beverly Griebel stated the Board would call the application again at the end of the meeting.

2. Application of Nancy Schallmo, owner; 16 Sierra Road, Rochester, New York 14624 for renewal of 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. Beverly Griebel stated this was granted last year for one year. She asked how has the business been. Ms. Schallmo stated fine. Beverly Griebel asked if there have been any problems. Ms. Schallmo stated there have been no problems or any complaints.

Beverly Griebel asked Larry Smith if there have been any complaints. Larry Smith stated there have been no problems at all.

Dan Melville asked the applicant if she had any problem with the conditions that were imposed on her last time. Ms. Schallmo stated she did not. Dan Melville asked if there would be a problem if they were imposed again. Ms. Schallmo stated there would not be a problem.

Ralph Barbaro stated the original approval was granted in November of '94, so it would have been renewable in November of 1995, and this is now the middle of 1996. He asked the applicant did she make this application on her own or was she notified that she was delinquent. Ms. Schallmo stated she was notified.

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 the following conditions:

1. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Customers by appointment.
5. No outside employees.
6. Hours of operation as per application.

The following finding of fact was cited:

1. Customary Home Occupation.
3. Application of Vasilios Ferfiris, owner; 12 Bellmawr Drive, Rochester, New York 14624 for variance to allow existing 12' x 12' utility shed to be 39' from side lot line (55' req. abutting a street) and 6' from rear lot line (8' req.) at property located at 12 Bellmawr Drive in R-1-15 zone.

Vasilios Ferfiris was present to represent the application. Beverly Griebel asked how long has the shed been up. Mr. Ferfiris stated since September of '95. Beverly Griebel stated she was out looking at the yard. She stated there are a lot of other things in the backyard. Mr. Ferfiris stated he has no room. Beverly Griebel stated they have a swimming pool. Mr. Ferfiris stated that's correct. Beverly Griebel stated there is a garden. Mr. Ferfiris stated 3 or 4 feet is all they have to move it.

Beverly Griebel stated they have a lot of big trees. Mr. Ferfiris stated that's correct. Beverly Griebel stated it is a corner lot, which frequently creates a problem. Mr. Ferfiris stated that's correct.

Ralph Barbaro asked the applicant did he build this shed himself. Mr. Ferfiris stated Chase-Pitkin built it. Ralph Barbaro asked did they put it in place or did he locate it. Mr. Ferfiris stated they put it in place. Ralph Barbaro asked at the time they placed it, did they check on the zoning requirements for distances from the property line. Mr. Ferfiris stated he did. Larry Smith stated after it was placed, they did. Mr. Ferfiris stated after, he did. Larry Smith stated they sent him a notice. Ralph Barbaro commented so this was never checked before they put the building in place. Mr. Ferfiris stated when Chase-Pitkin came, he wasn't home.

Ralph Barbaro asked if there was an attempt to find a proper place for it at the time. Larry Smith stated there are not many other places they could put it in that yard. Beverly Griebel stated it is pretty crowded back there.

John Castellani asked when this was put up. Mr. Ferfiris stated September of 1995.

Bill Oliver stated the application says the shed would be destroyed if it were moved. He asked what is it sitting on: Concrete, dirt, blocks. Beverly Griebel asked what is underneath the shed. Mr. Ferfiris stated he can't move it because it would come apart if he moved it. He stated it would cost him \$4,000 to move it and it may break.

Bill Oliver asked if the shed itself is sitting on a concrete base. He asked what is underneath the shed on the ground. Mr. Ferfiris stated on the ground, they have the floor down. Bill Oliver

asked if it is a wood floor. Mr. Ferfiris stated that's correct. Bill Oliver asked if there is a concrete base under it. Mr. Ferfiris stated there is not.

Ron Popowich asked who decided on putting that shed there. Mr. Ferfiris stated Chase-Pitkin. Bill Oliver questioned whether they asked him where he wanted it. Mr. Ferfiris stated they just stuck it there. Beverly Griebel stated there is not much other room to put it. Mr. Ferfiris stated Chase-Pitkin said they were sorry, they could come back to move it, but it would cost \$4,000.

Beverly Griebel stated he could cut down a tree. Mr. Ferfiris stated he has the trees. He stated the pool is too close. He stated he would have to move something.

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. Based on restrictions of vegetation and other structures, shed is in most appropriate place on the lot.
- 2. A unique problem common to corner lots.
- 3. Minimum variance.
- 4. Application of Greg Rayburn, owner; 40 Walaut Hill Drive, Spencerport, New York 14559 for variance to allow existing dwelling to be 70' from front lot line (75' req.) and to have a floor elevation of 523' (525' req.) at property located at 78 Ballantyne road in RAO-20 & FPO zone.

Greg Rayburn was present to represent the application. Mr. Rayburn stated they would like a variance so that they could raise the basement floor and proceed with the house. He stated the basement floor would be at an elevation of 523, and they would also put a stoop on the front of the house to accommodate the increased elevation to continue completing the house.

Larry Smith stated the house was built at a lower elevation than the flood plain allows. He stated the applicant wants to remedy that. Beverly Griebel stated the applicant wants to raise the basement. She stated right now according to the diagram that came in, it is at 520 feet, the basement level. Mr. Rayburn stated that's right. He stated they would like to comply with the FEMA regulation, which would be two feet lower than what the Town code is.

Beverly Griebel stated right now the front door is 523 feet. Mr. Rayburn stated that was not correct. He stated the bottom of the window openings are at 523.5. Beverly Griebel stated so they're the lowest point right now for entry of water. Mr. Rayburn stated that's correct. Beverly Griebel stated she was out there on Saturday looking at it. She asked the floor of the driveway, is that at 523. Mr. Rayburn stated it is not. Larry Smith stated the elevation of the garage is irrelevant to the application. Beverly Griebel stated she was trying to get a perspective because when she looked in the window, that looked to be two to three feet lower than the present ground level. Mr. Rayburn stated it is.

Beverly Griebel asked the lower level presently is planned to be what. Mr. Rayburn stated just basement, just for furnace, washer and dryer, that type of thing. Beverly Griebel stated it looks to be a full height first floor. Mr. Rayburn stated it is. Beverly Griebel asked if they would do nothing with that except have a furnace and appliances down there. Mr. Rayburn stated that's right. Beverly Griebel asked if all the living area would be on the second floor, the higher level. Mr. Rayburn stated it is a raised ranch coming in on a landing, the kitchen, living room and three bedrooms and bathroom upstairs at elevation of 529.

Larry Smith stated that basement floor is going to have to be raised. Beverly Griebel asked if it would truly be a crawlspace. Larry Smith stated the basement cannot be below the base flood elevation. He stated so what they are saying is not correct. He stated there will not be anything down in that basement. Bill Oliver asked if they can't have a furnace down there. Larry Smith stated that has to be above the base flood elevation.

Beverly Griebel asked if they're going to make a second floor higher than the present one on that lower level. Larry Smith stated the first floor elevation is going to remain the same, the first floor. He stated they are bringing the basement floor up to meet the base flood elevation. Mr. Rayburn stated that's correct. Larry Smith stated they are creating a crawlspace. Mr. Rayburn stated that's correct. Larry Smith stated there will not be a basement in that house. Larry Smith stated the utilities will be above the base flood elevation. He stated the whole purpose here is to get that floor above the base flood elevation.

Beverly Griebel asked would the furnace remain on that lower level. Larry Smith stated if they can keep it above the base flood elevation, it could be, but he didn't know how they could do it.

Mr. Rayburn stated the new floor, because the one that is in there is below the flood plain, the new floor height of 523 would be where the furnace would sit on. Beverly Griebel asked what is the present height of that lower level. Mr. Rayburn asked the basement floor, the landing or which level. Beverly Griebel stated the lower level, what they are calling the basement, from the floor to the ceiling. Mr. Rayburn stated the concrete floor is at 520.42. Beverly Griebel asked how high up does it go. Mr. Rayburn stated it is a full eight foot.

Beverly Griebel asked if what they are going to do is take about 3 feet off of that and it will be a 5 foot area once they get that 520 up to 523. Mr. Rayburn stated that's not necessarily what they plan on doing. He stated they had hoped to raise the entire house, not the garage, but the house, raise it 2 feet and raise the basement floor 2 1/2 feet, which would put them above flood plain. He stated they would have the downstairs as a full height, about 7 1/2 feet. Larry Smith stated as long as that basement floor is above the base flood elevation, that is okay. He stated if they plan on doing it that way versus making a crawlspace out of it, that is acceptable, too.

Larry Smith stated he can either make a crawlspace by raising up the floor of the basement or he can raise the whole house.

John Castellani asked do they get into a problem with overall height of the house. Larry Smith stated they won't. John Castellani asked is it significantly lower than what is there now. Larry Smith stated that's right. Keith O'Toole stated he has plenty of room.

Beverly Griebel commented they are not certain which way they are going to go. Mr. Rayburn stated they have figured it out both ways, to fill in the basement and to have the concrete floor raised up, or to raise the house and put in a wood floor, and it works out about the same. He stated they're kind of leaning towards keeping the downstairs full height so it can be used. He stated they just feel it would be good for the house, for the value of the house. Beverly Griebel stated then it could be used for a family room or bedroom or whatever was needed, plus a furnace. Mr. Rayburn stated that's right.

Ralph Barbaro asked how did they get into this predicament. Mr. Rayburn stated that's very interesting. Mr. Rayburn stated they tried hard to comply with all the codes. He stated in talking to the engineer, he asked the engineer how to do this and he said the most important number on the site plan was number 13 that says that the proposed house shall not have any architectural openings below the elevation of 523.5. Mr. Rayburn stated he didn't know anything about FEMA or flood plains or anything at the time, so he put his trust in the engineer. He stated it seemed logical to him that the lowest opening on a house in the flood plain would be an important thing. He stated his partner and he checked and double checked this to make sure it was going to work out so that the window openings were at the 523.5 just like the site plan said.

Larry Smith stated unfortunately the code requires the first floor elevation to be above the base

flood elevation, and that includes basements. Mr. Rayburn stated the bottom line was they didn't really know about the floor elevation thing, but they felt that what they were instructed to do on window opening was the important thing.

John Castellani asked was this the same person that put the house 5 feet closer to the front lot line, too. Larry Smith stated the reason for that 5 feet is because they're raising the house, they're going to put a stoop in the front, so they need 5 more feet to put that in. John Castellani asked if the existing house is 75 feet set back. Larry Smith stated that's correct. Ralph Barbaro stated he watched that house going up over the last few months and thought that looked low.

Gerry Hendrickson asked in the last down fall of so much water, how high did it get around the house. Mr. Rayburn stated no water was around the house. He stated, in fact, even inside the house in the crock, the water is not even up to the top of the crock. Larry Smith stated the last time that area flooded was when Agnes came through, 1972. Gerry Hendrickson stated when Black Creek was all flooded down Ballantyne and like that, it generally goes down that way. Larry Smith stated it never got back in that area.

Beverly Griebel stated this was submitted to the Monroe County Department of Planning and Development for airport review because it is within one mile boundary of the Greater Rochester International Airport departure corridor. She stated the Department of Planning and Development has reviewed this application and wishes to offer the Board the following comments: Number 1, the issue of the front setback is a matter for local determination; number 2, the floor elevation requested by the applicant meets the minimum standards of the National Flood Insurance Program, which requires that residential structures must have the lowest floor, including basements, to be at or above the base flood 100-year flood elevation. The comments indicated in this case, the residents will have a crawlspace, not a basement which is below the base flood elevation. The comments indicated this crawlspace is not intended for human occupancy. The comments indicated if this space were kitchen, living room, dining room, recreation room, bedroom, bathroom, office or professional studio or other commercial occupancy, it would not meet the minimum standards of the National Flood Insurance Program, and for the Town to grant such a variance, would jeopardize the Town's standing in the program. The comments further indicated however, since it is not a basement and not intended for occupancy, the finished floor elevation is the first floor and, hence, at the base flood elevation. The comments indicated this was given approval with that consideration, that it be a crawlspace and no family type rooms, no area where people would be.

Bill Oliver asked is it their intention to raise the whole structure rather than to have a crawlspace. Mr. Rayburn stated that was correct. Larry Smith stated before they get a C of O, he has to have the first floor elevation certified by an engineer, so regardless if he puts in a crawlspace, it has to be above the first floor elevation, 523.

John Castellani asked how far along is this house. Mr. Rayburn stated they were in the drywall stage. John Castellani asked if they have done plumbing and electric. Mr. Rayburn stated that's correct. John Castellani stated they have extensions to do on all of that. Mr. Rayburn stated that's 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 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. Floor level meets the minimum for federal flood insurance participation.
2. The additional 5' front setback variance is due to the need for front stoop, necessary with raising of house to allow full basement.

5. Application of Laurie White, owner; 934 Chili Center Coldwater Road, Rochester, New York 14624 for variance to erect a 10' x 12' utility shed to be 2' from side lot line (8' req.) at property located at 934 Chili Center Coldwater Road in R-1-12 zone.

Laurie White was present to represent the application. Ms. White stated she would like to have a shed built up closer to the house so it is convenient to get to. She stated she is going to be storing most of her garage items in there, and she would like to be able to access it in the wintertime. She stated she has a single-car garage, and her vehicle barely fits in it.

Beverly Griebel stated she was out looking at that property on Saturday, looking through the fence. She stated she does not see anything much in the backyard now. She stated the pool is gone. Ms. White stated that's right. Beverly Griebel stated that was present on the plan that was submitted. She stated there are a couple of small maples near the middle of the yard. She stated there are some clothes lines. She asked why couldn't the applicant put it somewhere else on the property. Ms. White stated she couldn't put it on the north side because it has quite a slope over on that side, and it would be tough to level the shed. Beverly Griebel stated she didn't see much of a slope. Ms. White stated there is a slope on the north side, the whole north side of the end.

Ms. White stated and as far as any other place, she didn't want to have the shed be a focal point in her yard. She stated she wants it to look nice, but not be a main attraction. Beverly Griebel stated there is a deck coming off the back of the house, and then some clothes lines and there is not much else. She asked why would she need it as close as 2 feet. She stated they normally don't grant that close to a lot line. Ms. White stated she wanted it to be closer to the lot line because it would be more out of the way. She stated she was planning on within that two feet between the fence and the shed putting some black stuff down and some rocks so that no one would have to maintain that area behind the shed. Ms. White stated as far as accessing the back of the shed and painting it, she wouldn't have a problem doing that because she measured out and walked behind and didn't have a problem going into that area to maintain the back of it.

Beverly Griebel stated if this is granted, they normally wouldn't grant for less than 4 feet. She stated that would be the minimum. Ms. White stated if that is the case, she would rather put it behind the clothes lines then, further to the east, the southeast corner. Beverly Griebel stated then she could put it 8 feet from the property line and be in compliance without the variance. Ms. White stated she could. She stated she kind of didn't want to have it sticking out in the yard 8 feet.

Ron Popowich asked the applicant what will she be storing in this shed. Ms. White stated she has a snow blower, two tractors, her lawn furniture, all the basic yard things. Ron Popowich asked if the snow blower in the wintertime would be in the garage area. Ms. White stated she probably would store it in the back of the garage, if she could find room for it. Ron Popowich stated if the shed was moved over, she has 2 feet from the line now to move it over another 2 feet or even to the 8 feet. He stated he did not understand what the problem is.

Ms. White stated if she put it over 8 feet where she would like it, then she couldn't put it there. She stated it would be too close to the deck. Ron Popowich stated she could move it back farther, but that is inconvenient as far as getting equipment to the garage. Ms. White stated that's correct.

Dan Melville asked what is the height of the shed, from the ground to the top of the roof. Ms. White stated it says 12 by 10 by 8, so she believed 8 must be the height. Dan Melville commented she has a stockade fence there along the side. Ms. White stated that is correct. Dan Melville asked what is the height of the fence. Ms. White stated 6 feet. She stated it is 6 by 8 feet.

Dan Melville asked if the snow blower in the winter would be brought up front, or would that be stored in the garage. Ms. White stated she probably will store that in the garage. Dan Melville stated so she won't have to bring it up through the yard to get to the driveway. Ms. White stated that's right.

Larry Smith asked is this a metal shed. Ms. White stated it would be a wood shed. Larry Smith

stated being a combustible shed, it has to stay more than 2 feet away from the property anyway. He stated 4 feet would be a minimum. Beverly Griebel stated the applicant said if it is 4 feet, then she would prefer to put it behind the clothes lines and then it could be there without a variance.

Ms. White asked then could it be 4 feet from both property lines. John Castellani stated she would still need 8 feet. Beverly Griebel stated she would need 8 feet without a variance. John Castellani stated she would still need 8 feet if she moved it down the same line.

Larry Smith asked the applicant was she saying she wanted to put it way in the back of the property line. Ms. White stated that was correct, right back in the corner.

Ron Popowich asked the applicant if she could keep it where it is if she went out 4 feet instead of 2 feet. Ms. White stated she could not. Ms. White stated it would be too tight with the deck.

Larry Smith asked the applicant if she would like to amend the application to be 4 feet from the rear and 4 feet from the side. Ms. White stated indicated she would.

ANYONE IN FAVOR OR OPPOSED: No one.

Ron Popowich asked the applicant if she understood what they were saying. Ron Popowich stated it is a long ways back she was going to put it. Ms. White stated because the snow blower would be in the garage, it wouldn't be that big of a concern.

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 stated need to store items as she has only a one-car garage.
 - 2. No significant impact on neighboring properties as yard is fenced and shrubbed.
6. Application of Robert Jaus, owner, 720 Chili Avenue Extension, Churchville, New York 14428 for variance to allow the total square footage of garage area, including a new 60' x 70' detached garage to be 4,800 sq. ft. (900 sq. ft. allowed) at property located at 720 Chili Avenue Extension in R-1-20 zone.

Robert Jaus was present to represent the application. Mr. Jaus stated he wants to have a building put up to store some of his personal belongings and vehicles. Beverly Griebel asked such as. Mr. Jaus stated he has a boat, some cars and a few trailers.

Ralph Barbaro stated he thought there may be an error in the application as it is written. Ralph Barbaro stated right now there is an existing variance on that property for a metal barn which he did not think was included in the total square footage. Larry Smith stated this is garage area, not barn area. Ralph Barbaro asked if that is not included in the total square footage. Larry Smith stated no, it is not. Beverly Griebel asked if that was because that is a metal barn. Larry Smith stated a garage houses motor vehicles and the like. He stated the applicant has a variance for housing livestock in a 96 by 100 foot barn.

Mr. Jaus stated he thought it is 72 by 36. Beverly Griebel stated it is 36 by 72. Beverly Griebel asked if that barn has livestock in it. Mr. Jaus stated that's right. Larry Smith stated their code says 900 square feet of garage area. He stated a barn is not a garage if it is housing livestock. He stated it is a separate entity. Ralph Barbaro asked if it doesn't get included in the total square footage. Larry Smith stated it does not.

Ron Popowich asked the applicant could he be a little more specific on what he would be storing

in the proposed building. Mr. Jaus stated he made a rough draft of what he was going to put in it and the area that it would take up. He presented the sketch to the Board members. Beverly Griebel stated for the record, what was submitted was kind of a floor plan showing a boat and trailer in one area, car trailer for snowmobiles in another area, a son's car, street rod, lawn furniture, pool equipment, future other items, a Ford pickup, a Bass boat, miscellaneous equipment, garden tractors, and a small area of empty space diagramed out in little boxes.

Ron Popowich asked where all that equipment was right now. Mr. Jaus stated it is just setting in his yard. Ron Popowich stated he did not see all that from the street. Mr. Jaus stated it is there. Ron Popowich questioned where the snowmobile trailer is. Mr. Jaus stated it is in the backyard in the turnaround. Dan Melville stated he noticed over there he had a couple big trailers in the yard. He stated he doesn't see those being stored in here. He asked what are they used for. Mr. Jaus stated one is the Hallmark car trailer that is used for towing his cars around. Dan Melville asked will he continue to leave those outside. Mr. Jaus stated that is included on being inside.

Beverly Griebel asked if that would be the car trailer and the boat trailer, those two big black items. Mr. Jaus stated the one is a car trailer. He stated the other is an enclosed snowmobile trailer.

Dan Melville asked if they are just going to be using this for storage. Mr. Jaus stated that's right. Dan Melville asked the applicant if he would use it as any kind of a workshop. Mr. Jaus stated he would not. Dan Melville asked the applicant would he store dump trucks in there. Mr. Jaus stated he would not. He stated he has a place for those now.

Bill Oliver stated the applicant was being real liberal in his spacing, allowing five foot between units and ten foot in the front. He stated he couldn't see why the applicant couldn't bunch some of that stuff up and reduce that space. Mr. Jaus stated he doesn't want to get into a situation where he doesn't have enough space. He stated he could always use a little extra space rather than not have enough.

Beverly Griebel asked have these vehicles all been stored in the yard. Mr. Jaus stated they have. Beverly Griebel asked where were they last winter. Mr. Jaus stated he didn't have all of them last winter. He stated the snowmobile trailer was stored there. He stated he had some of the stuff in other storage at the time because he still had his shop out in Leroy. Beverly Griebel asked the applicant if he stored a lot of it out there. Mr. Jaus stated that's right.

Beverly Griebel stated now some of the items are summer items and some are winter items and some might be year round. She asked would it be possible for the applicant to get an alternate storage somewhere to store the out of season items and make a swap to reduce the size of this. Mr. Jaus stated for what he has invested, he just as soon have it on his own property and have the convenience of having them there when he needs them. Beverly Griebel stated but would it be possible to make that seasonal swap. Mr. Jaus stated he supposed so.

John Castellani asked how much room is there in the metal barn. Mr. Jaus stated the existing barn has five horse stalls in there that take up more than half it. John Castellani asked are they occupied. Mr. Jaus stated two are right now. John Castellani stated they have three stalls that are unoccupied that could be storage space. Mr. Jaus stated they swap the horses back and forth. John Castellani asked how many animals are there at any one time. Mr. Jaus stated two. John Castellani stated so there would be room in there if he choose to use it that way. Mr. Jaus stated he puts hay in there and keeps his one tractor in there that they use for cleaning stalls. He stated other than that, there is not a lot of room in there because he has to leave the whole center open to get the animals in and out.

Ralph Barbaro asked what is the size of the car trailer. Mr. Jaus stated it is 28 foot long and 102 inches wide. Mr. Jaus stated the box is 28, but then there is about a 4 foot tongue on it. Ralph Barbaro asked how many vehicles does it carry. Mr. Jaus stated one. Ralph Barbaro asked how big is the boat trailer. Mr. Jaus stated the boat is 30 foot long, and then the trailer is probably 35 foot long.

Ralph Barbaro stated the drawing is not to scale. Mr. Jaus stated it is not. Ralph Barbaro stated it is difficult to look at a drawing like this and to see if any of the information is really reasonable when it is not to scale, because according to the drawing, the snowmobile appears to be about 7 feet wide and 17 feet long. He stated he could put four snowmobiles in the amount of space that he is showing for one, so without the drawing being to scale, it is very misleading. Mr. Jaus stated there are four snowmobiles. Ralph Barbaro stated but the total area they are showing is 15 foot by 35 foot for four snowmobiles. He stated if he were to divide that by four, he gets 7 1/2 feet by 17 1/2 feet for each snowmobile. He stated 7 1/2 by 17 1/2 is a huge area. He stated most people can park a motor home in that amount of space, and they are showing it for one snowmobile.

Mr. Jaus stated that is the trailer also. He stated that trailer is 24 foot inside, 102 wide like the car trailer, with about a 4 foot tongue on it. Ralph Barbaro asked if that was on a trailer Mr. Jaus stated that's right. He stated it is 9 by 28 feet.

Ralph Barbaro stated the pickup that is shown is 25 feet long. Mr. Jaus stated that's right. He stated it is an extended truck. Ralph Barbaro asked if it had an 8 foot box on it. Mr. Jaus stated it does. Ralph Barbaro stated the pickup truck is showing to be about 17 feet long. He stated the applicant is showing 25 feet with space around that.

Ralph Barbaro asked how big is the Bass boat. He asked is that also on a trailer. Mr. Jaus stated it is. Ralph Barbaro asked how big is that. Mr. Jaus stated the boat is 21 feet, and the trailer is probably another 4 or 5 foot longer. Ralph Barbaro stated so it is 25, 26. He asked how wide is it, 9 feet also. Mr. Jaus stated that's right. Ralph Barbaro stated they are showing close to 15 feet total for that.

Ralph Barbaro stated it looks to him like the applicant has kind of spread everything out to make it take as much space up as possible to build an extra large building. Ralph Barbaro stated the applicant was in earlier this year or late last year with an application for a similar sized building to store his dump trucks, and now he is saying he has another place to store those. Mr. Jaus stated that's right. Ralph Barbaro asked where is that. Mr. Jaus stated Valley Sand and Gravel on River Road.

Ralph Barbaro asked what kind of an arrangement does the applicant have there for storage. Mr. Jaus stated he has three bays for his trucks. Ralph Barbaro asked if they are indoors. Mr. Jaus stated that's right. Ralph Barbaro asked the applicant if he had a copy of his contract with him by any chance. Mr. Jaus stated he did not. Ralph Barbaro asked how long is the contract for. Mr. Jaus stated he thought two years. Ralph Barbaro asked if he has three bays there for storage. Mr. Jaus stated that's right. Ralph Barbaro asked is that active right now, that contract. Mr. Jaus stated yes, it is.

Ralph Barbaro asked the applicant if he is storing his trucks there now. Mr. Jaus stated he is. Ralph Barbaro asked if that would be that case for two years. He asked if he were to be granted permission to build some size of a building and they stipulated no storage of dump trucks or anything of that nature in the building, would that be suitable, acceptable to him as the applicant. Mr. Jaus stated that's not his intention to use it for them. Ralph Barbaro asked would that be acceptable to him if the Board so stipulated that condition. Mr. Jaus stated, "possibly." Ralph Barbaro asked if they restricted it, either "yes" or "no," would that be acceptable, because they would so stipulate it. Mr. Jaus stated, "No comment at this time."

Gerry Hendrickson asked the applicant what did he store in the metal building this year during the winter. Mr. Jaus stated just the livestock. Gerry Hendrickson asked if any of the outside equipment was in there. Mr. Jaus stated it won't fit in there. Gerry Hendrickson asked the applicant if he could add to his original garage there now and make an extension to store some of his equipment there. Mr. Jaus stated lengthwise, there is quite a drop off behind the barn. Gerry Hendrickson stated he doesn't mean the barn, garage itself. Mr. Jaus stated there is a swimming pool not directly behind the house, but off to the one side of it.

Keith O'Toole asked are all the vehicles the applicant wants to store there, the Bass boat, the

trailers, everything, are they all on site now. Mr. Jaus stated they are. Keith O'Toole asked if they are all stored outside. Mr. Jaus stated they are. Keith O'Toole asked the applicant if his son's car and everything is outside. Mr. Jaus stated it is.

Keith O'Toole stated how high would the storage building be if permitted. Mr. Jaus stated 12 feet. Keith O'Toole asked how high would the garage door opening be. Mr. Jaus stated 12 feet. Larry Smith asked would the walls be 12 feet or would the peak be 12 feet. Mr. Jaus stated the walls would be 12 feet. Larry Smith stated so it will be higher than 12 feet. Mr. Jaus stated the peak would be 12 feet, right.

Keith O'Toole asked what is the top height. Mr. Jaus stated he would say another 8, 9 feet. Keith O'Toole stated it would be 21 feet tall then. Mr. Jaus stated that's right. Larry Smith asked what size doors would they have going into the storage building. Mr. Jaus stated 10 by 12 feet.

Larry Smith asked what is the largest item that is on that drawing. Mr. Jaus stated probably his trailers. Larry Smith asked how tall are they. Mr. Jaus stated he would say 8 feet. Larry Smith asked what trailer is 8 feet. Mr. Jaus stated the Hallmark car trailer. Mr. Jaus stated he can stand up inside it, and it has to be about two feet off the ground.

Beverly Griebel stated the Board had some letters come in that she would like to read at this point. She stated one letter was dated June 22nd, to the Chili Zoning Board from Betty Bressler, 700 Chili Avenue Extension. The letter indicated she was unable to attend the meeting with regard to the application of Robert Jaus. The letter indicated she would object to the approval of the variance for the following reasons: The property is zoned as Residential, not for commercial business; two, the applicant wants to erect a building that is 3,900 square feet over the 900 square foot limit; three, the property already has a barn 36 feet by 72 feet which should be adequate for storage of normal equipment, not including his dump trucks used in his trucking business. The letter indicated it was Ms. Bressler's belief that Mr. Jaus wants to build a 4,800 square feet building to house his dump trucks which he uses for his business, thereby turning this property into a commercial zone. The letter indicated on numerous occasions one of the two oversized dump trucks have been parked in front of the driveway overnight. The letter indicated that causes much stress and mental anguish as she wants to sell her property in the near future and feels it would decrease the value greatly if this request were granted. The letter will be on file with the Building Department.

Beverly Griebel stated the second letter was dated June 17th, addressed to the Chili Zoning Board of Appeals, from Jeff and Mary Frue of 644 Chili Avenue Extension. The letter indicated they were very pleased the original request of November 28th, 1995 to change the property to commercial use was rejected. The letter indicated at that time there were several variables that led to their concern and subsequently the application was denied. The letter indicated the present request to construct a garage for personal use seems to parallel many of their original concerns. The letter indicated they sincerely hope the Board listens to their concerns and realizes the impact it would have on the neighborhood. The letter indicated their neighborhood is a country setting with large private parcels adding to the peaceful value. The letter indicated many of the homes have added modest barns for the enjoyment of their horses. The letter indicated this combination seems very consistent with the existing zoning. The letter indicated the addition of the proposed garage is not in line with the existing neighborhood, nor is it close to the requirement set forth by the Town ordinances. The letter indicated the visual impact on the community alone would be tremendous. The letter indicated it will set a bad precedent for similar applications in the future. The letter indicated they also question the impact this would invariably have on the surrounding property values. The letter indicated a huge structure like the one proposed would impact the Jaus' ability to sell their property as strictly a residential parcel. The letter indicated the sale of the existing property has historically been a difficult one. The letter questioned whether this garage is a reasonable request for the average homeowner. The letter indicated the request to provide a facility for storage of personal property should not demand a 4,200 square foot building. The letter indicated future considerations could include commercial use, a storage facility outside the personal use, convenience for the existing trucking company, i.e., repairs, storage, et cetera. The letter indicated this request is very similar to the previous request of November 1995. The letter indicated the potential for future commercial use was a concern. The

letter indicated trucks are stored at the residence on a regular basis. The letter indicated they would assume that there would be some commercial overlap. The letter indicated the Jaus property has an existing barn 36 by 72 which is used for horses and personal storage. The letter indicated to add a second large structure of 4,200 square feet would certainly conflict with the residential properties. The letter indicated their final concern was the proximity to the existing property line. The letter indicated the visual impact would be tremendous to residents to the east. The letter indicated it is unfortunate the neighborhood is faced with the task of proving the inappropriateness of this request. The letter indicated it does nothing toward developing good neighbor relations. The letter indicated it should not be the responsibility of the residents to compromise their quality of life in these situations. The letter indicated to allow the proposal would only create future dilemmas as residential uses are challenged. The letter indicated they ask the Board to consider the entire neighborhood and not just one resident's request. The letter indicated the impact would be tremendous on the existing residents.

Keith O'Toole added a verified answer to the record dated January 17th, 1996. He stated it was a response to the Article 78 filed by the Petitioner Robert Jaus earlier this year against the Town of Chili. He stated the members of the Zoning Board of Appeals are familiar with that Article 78 and the contents of that verified answer. He stated he added that to the record not because the applicant is seeking the same relief here tonight as he sought before, but rather because there is pertinent information regarding the applicant's parcel as well as conditions of the neighborhood which would add to the record for the application before them this evening. Beverly Griebel stated the record will reflect receipt of that. She stated she would not read it since it is 100 pages long. Beverly Griebel stated the document would be on file with the Building Department.

Ralph Barbaro stated he would also like to have added to the meeting notes that this request is a 533 percent variance request.

ANYONE IN FAVOR OR OPPOSED:

Marcia Havens

She stated she is an attorney present on behalf of herself and her husband. She stated they own the property directly east of the Jaus property. She stated they also prepared a letter that she would like to read tonight. She provided copies for the Board and the front table.

Ms. Havens stated they are opposed to the application of Robert and Karen Jaus for a variance to allow them to construct a 60' x 70' garage for following reasons: One, their biggest concern is that Mr. and Mrs. Jaus will be operating their trucking business out of the proposed building. She stated when they refer to the trucking business, they mean the storage, repair and maintenance of trucks on the property in a structure built for that purpose, as well as the trucks being driven to and from the property on a regular basis.

Ms. Havens stated Mr. and Mrs. Jaus were granted a conditional use permit for a home office for their business. She stated they do not have any objections or complaints about the home office. She stated Mr. and Mrs. Jaus sold their Leroy property last fall, and to the best of her knowledge, they have not invested in other property for their trucking business. Ms. Havens stated the proposed building is large enough to store the Jaus' dump trucks as well as other vehicles and equipment that they own. Ms. Havens stated it is also only 22 percent smaller than the building they proposed in October of 1995.

Ms. Havens stated she reviewed the minutes from Mr. and Mrs. Jaus' last application. She stated many concerns were raised by Board members and others with the prospect of having a trucking business located in their neighborhood. She stated there was a full and complete hearing on the matter. She stated she doesn't want to repeat all the facts that were brought out at that time. She stated she would ask, however, that the minutes from Mr. and Mrs. Jaus' prior application for the 60 by 90 foot building be included in the record of this case. Ms. Havens stated she did have certified copies of the minutes from the October and the November Zoning Board hearings of 1995.

Keith O'Toole stated it should be noted that the answer which he submitted into the record

contains as an attachment the minutes for those meetings as well. He stated the applicant made two appearances and both Town minutes are included.

Ms. Havens stated the Board denied the prior applications making the following findings of fact: Number 1, the size and location of the structure will change the character of the neighborhood; number two, there is testimony in the record, that based on land contours and soil composition, that the threat of run-off from such a large building and petroleum products within said building pose a threat of contamination of adjacent property wells; these potential contaminants are beyond the scope of a usual home garage.

Ms. Havens stated the further findings of fact: Number three, in the event of fire within the structure, there is a great potential for explosion due to the large quantity of fuel within the vehicles; four, over 650 percent of the maximum size permitted by code, the variance requested for the garage is quite substantial and particularly as it is twice the size of the existing house; number five, the proposed structure is an answer to a self-created difficulty; number six, a considerable number of alternate locations in the near vicinity and not zoned residential have not been explored.

Ms. Havens stated it was her understanding based on the Board's findings of fact and the rest of the record, the Board's determination on the previous application was upheld in the Article 78 proceedings.

Ms. Havens stated she would also like to offer for the record some pictures of some of the trucks and then the other vehicles and trailers that Mr. Jaus was talking about. She stated there is a boat that may be a different boat than the one there now. She stated there is a larger boat, a white boat on the property that they don't have pictures of.

Ms. Havens stated they're also very concerned with the size and location of the proposed building. She stated the size of the proposed structure, even if it were used for personal vehicles only and not for dump trucks, is out of character with the residential neighborhoods. She stated in a R-1-20 residential zone, the zoning code permits a single-family dwelling, and auxiliary structures such as tool or storage sheds, a gazebo or picnic shelter, garden house or greenhouse, provided that the auxiliary structure is not larger than 160 square feet in floor area and 12 feet in height. She stated Section 115-41(F) of their code also allows a residential garage, attached or detached, which may be no larger than 900 square feet.

Ms. Havens stated Mr. and Mrs. Jaus already have an attached 2 1/2 car garage, so that she believes that this application for a 60 by 70 foot building should be treated as an application for a variance from the provisions regulating ancillary structures. Ms. Havens stated the zoning code does not indicate that an owner may have two or more garages on a residential lot. She stated it provides only for "a" garage, written in the singular. She stated the proposed structure is 26 times larger than permitted in residential zones, a huge variance request to say the least. Ms. Havens stated if the application is treated as a variance from the zoning restrictions governing residential garages, the proposed total garage space on the lot would be at least 500 percent greater than that allowed by their zoning code.

Ms. Havens stated Mr. and Mrs. Jaus would like to locate the building within 15 feet of their westerly property line. She stated the proposed structure would take up 2/3 of the side yard between their existing barn and the property line. She stated according to the survey that is attached to their application, there is only 97 feet between the barn and the lot line. She stated the proposed building would be located within 22 feet of their existing 36 by 72 foot barn. She stated the total square footage between both structures would be about 6,800 square feet. She stated two buildings of this size, in such close proximity to each other, really have no place in a residential zone. She stated this is something she would expect to find in a commercial or industrial zone where buffer zones are usually required. Ms. Havens stated in a general industrial area, where a trucking business would be allowed, the zoning code requires a 100-foot buffer, plus visual screening, to protect adjacent properties in other zoning districts.

Ms. Havens stated if this application was granted, they will not have any buffer from the proposed

structure. She stated they may also be disturbed by noise and vibrations that are not appropriate in a residential zone if it is used for the trucking business. She stated she was sure that the size and location of the proposed structure, the potential use of the proposed building and lack of buffer zone around the structure, will negatively impact the value of their property.

Ms. Havens stated they're also worried about the fact of such a large structure and the snowfall on their property. She stated the building, which would run 70 feet along their westerly property line, and adjacent to some or all of the driveway that leads up to their barn, may act as a giant snow fence. She stated their area is very open and they do have problems with blowing and drifting snow in the wintertime.

Ms. Havens stated the variance Mr. and Mrs. Jaus are seeking is for a building that is for their personal convenience and really has no nexus to the land itself. She stated the applicants want to build a large storage facility so they do not have to rent or purchase property in a more suitable location. She stated the applicants are not seeking a setback variance, or other variance, so that they can enjoy the same use of their property as other owners of residential property enjoy in their neighborhood.

Ms. Havens stated Mr. and Mrs. Jaus already enjoy all the benefits that other residents enjoy in this neighborhood. She stated they have a large single-family home with an attached 2 1/2 car garage, as well as a 36 by 72 foot barn for horses and other storage. She stated horses and other livestock are permitted in residential zones if the parcel is five acres or larger. She stated this Board has routinely granted variances for horse barns in residential zones in those circumstances. She stated they also were granted a conditional use permit for a home office and she, too, has a similar permit for a home office in their home. She stated home offices are conditionally allowed in a residential district.

Ms. Havens stated when Mr. and Mrs. Jaus purchased the property, they purchased it with the rights and restrictions that come with residentially zoned property. She stated if they had wanted to make sure they could use their property for a trucking business, or if they wanted to make sure they could build a large storage building or garage on the property, then they had the option of making their purchase agreement subject to the granting of the appropriate variances. Ms. Havens stated to the best of her knowledge, their purchase offer was not contingent on any variances. She stated, therefore, their alleged difficulty is really self-created as that concept was used in zoning law.

Ms. Havens stated they're also concerned with the future. She stated if the variance is granted, it will be difficult, if not impossible for Mr. and Mrs. Jaus to sell the property as residential property only. She stated she did not believe that most families would be in the market for a home with 6,800 square feet of additional storage or barn space and the real estate taxes that go with it. Ms. Havens stated, however, the property would be very desirable for mixed residential and commercial use. She stated the proposed building would be large enough for a machine shop, auto repair shop, auto body work, commercial storage facility or some similar use. Ms. Havens stated in essence, if the Board grants an area variance now, then the Board will be setting the stage for a use variance application in the future, like granting a use variance by the back door.

Ms. Havens stated to obtain a use variance, an applicant must demonstrate, among other things, that he or she cannot obtain a reasonable return on his or her investment in the property. She stated financial proof is required. She stated the cost of a structure as large as the one proposed, if it is constructed to match the house, would be costly. She stated based on the estimates they received before they built their barn, which is 36 by 42 feet, she believes that a 60 by 70 foot building would cost at least 45 to \$50,000. Ms. Havens asked if Mr. and Mrs. Jaus invest a good deal of money in the proposed building, how will they get a reasonable return on their investment unless they're permitted to sell the property as mixed residential commercial property.

Ms. Havens stated one thing they're not concerned about is whether the applicant will maintain a new structure. She stated they take very good care of their property and they're sure that a new building would also be well maintained. Ms. Havens stated, however, there are no guarantees

about future owners, especially if someone uses a structure for a machine shop, or auto repair shop, or some similar use. She stated the Town often had problems with outdoor storage of auto parts, equipment, tires, et cetera in such uses.

Ms. Havens stated they purchased their property in reliance on the residential zoning of the area and the protections that zoning restrictions would provide them. She stated like most people, their home is their largest investment, both in terms of their time and their money. She stated they're afraid that the value of their property, as well as the quality of the life they enjoy in a residential/agricultural area, would be adversely affected if the variance is granted. She stated the size and location of the structure, combined with the potential use of the structure for trucking business, or some similar endeavor, is completely out of character with neighboring properties.

Wendy Ford - 27 Silverknoll Drive

She stated she is a Chili resident. She stated she was speaking on behalf of her mother, Betty Bressler, who owns the property west of Mr. and Mrs. Jaus, also present in the audience this evening. She stated her concerns are the building of this structure would compromise the area thereby reducing the value of the surroundings properties. Ms. Ford stated this is not a commercial area as would be indicated by the building of a structure that exceeds 500 percent larger than allowed by the building codes.

Ms. Ford stated their second concern is the weight limit on the road. She stated there are newly posted weight limit signs. She stated on numerous occasions, these large trucks have been parked in the driveway overnight and during the day. She stated the weight of these trucks easily exceeds the weight limit. She stated that is unloaded. She questioned what is the weight loaded. She stated it creates a definite road hazard. She stated the road was not built to accommodate these weights.

Ms. Ford stated the Highway Department does an excellent job of maintaining their highways in Chili, but with continued abuse of exceeding weight limits, she was sure this would create additional labor and tax dollars for road repairs. She asked who enforces the weight limits of the roads once the Town places the signs. She asked is it the Monroe County Sheriff or the State Troopers. Ms. Ford stated the residents of that street would like some type of an answer on that either tonight or at a future date.

Ms. Ford stated the existing structure is 36 by 72 and would easily accommodate Mr. and Mrs. Jaus's storage requirements. She stated she knows this for a fact because she is the original owner of the property and built the barn. She stated the applicant only has two horses in that barn. She stated it was built as a ten-stall barn. She stated with two horses, the back two stalls facing the outer barn towards the pasture would easily accommodate the horses and allow for storage of hay and grain and also allow easy access for horses in and out. She stated that would leave 3/4 of the area that could be used for the storage, adequately allowing for the storage of all this equipment. She stated those barn doors can only exceed ten foot, so it would not enable a dump truck to be parked if there, but any other type of a vehicle, a camper, trailer, a horse trailer, et cetera, it could easily fit through those doors.

Ms. Ford stated the main concern of her mother's is that the structure exceeds the size needed for the normal storage area and would be eventually used to house the dump trucks as in his previous request. She asked what guarantees does the Town have to prevent the adding of additional services to the structure once the structure has had final approval and inspection. She stated what she means by additional services, the additional heavy duty electrical, welding, storage of gasoline, storage of oils. She stated the structure definitely exceeds what the requirements indicate would be needed.

Jessie Drew-Crates - 422 Chili Avenue Extension

She stated she is a nurse practitioner and nurse researcher at St. Mary's Hospital. She stated she has to say that the Jauses keep their property beautiful. She stated it is always manicured, always neat and any vehicles that are around are usually extraordinarily clean, better than hers.

Ms. Drew-Crates stated her concern is that the size of the structure renders it a nonresidential

structure. She stated she realizes it is being written up as a garage because it will house motor vehicles, but to her knowledge, most garages are of a much smaller size than the building requested in the application tonight. She stated she thought that two barns side by side would not allow the property to retain its residential purview in that it would interfere with the view of this as a very residential rural street.

Ms. Drew-Crates stated it is a beautiful street. She stated they're very fortunate to have it. She stated it is a wonderful feeling to come up that hill and enter that sense of country, and that structure would not enhance that sense of a residential area. She stated she thought the size is way too large for what it accomplishes.

Ms. Drew-Crates stated she thought Bob inadvertently admitted at some time he wants to store his dump trucks there. She stated she understands their need, but it is a residential area and they need to keep it that way. She stated she was speaking in opposition to any building of that size. She stated her hope is that if they wish to build another barn that would allow further storage for winter storage or storage of equipment that is not in use, snowmobiles in winter, boats in the summer, they put it on the end of the property. She stated this is a big piece of property. She stated they have nine acres that about 490. She stated it would require a fair amount of extensive road work because they couldn't get in there without a different roadway, but it would allow a structure that would house a great deal of vehicles and would not be detrimental to the character of the street because they wouldn't be able to see it.

Bernice Wilcox - 32 Stuart Road

She stated she would like to join her neighbors in opposing this application. She stated they own the property within 200 feet of this proposed barn, and it consists of 40 acres up there on the extension and the Town of Riga, and they are very concerned with the character of the neighborhood.

Beverly Griebel stated she was over there this evening at a little after 7 because there was a question on the sign. She stated she drove by there on the way to the meeting and did see a dump truck there. She asked if they have another storage area, why was the gravel truck there. Mr. Jaus stated it was convenient for his wife to drive it home because she had a lot to do before being able to drop him off here and take care of other matters. He stated it was told to him by the County when he went to the County for the variance, that his dump trucks are allowed on that property as long as his wife and himself are driving them to and from work.

John Castellani asked if Keith O'Toole could maybe speak to the weight limit of the road and the use of the road by the dump truck for what seems to be frequent trips, based on the pictures and testimony. Keith O'Toole stated he did not have direct knowledge as to the provisions of the enabling legislation for that as to how it relates to how the Town enacted it. He stated certainly the Zoning Board doesn't have any jurisdiction over weight limits. He stated that is really getting outside the scope of what the Board could enforce this evening.

John Castellani asked who has the enforcement of weight restrictions on road ways. Keith O'Toole stated he would assume it would be the state road patrol. John Castellani asked is it the Town or local police. Larry Smith stated Joe Carr, Superintendent of Highways, was present this evening and could perhaps enlighten them. Joseph Carr stated to the best of his knowledge, that falls to the law enforcement agencies.

John Castellani asked if his advice would be that residents should make phone calls regarding weight limit violations, if they so deem it appropriate, rather than to call the Town. Joseph Carr stated that was true, but not yet. He stated the reason for that is, the Town Board has scheduled a public hearing for July 17th to consider the local law to put the final approval to the weight limits that are in their Town. He stated it was determined by the attorney for the Town that those procedures should be followed.

John Castellani asked if that meant the signs that are up are up by resolution essentially. Joseph Carr stated that is correct. He stated they need to go through the final step. He stated once that is completed, the Board approves that and follows through on that local law, they'll then talk

about the enforcement procedures.

John Castellani asked as part of the local law, is it envisioned that the enforcement would also be included in there as to responsibility. Joseph Carr stated those responsibilities would be clearly outlined. Beverly Griebel stated July 17th is the date of the public hearing, the only Town Board meeting in July.

Dan Melville stated he was in that area on Saturday and there was a dump truck in the driveway at the time, and at the time he was backing out of the driveway and almost caused an accident with a car coming down the road. He stated that car came over the hill as the truck was going across the road. He stated that car stopped pretty quick. He stated just for the record, there was a dump truck on Saturday and other Board members have been there and seen trucks at different times, too, so he is not so sure that the trucks are being stored elsewhere, especially since this was first thing in the morning, early. Mr. Jaus stated it was probably there in the morning because it was there overnight.

Mr. Jaus stated if he was not mistaken, that road was posted after he moved there. Keith O'Toole stated they were really getting off point. Mr. Jaus commented way off.

Ralph Barbaro stated one of the speakers had alluded to what the costs of such a building would be. He asked the applicant whether those figures stated are at all accurate or not. Mr. Jaus stated they are very accurate. Ralph Barbaro stated if it is going to cost somewhere in that range to put this building up, he would assume the applicant probably has to get a mortgage on it. Mr. Jaus stated he would not have to. Ralph Barbaro asked the applicant are they paying cash for it. Mr. Jaus stated nodded affirmatively. Ralph Barbaro asked the applicant would he buy it out of his own personal funds. Mr. Jaus asked what that had to do with anything. He stated he doesn't think it is any of the Board's business how he pays for it. Ralph Barbaro stated if it is being bought by the business, then it is a business-owned property, so it is part of the Board's business. Mr. Jaus stated he is a d/b/a, so the business is personal. Ralph Barbaro commented so it is essentially being bought by the business. Mr. Jaus stated no, it is being bought by him. Ralph Barbaro stated he wanted that in the record, that the structure would be purchased by Mr. Jaus personally, not by the business.

Dan Melville asked if this was to be granted, would the Board be able to restrict the size of the overhead doors that would be allowed. He asked in other words, would they be able to have a condition of only a ten foot door or nine foot opening to restrict the dump trucks from going in. Keith O'Toole stated the Board may impose reasonable conditions relative to the application. He stated the applicant is actually asking to store the vehicles as laid out on this plot plan. He stated the applicant has already testified as to the maximum height of the Hallmark trailer. He asked what is the height of that. Mr. Jaus stated he believes it has got to be about 8 feet. Keith O'Toole stated so basically he would need 8 feet plus another foot or so for clearance, so he could make do with a 9 foot door. Mr. Jaus stated that is right.

Mr. Jaus stated his other application was for 14 feet. He stated his trucks are 13 feet tall. He stated he does not know how they got off onto the trucks. He stated he came here with an application to store personal vehicles, and now they're back on his old application.

Beverly Griebel stated it was brought up with some comments that were sent in the letters, and that is where it originally arose. Mr. Jaus stated that seemed to be pretty much the focus tonight.

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

Gerry Hendrickson made a motion to adopt the findings presented to the Board by Keith O'Toole, and John Castellani 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 as being stated as reasons for the denial:

A. The requested variance would produce an undesirable change in the character of the neighborhood. This is so because the Chili Avenue Extension neighborhood is a residential neighborhood and the applicant already has a 2,660 square foot barn and has an attached garage of an additional 504 square feet. The addition of a huge storage building with an additional 4,200 square feet of storage would give the property the character of an industrial park -- a clearly commercial character inappropriate to a residential neighborhood.

-AND-

B. Substantial detriment would be created to nearby properties because:

1. The applicant is effectively applying for a back door "use variance". By building a 4,200 square foot warehouse on a parcel which already has a 2,660 square foot barn and a 504 square foot garage, the parcel will then have an aggregate of 7,364 square feet of storage. The Board is concerned that there is a high risk that the applicant will be unable to find a residential purchaser who needs, or can afford, that much storage for his home. It is probative that the applicant verified a construction cost of \$45,000 to \$50,000 for the new building. In order to recoup his investment, the applicant may turn to commercial property buyers. Whether or not such commercial development actually occurs, the reasonable apprehension that it will occur will be enough to discourage prospective home buyers of the applicant's neighbors' homes.
2. The issue is this: a host of large storage buildings will give the applicant's property a commercial character. This in turn will offend future home buyers of the applicant's neighbors' homes.
3. Potential for noise and vibrations from a host of internal combustion vehicles, including a hot rod, will undermine the quiet enjoyment of the residents at 720 Chili Avenue Extension.

-AND-

C. There are other feasible methods available for the applicant to pursue to achieve the benefit he seeks other than the requested variance, such as:

1. Rent storage space in a commercial zone so the applicant can store his boat, snowmobiles, a car trailer, snowmobile trailers, tractors, truck, street rod, son's car, etc.

-AND-

D. The requested area variance is substantial. Section 115-41 of the Town of Chili Code permits a property owner up to 900 square feet of garage in a residential district. Here, the applicant's 4,200 square foot garage alone is more than **FOUR TIMES THE SIZE PERMITTED BY CODE. THE VARIANCE IS NOT MERELY SUBSTANTIAL, IT'S HUGE.** The Board notes that the applicant's house could fit inside the proposed storage building with room to spare. The Board again notes that the applicant already has storage in his 2,660 square foot barn and the attached garage of another 504 square foot as well. In a residential zone, a residence is supposed to be the primary use. Here, however, the applicant proposes a storage building which would make his home look like an afterthought. This runs counter to the legislative purpose of the R-1 residential zoning district in which the applicant's house is located as described by Section 115-12(A) of the Code of the Town of Chili as:

"The R-1 Residential District is intended to promote and encourage a suitable environment for family living and to protect the residential characteristics of the district."

-AND-

- E. The proposed variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:
1. Proposed building, without any buffering and only 15 feet from side lot line and containing a host of internal combustion engines, makes excess noise and vibrations in the area probable.

-AND-

- F. The alleged difficulty was self-created. They purchased the house as it currently exists without 4,200 square foot storage building.

-AND-

- G. The requested variance is more than the minimum necessary to grant relief from the applicant's difficulty because:
1. Applicant has empty horse stalls in barn which could be used for storage.

CONCLUSION: Therefore, it was determined that the requested variance be denied, and that the previous decision of the Enforcement Officer be affirmed.

7. Application of Al Arilotta, 3495 Winton Place, Rochester, New York 14623, property owner: M. Falcone; for Land Use Variance to erect a 26' x 108' self-serve car wash at property located at 2948 Chili Avenue in N.B. zone.

Keith O'Toole stated he has had an opportunity to discuss the application with the Code Enforcement Officer. He stated he understands there is no financial statement with the application. He stated unless the applicant is prepared to give competent financial evidence, the application would have to be deemed incomplete at this point. Keith O'Toole stated they could ask the applicant if he was prepared to give financial information.

Robert Keiffer, professional engineer with offices at 3495 Winton Place, indicated he is the Project Engineer, present to represent the application. He stated joining him if this evening was Al Arilotta, the project architect; and Mr. Howard, a realtor/broker with Prudential King Arthur Realty.

Mr. Keiffer stated if the Deputy Town Attorney's comment or question was whether or not they have prepared documented financial information in a paper format for submittal to the Board, they have not. He stated if that is a requirement of the application, then they would need to postpone and supply that information. He stated they intended to make a verbal argument with regard to a financial hardship. He stated they had intended to make a verbal presentation of the reasonable rate of return of investment. He stated if a CPA audited realtor type documentation is required, then they are absolutely correct, their application is incomplete and they would need to postpone.

Beverly Griebel stated they would need information as to how long it has been for sale, what it has been offered as and all the various uses that are allowed under the present zoning, if those were all explored and what were the results of that.

Keith O'Toole stated one of the reasons they require a financial statement and, in fact, they circulate a blank financial statement along with application for use variance is it allows the Board opportunity to digest the information as well as complete the record as part of freedom of

information requests, so members of the general public can search the record and verify the information presented by the applicant; whereas, if they're digesting the information on the night of the hearing, they have no opportunity to verify the information or to research it in any fashion.

Keith O'Toole stated it should also be noted that he understands the applicant has not submitted the Town of Chili Environmental Assessment Form. He stated as this is probably going to be an unlisted action, it would be advisable that the applicant submit an EAF with the financial statement. Mr. Keiffer stated they would like to withdraw their application for consideration this evening and supply this required documentation and be scheduled for the next available opportunity to appear before this Board.

Beverly Griebel stated the next meeting is July 23rd. Beverly Griebel stated the deadline for an application is June 21st. Mr. Keiffer stated they will not make that one. Beverly Griebel stated August 27th is the one after that, and the cut-off date for the application is the 26th of July. Mr. Keiffer stated there will be no problem providing this information in advance of that date.

John Castellani made a motion to table the application, and Dan Melville seconded it. Keith O'Toole stated they don't have to delay it until August. Keith O'Toole stated basically they're tabling an incomplete application. He stated they have already been notified he is coming back.

Dan Melville stated the applicant could still get in here in July. Beverly Griebel asked what would be the limit when he would have to get the information into the Building Department. There was discussion about when they could hear the application in relation to receipt of the information requested. Mr. Keiffer stated they could have the information back to the Town by the 12th of July if that is the time frame for disseminating the information for the next meeting. Beverly Griebel suggested the 10th. Mr. Keiffer stated the 10th would not be a problem.

Ralph Barbaro asked would that add one more to the July schedule. Beverly Griebel stated they're up to two meetings in July probably. She stated technically this is going to be postponed until the July 23rd meeting, or if there are two meetings that month, at whatever date is advertised in the Gates-Chili News and/or is on the Town bulletin board. She stated or a phone call to the Town Hall would also tell people when this would be heard.

Larry Smith stated they have to table to a date. Beverly Griebel stated that would be July 23rd. Larry Smith stated that will be the date. He stated if there is another meeting in July, this will still be on the 23rd. 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. Applicant to submit COMPLETE application. Application is rescheduled for July 23rd, 1996 at 7:30 p.m.

Note: Applicant to obtain new signs at the Building Department and to post as per Town regulations.

- 8. Application of Richard Messinger, owner; 101 Stover Road, Rochester, New York 14624 for conditional use permit to allow an office in home for sale of travel club memberships and coupon books at property located at 101 Stover Road in R-1-15 zone.

Cindy Messinger was present to represent the application. Beverly Griebel asked the applicant if she was having customers calling on her in her home. Ms. Messinger stated she was not; this would be strictly by mail and phone. Beverly Griebel asked if there would be any outside employees. Ms. Messinger stated there would not be any outside employees.

Ralph Barbaro asked the applicant if she had a copy of the coupon books with her by any chance. Ms. Messinger stated she did not. Ralph Barbaro asked what does the book look like. He asked how many would there be on her premises. He asked the applicant would she print them there or would they be printed somewhere else. Ms. Messinger stated she purchases them.

Ralph Barbaro asked how she receives them. Ms. Messinger stated they come in through the mail. Ralph Barbaro asked if they come by truck or freight. Ms. Messinger stated they may come by UPS. Ralph Barbaro asked are they talking about a large truckload. Ms. Messinger stated she did not think so. She stated it would probably be a box at a time. Ralph Barbaro stated they don't want a tractor-trailer coming through the neighborhood trying to back up to the garage.

Ralph Barbaro asked what does the travel club membership consist of. Ms. Messinger stated basically it is a card that the members hold and it provides them discounts on air fare, cruises, things like that, hotels. Ralph Barbaro asked are there magazines that are distributed as part of this membership or brochures. Ms. Messinger stated there are simple brochures. Ralph Barbaro asked would there be mailings that would go out from the applicant's home to the customers. Ms. Messinger stated probably once a year, just as reminder for them to renew.

Ralph Barbaro asked if there was going to be anybody coming to the home in relation to the business. Ms. Messinger stated there would not be. She commented she doesn't want that.

John Castellani stated the hours of operation are indicated as Monday through Saturday, but she was showing time on Sunday even though "no" was checked. Ms. Messinger stated that was an oversight. She stated there would be no business on Sunday.

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 conditions:

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Minimum 4" house numbers (Arabic) be installed in a color to contrast with house.

The following finding of fact was cited:

1. Customary Home Occupation.
9. Application of John Prouty, owner; 1915 Westside Drive, Rochester, New York 14624 for variance to erect a 15' x 30' above-ground swimming pool to be 50' from side lot line (55' req. abutting a street) at property located at 1915 Westside Drive in R-1-15 zone. John Prouty was present to represent the application. Beverly Griebel asked how long has the pool been up. Mr. Prouty stated approximately three weeks. Beverly Griebel asked how did he happen to get in here to them. Mr. Prouty stated originally he contracted with a local guy, Swim Tech to put up the pool, at which time a primary concern of locating the pool was an overhead wire to the house which comes in from the southwest corner of the property, to the southwest corner of the house. He stated they had to maintain 10 feet for overhead.

Mr. Prouty stated also at that time when they contracted the owner of Swim Tech, he indicated to him he would take care of checking into the permit and so on. He stated he took his word for that. He stated he came back, started the job and the day that they were putting up the pool, apparently became aware himself that he had placed the pool 5 feet closer to the road than

allowed. He stated this being beyond him, assuming the contractor would take care of maintaining the correct code, this was a problem they were into, thus they're applying for the variance.

Beverly Griebel asked if the deck requires a further variance. Larry Smith asked is the deck to the east of the pool. Mr. Prouty stated yes, it is. Larry Smith asked how wide is that deck. Mr. Prouty stated he would guess approximately 5 feet on that side. Larry Smith stated they are going to have to amend this to include another 6 feet then. Larry Smith stated they should amend it to 44 feet from the side lot line to include the deck.

Ralph Barbaro asked what was the name of the contractor. Mr. Prouty stated Swim Tech, and Scott Landers is the owner. Ralph Barbaro asked was a building permit applied for. Mr. Prouty stated on the day that the contractor started the job, he himself was under the understanding that he had taken care of that. He stated the contractor indicated when they contracted that he took care of obtaining the permits. Mr. Prouty stated when he saw him at 2 o'clock the day they had begun the job, he indicated to him he had come down to obtain the permit and was told 55 feet. He stated the contractor was thinking 50 feet from the road was code. Larry Smith stated so they denied the permit at that point. Mr. Prouty stated but the pool was essentially up at that point.

Ralph Barbaro commented the only thing that saves the applicant's neck on this is the fact it is a corner lot. Beverly Griebel stated corner lots are a problem in many ways for a lot of setbacks. Ralph Barbaro stated it is further back than the setback of the garage and essentially it is centered in the backyard, so it is not objectionable from the standpoint of being out next to the road or blocking the line of sight. He stated those setbacks are required to preserve a safe line of sight for traffic coming from one street to another, and since this in no way encroaches on that line of sight, there is probably no problem with it. Mr. Prouty stated essentially the pool view is also blocked from the road by the trees along Sutters Run 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 Ron Popowich seconded the motion. All Board members were in favor of the motion.

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

- 1. Corner lot and overhead electrical wires dictate need for variance.

Beverly Griebel stated recalled the first application. No one was present to represent the application. Beverly Griebel stated this will be tabled until July 23rd at 7:30.

Bill Oliver make a motion to table the application, and John Castellani seconded the motion. The Board members were all in favor of the motion.

The meeting ended.

CHILI ZONING BOARD
July 22, 1996

A meeting of the Chili Zoning Board was held on July 22, 1996 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 Castellani, Dan Melville, Gerry Hendrickson, Ron Popowich, Ralph Barbaro and Chairperson Beverly Griebel.

ALSO PRESENT: Sherry Thrash, Building Department; 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 there was a problem this evening in that the announcement in the Gates-Chili News was an error on the part of the newspaper, and it announced the wrong site. She stated because of that, the Board would not close each hearing until they're ready to recess and then come back and deliberate. She stated after they present each case, they would ask that the applicant not leave until everyone has spoken and asked questions about the case. She stated some people may have been misdirected to go to the Town Hall and may be in transit, so they'll have to do it a little differently tonight.

1. Application of Richard Weitz, owner, 1997 Westside Drive, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for catalog sales of firearms at property located at 1997 Westside Drive in R-1-15 zone.

Richard Weitz was present to represent the application. Mr. Weitz stated he is the owner of Chili Gun Shop. He stated this is for a renewal of his conditional use permit to allow an office in the home of sales of firearms.

Beverly Griebel stated the applicant has been doing this for the past year, a little more than a year. Mr. Weitz stated that's correct. She asked how have things been going. Mr. Weitz stated very good. Beverly Griebel asked the applicant how many customers does he get in a week or a month. Mr. Weitz stated he has about five a year.

Ralph Barbaro asked the applicant if he still has his current federal license. Mr. Weitz stated he does. Ralph Barbaro asked is there something required from the State. Mr. Weitz stated he has one from them, too. Ralph Barbaro asked the applicant if he brought those with him. Mr. Weitz stated he did. Ralph Barbaro asked the applicant if he had five customers in the past year. Mr. Weitz stated that was correct. Ralph Barbaro asked if he is still at the same address. Mr. Weitz stated that's correct. Ralph Barbaro asked if there have been any comments from any of the neighbors or any questions regarding the business. Mr. Weitz stated he has not heard any.

John Castellani asked the applicant if all of the conditions as outlined on his one permit are the same. Mr. Weitz stated they are. John Castellani asked are the hours of operation the same. Mr. Weitz stated they are.

Beverly Griebel asked the applicant when he orders a firearm and then he receives it, how long does he hold that in the house. She asked how long would it be before the customer would pick it up. Mr. Weitz stated within a week. Beverly Griebel asked if that would be the longest. Mr. Weitz stated that's correct. Beverly Griebel asked the applicant how does he store the guns. Mr. Weitz stated he has a gun safe.

Beverly Griebel asked if he had any alarm mechanism. Mr. Weitz stated he does. She asked is

that a centrally monitored alarm system. Mr. Weitz stated it is. Beverly Griebel asked the applicant if he plans to maintain that. Mr. Weitz stated he does. Beverly Griebel stated generally they're making that a condition because of the community concern, so if they added that as one of the conditions that the alarm with central monitoring to be maintained, she asked if that would be a problem. Mr. Weitz stated it would not be a problem. Beverly Griebel stated they would also require he maintain the safe also.

Beverly Griebel stated this is the first or second one the Board had approved and they did not have that condition on there before. Ralph Barbaro stated everybody that came after they added that as a condition. He stated last year they had five or six applications that came after this one and they added that stipulation to all of those. Beverly Griebel stated they had community concerns, so this seemed to satisfy some of those concerns.

Beverly Griebel asked Sherry Thrash if she had any knowledge of any calls or complaints on this application. Ms. Thrash stated not at all.

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 five years.
- 2. No on-premises advertising.
- 3. No on-street parking pertaining to the business.
- 4. Hours of operation as per application.
- 5. No outside employees.
- 6. Applicant to maintain required State and local licenses.
- 7. Security system to be centrally monitored and maintained.
- 8. Gun safe to be maintained.

The following finding of fact was cited:

- 1. Customary Home Occupation.
- 2. Application of Michael Nardi, owner; 29 Constitution Circle, Rochester, New York 14624 for variance to erect a 13 1/2' x 12' deck to be 24' from rear lot line (30' req.) at property located at 29 Constitution Circle in R-1-15 zone.

Michael Nardi was present to represent the application. He stated they discovered after they made plans to put the deck up, it would only have 24 feet from the end to the property line. Beverly Griebel stated this is one of those difficult lots. Mr. Nardi stated it is a peculiar lot. Beverly Griebel stated it is a circle, a weird shape. She commented it makes it difficult without a variance to do a lot of things. Mr. Nardi agreed.

Beverly Griebel stated she noticed there is a lot of land out there, so it doesn't look as if this would infringe on the neighbors in the area. Mr. Nardi stated he has spoken to the neighbors. He stated they don't seem to have a problem with it. He stated the builder seemed to put the house in the most difficult position when they put it up.

Dan Melville asked the applicant if he was constructing this himself. Mr. Nardi stated he is having someone construct it for him.

John Castellani stated it should be noted the corner of his house is already in violation. John Castellani stated another couple of feet doesn't seem to be a major problem.

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. Odd shape corner lot dictates need for variance.
2. No significant impact on neighboring properties.
3. Application of Daniel Drabin, owner; 16 Privateers Lane; Rochester, New York 14624 for variance to erect a 16' x 24' above-ground swimming pool to be 32' from side lot line (55' req. abutting a street), variance to erect a 6' high stockade fence where 3' is allowed at property located at 16 Privateers Lane in R-1-15 zone.

Daniel Drabin was present to represent the application. Mr. Drabin stated they're putting an addition on the back of the house, so they have to put the pool basically out where it is. He stated it is one of those corner lots. Mr. Drabin stated he did not see any real purpose putting a 3 foot fence up when he is going to have a 4 foot pool.

Beverly Griebel stated she also saw several large trees that would preclude them from moving the house further. Mr. Drabin stated he would like to keep the trees. He stated they're about the only ones in the neighborhood. Beverly Griebel stated the trees preclude the applicant from putting it in the other vacant area of his lot. Mr. Drabin stated if they went with all the stipulations within their property lines, they would only have a 10 x 10 backyard.

Mr. Drabin stated if he were to put an in-ground pool in, he realizes that he is going back out from his house with an addition, and he understands an above-ground pool has to be 10 feet off his basement, where an in-ground pool has to be 15 feet off his basement. He asked without going an additional 5 feet out into the yard, he was wondering could he go closer to the house, could he go within 10 feet of the house if it were an in-ground pool. He stated it would not be a deep pool. He stated it would be 3 feet in the ground.

Ms. Thrash asked if the addition was going to have a basement under it. Mr. Drabin stated it would. Ms. Thrash stated she didn't think they could do that. Beverly Griebel stated they would have to stay 15 feet away. Mr. Drabin stated if he wanted to change the pool from above-ground to in-ground, he asked if he would have to move the fence out an additional 5 feet. Beverly Griebel asked the applicant if he was contemplating that. Mr. Drabin stated they are.

Ralph Barbaro asked the applicant if he was talking about putting an in-ground pool in or an above-ground pool sunk below. Mr. Drabin stated they're putting an above-ground pool in now, but he was contemplating to do an in-ground pool, 3 1/2 feet deep. He stated he has seen pools go closer to the house. He asked could he go for a variance or wouldn't the Board grant that.

John Castellani stated what they would be looking for then is a side variance, the side facing Loyalist. He stated so far the applicant hasn't gotten into a problem going to the rear of his lot. Mr. Drabin stated he doesn't have any problem going to the rear. He stated he was asking for the side variance. John Castellani stated the side variance would be the same. He stated the only difference would be where the pool has to come with relationship to the house. He stated that has to be 15 feet away as opposed to 10, so without any problem to the back, assuming they would

not go any closer than 32 feet to the street, they have a lot of options there.

Mr. Drabin stated if it has to be another 5 feet from the house, the fence would have to be another 5 feet toward the front of Loyalist. John Castellani stated that is from the addition. Mr. Drabin stated that's correct. John Castellani stated if the applicant were thinking about doing that, he would suggest he might want to amend his application and handle it now for 5 feet. Ralph Barbaro stated it would just be for the fence to be 5 feet further out. Mr. Drabin stated he didn't know whether it would be a problem going that far anyway because of the frontages of the houses. Mr. Drabin stated he would amend his application now and go for the other 5 feet if that works.

Ralph Barbaro stated that would mean it would be 23.68 from the Loyalist Avenue to the fence. Mr. Drabin asked what would happen if he decides to go with the above ground pool. John Castellani stated the applicant is looking for the maximum variance. He stated if he doesn't use it all, there is nothing he would have to come back to them for. Beverly Griebel stated but if the applicant were to go over what is the allowance, then he would not be in compliance and at some point he would have to come back for that variance because he couldn't sell the house without approval.

Ralph Barbaro stated now where they have the above-ground pool now is 12 feet off the back of the house, off the back of the existing house. John Castellani stated but it is 10 feet off the side of the addition. Ralph Barbaro stated but it would also mean that that has to go back 3 feet as well. He stated it has to be 15 feet from all foundations. Mr. Drabin stated but that is behind the garage and doesn't have a basement. Ralph Barbaro stated that is a matter of the Building Inspector's call. Ms. Thrash stated it is just the basement wall they're concerned about.

Beverly Griebel stated so that 12 foot dimension would be okay. John Castellani stated the applicant is looking for 27 feet from the side lot line instead of 32. Mr. Drabin stated the 32 is for the fence. Beverly Griebel stated the application was for an above-ground swimming pool 32 feet from the side lot line.

Ralph Barbaro stated the pool wall would be 32 feet from the side lot line. He stated it would be 28.68 to the fence, plus 4 to the pool. He stated that would have to be reduced by 5 feet to 23.68 feet. Ralph Barbaro stated they'll just specify the 23 feet for the fence as being the closest encroachment and then the pool can lie within that area, wherever he wants it. Beverly Griebel stated as long as he is 15 feet from the basement wall. Beverly Griebel stated if the applicant decides on the above-ground, he would be set.

ANYONE IN FAVOR OR OPPOSED:

Bob Somerville - 26 Watchman Court

He stated he knows the applicant's lot and he has no other choice to go. He stated it is not going to bother anybody.

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 as amended by a vote of 6 yes with no conditions, and the following findings of fact were cited:

- 1. 6' high fence will not have an impact on traffic as it is still far enough from road so as to not interfere with line of sight.
- 2. Shape of corner lot and mature trees drives need for variance.
- 4. Application of Robert Somerville, owner; 26 Watchman Court, Rochester, New York 14624 for variance to erect a 12' x 20' deck to be 18' from rear lot line (30' req.) at property located at 26 Watchman Court in R-1-15 zone.

Robert Somerville was present to represent the application. Mr. Somerville stated he wants to put up a deck. He stated the problem is he has 30 1/2 feet from the back property line to the house. He stated he could put up a 6-inch wide deck, but it won't do him any good. He stated all the property behind him is Town property. He stated there is about 50 to 60 feet back there. He stated it is out of the way and will not bother anybody.

Beverly Griebel stated this is another strange lot. Mr. Somerville stated it is another pie-shaped lot.

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. Odd shaped lot dictates need for variance.
2. Deck will pose no significant impact on neighboring properties.
5. Application of Kaddis Manufacturing, c/o LeFrois Builders, 1020 Lehigh Station Road, Henrietta, New York 14467 for variance to erect a warehouse addition to be 15' from rear lot line (50' req.), 39' from side lot line (50' req. abutting a street) and 25' from front lot line (50' req.) at property located at 1100 Beahan Road in G.I. zone.

Ronald Iannucci was present to represent the application. He stated they're adding a 60 by 80 foot warehouse addition to the property. He stated the building was constructed in 1969. He stated they're extending the lines of the building. He stated they have purchased additional property from the County, as much as they would sell them. He stated the ensuing lot lines after the addition of the building, after the acquisition of the property, are actually beyond the distances which were existent at the time the building was originally constructed in 1969, before the addition of the property. He stated he was not sure if the building was constructed with variances or if it is indeed not conforming, but the addition is basically to free up space on the manufacturing floor.

Mr. Iannucci stated the only neighbors adjacent to the property is the Reserve Center between them and the airport fence. He stated there are no neighbors at all adjacent to the area of the warehouse to be constructed. He stated the height of the building will continue the facade as it currently exists. He stated they have to do that because they'll be extending within the building a crane structure which is about 40 feet wide into the new addition. He stated they'll be using the addition to store raw materials and finished metal scrap. He stated they have substantial values in their scrap which they recover and reclaim. He stated this will be essentially to free up space on the manufacturing floor.

Mr. Iannucci stated they anticipate they'll be adding 12 to 20 employees as a result of this addition. He stated all other lot line dimensions in terms of variances required are less stringent than those that currently exist with the current lot line before the acquisition of the property from the County. He stated the County was aware of the use to which they intended and the extent of the acquisition of construction at the time they acquired the additional land.

Beverly Griebel stated this probably predates the code. Mr. Iannucci stated he bought the company in 1984. He stated the building was constructed in 1969. He stated they researched their records and can't find any record of variances. He stated he was told there aren't any at the Town Hall. He stated he believes this predates the code, which would make it a nonconforming use.

John Castellani stated the addition is only quasi the 39 foot variance. He stated the existing building is 15 away on the rear and 25 away on the front as it stands today. Mr. Iannucci stated this is an extension. John Castellani stated it is only a 39 foot variance that the addition is causing. Mr. Iannucci stated that's correct. Mr. Iannucci stated they could probably minimize that if they could cant the building. He stated the reason they can't do that is because of the necessity of extending the crane. He stated they can't slant it because the crane has to go on straight rails.

Beverly Griebel stated this was first at the Planning Board, and they gave approval pending the variances from the Zoning Board, so it has already been heard there and approved.

John Castellani stated he thinks it is important for the record to show the applicant is not creating by this addition all of these variances. He stated they already exist on the same line, so they're not jockeying lines. Mr. Iannucci stated that's correct. He stated the property that it is adjacent to them is County property. He stated they would not sell them all the property at the corner. He stated that is too small to ever be used for anything else.

Mr. Iannucci stated that road is a dedicated County road. He stated the Reserve Center would have no ability to get to its property without it and there are people living on that road, as well. Beverly Griebel asked down further is that an entrance to the airport where there is a chain link fence. Mr. Iannucci stated he believes that is only used as a construction entrance. He stated that is closed and locked. Beverly Griebel asked is it for airport access for construction. Mr. Iannucci stated that's correct.

Mr. Iannucci stated the road there is the extension of Old Beahan Road which was terminated there at the time the airport was constructed. Beverly Griebel stated they do that with airports. Mr. Iannucci stated he wishes they would change the name of the roads because it would make it easier to get deliveries. Ralph Barbaro stated they should put in a petition to change the name of the road.

Mr. Iannucci stated they like to think they're good neighbors to the Town. He stated they place no burden on the tax load for the Town. He stated they are a good taxpayer. He stated there shouldn't be any impact by the variances they're requesting. He stated it would mean increased employment for the Town. He stated 50 percent of their employees are residents of the Town.

Ron Popowich asked what do they manufacture there. Mr. Iannucci stated they manufacture precision machine parts. He stated they're the 10th largest private owned manufacturer of machined parts in the country. He stated they make basically large volumes of parts for many manufacturers, basically Fortune 500 companies.

Dan Melville asked is the building being constructed over an easement. Mr. Iannucci stated it is constructed adjacent to the Monroe County Water Authority property. He stated they have sufficient distance between themselves and the main that extends there. Dan Melville stated it comes up near them it looks like. Mr. Iannucci stated that's correct, but they have the 15 feet required, and they have approval from the Monroe County Water Authority.

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. Front and rear setbacks are consistent with existing building, and side setbacks will have no impact on traffic or neighboring properties.
- 6. Application of Barry Smith, owner; 79 Hubbard Drive, North Chili, New York 14514 for variance to erect a 20' x 12' deck to be 32' from front lot line (60' req.) at property located at 79 Hubbard Drive in R-1-15 zone.

Barry Smith was present to represent the application. Mr. Barry Smith stated the house right now

is 44 feet from the front of the property line, and at the front of the house, there is a masonry concrete slab entryway that comes out 4 feet, and then the front concrete walkway comes out another 5 feet. He stated his plan had been to build over the top of the existing structure, and that the front of the deck would actually be less than a foot this side of the house side of the concrete walkway, so from his sense of looking at it, it was less frontage on the front of the house.

Mr. Smith stated it will come out to the side of the house towards the driveway and would just come out from the edge of the entryway which is at -- that is that 4 foot extension on the front of the house. He stated the concrete masonry landing is not indicated anywhere on the survey map for the footprint of the building.

Gerry Hendrickson asked will it wind up with the rest of the houses in a line a little bit, or will it protrude. Mr. Barry Smith stated he really hasn't stood at the front and looked both ways. He stated he doesn't think it really will extend any more than what is there with the actual concrete walkway. Gerry Hendrickson asked how the neighbors would feel about this. Mr. Barry Smith stated they seem okay with it. He stated they came by curious as to what he was doing, but that was the extent of it.

Ralph Barbaro asked that being an older neighborhood, and this house being pretty much in line with all the others, wasn't the setback at one time 40 feet in that area. Beverly Griebel stated it may have been. Ralph Barbaro stated under the new regulations for residential areas, it was made 60 feet, so this house was in compliance at the time it was built. Mr. Barry Smith stated he was told it was. Ralph Barbaro stated he is asking for probably a 10 percent variance, another 4 feet in front.

Ralph Barbaro asked the applicant what will he construct the deck out of. Mr. Barry Smith stated pressure treated lumber. He stated he was going to put footings down. He stated he is planning to put six down. He stated he had the area surveyed by RG&E and others to make sure what he is digging into. Ralph Barbaro asked the applicant if he was planning on having a railing. Mr. Barry Smith stated he is. Ralph Barbaro asked the applicant if he was planning on a roof. Mr. Barry Smith stated they're not.

ANYONE IN FAVOR OR OPPOSED:

George Nathe - 28 Hubbard Drive

He stated he was concerned about anybody building anything 32 feet from the road on the street he has lived on for 40 plus years, and built his house. He stated he has a nice house. He stated they did not allow anyone to come closer than 50 feet in the original tract restrictions. He stated then the Town changed the law later on after their subdivision was started in 1937 by changing the setbacks to 60 feet. He stated when he built his house, he didn't go look for a variance or anything else. He stated he built it 60 feet from the road.

Mr. Nathe stated he feels unless there is a real undue hardship for side lines or whatever, the lots are plenty deep enough to put a deck of any kind. He stated the applicant could put a deck 100 feet long if they want to in the backyard. He stated they don't have to move it closer to the street. He stated it would be the beginning of variances for other people who see what is done there to continue on on their street. He stated he did not want his property value to decrease because of this one house on his street that would go against the original zoning laws of that subdivision. He stated he definitely is against anyone building unless it is an undue hardship. He stated that is what variances were originally set up for.

Keith O'Toole stated that is the old law. He stated the new law is that the applicant has to demonstrate what benefit he is seeking. He stated that benefit is weighed against factors laid out in the State statute and the local code such as will it a harm adjacent properties, will it change the character of the neighborhood and so on.

Mr. Nathe stated it may benefit the person that has that particular property, but it may not benefit the other 65 or 66 homes on that street. He stated originally they had architect approval for all houses that were built on the street, going back from the original time the subdivision was set up.

He stated all plans and so forth had to be reviewed and there was three people that were on a Board to approve them. He stated he was against anyone building in the front like this.

Ralph Barbaro asked Mr. Nathe how far out does he envision this coming. Mr. Nathe stated 32 feet from the road. Ralph Barbaro asked Mr. Nathe how far out from his house does he envision that being. Mr. Nathe stated the house should be, he believed, a minimum of 50 feet now from the road. Ralph Barbaro stated instead of Mr. Nathe's understanding that the applicant would be going to build out 16 feet, the fact of the matter is that his house presently including the front step, which is part of the house, the setback is 40 feet from the road and actually it is 36 feet from the road. Ralph Barbaro stated he is only building this porch out 4 feet from the front of his concrete step.

Mr. Nathe asked if, in other words, this particular house was granted a variance when it was original built. Ralph Barbaro stated it was built within the code at the time. Ralph Barbaro stated he could understand Mr. Nathe would be concerned if he thought that someone was putting a 28 foot extension out on the front of their house, or even an 18 foot extension.

Ralph Barbaro stated right now the applicant is only requesting four foot from the edge of his concrete pad in the front of his house. He stated he has a concrete stoop at his front door and he is asking to go 4 feet out in front of that, which is just about the width of the sidewalk that sits in front of it now. He stated so he is really only asking to go out to the edge of the sidewalk. Mr. Nathe stated he wished he had more time to go over it with the applicant. The applicant explained to Mr. Nathe what was going on. Mr. Nathe stated he understood the request a little better 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 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 of only 4 ft.
- 2. No adverse impact on neighbors.
- 3. No change in character of the neighborhood.

Before the Board went into deliberation on each of the above-listed items, there was a recess in the proceeding. The recess ended at 8:30 p.m., whereupon Beverly Griebel asked if anyone wanted to speak to the applications on the agenda, and there was no response.

The meeting ended at 8:55 p.m.

CHILI ZONING BOARD

July 23, 1996

A meeting of the Chili Zoning Board was held on July 23, 1996 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, Dan Melville, Gerry Hendrickson, Ron Popowich, Bill Oliver
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 was out on the 14th, on a Sunday, and didn't see a sign on Application Number 1 or Application Number 2. John Castellani stated he did. Gerry Hendrickson stated he did. Bill Oliver stated the sign for Application Number 2 was there before, but as of today, he didn't see it. Gerry Hendrickson stated it was on there. He stated on 7/16 he saw signs on them all.

Beverly Griebel stated she looked at Number 1 also on the 16th and didn't see a sign. Ron Popowich stated there was one there tonight. Dan Melville stated there was one there Sunday. Beverly Griebel stated they didn't have it up the ten days. Bill Oliver commented on Friday, they had a bad storm. Ron Popowich stated the one on Minute Man Trail was way back from the road.

Beverly Griebel stated last time when it was on the agenda, she did not see the sign on it. She stated it was tabled before because the applicant didn't appear. John Castellani stated it was there when he was there.

The Board decided to address Applications 5 through 9 at the start of the meeting.

5. Application of Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: D. Harris; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 704 Ballantyne Road in AC & FPO zone.
6. Application of Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: Tesch Trust; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 918 Chili Scottsville Road in AC zone.
7. Application of Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: J. Robfogel; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 291 Fisher Road in RA-10 zone.
8. Application of Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: R. Graham & E. Wehle; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 60 Golden Road in R-1-20 zone.
9. Application of Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: J. Perna & G. Perna; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 3785 Chili Avenue in N.B. zone.

Beverly Griebel stated on Applications 5 through 9, the applications are now incomplete due to action at the Planning Board. Keith O'Toole stated at their appearance before the Planning

Board, the Planning Board tabled the applications pending receipt of various information, including a long form environmental assessment form. He stated to his knowledge, they have not received that at this point, and the Zoning Board hasn't voted in terms of its position on coordinated review.

John Castellani asked has the Planning Board declared themselves lead agency. Keith O'Toole stated they declared their intention to become lead agency and conduct a coordinated review. He stated as part of that, the involved agencies including the Zoning Board, would have to take a position whether they concurred with the Planning Board being lead agency. Beverly Griebel stated everything is in limbo at the Planning Board right now. Keith O'Toole stated that's correct.

Beverly Griebel stated there are 13 different things that the applicant is submitting for various information that is needed for the Planning Board in order for them to act further on the applications.

Keith O'Toole stated if the Board was considering taking a motion, perhaps they may wish to hear from the applicant's attorney so he could address the status of the application if he is so inclined.

Sanford Liebschutz, attorney for Sprint Spectrum LP, was present to represent the applicant. He stated they're prepared to go forward and at least make the presentation. He stated they know the Zoning Board cannot act and would have to keep it open in any event pending action by the Planning Board. He stated it is an advertised hearing. He stated people may or may not have come for it. He stated they just received the list within the last two days to supply the information. He stated they have already commenced to prepare the information for the Planning Board. He stated they're prepared to go forward at the Board's discretion, to give the Zoning Board the information and then they could, in due course, hold the hearing open until the Planning Board has completed their action.

John Castellani stated since by their own rules they don't have old business, they would have to hear the application completely all over again. He made a motion to table all five applications until such time as the Planning Board completes their action so the Zoning Board could act to complete their overall hearing. Dan Melville seconded the motion. Keith O'Toole stated it would be appropriate to make a motion as to each application individually. He stated if Mr. Castellani was just expressing his intention to table them, the Board could thereafter move to table each one individually.

Mr. Liebschutz asked if they would have to readvertise and repost the properties. Beverly Griebel stated they would have to do that. Larry Smith stated at the Planning Board meeting the applicant indicated there were other variances that they were going to have to seek, too, for those sites. He stated maybe they should consider consolidating them all.

Mr. Liebschutz stated the one issue is whether or not the Planning Board wants a higher fence than permitted. He stated they're applying for a fence they thought that complied. Beverly Griebel stated she thought the barbed wire was the issue at the Planning Board. She stated if there is barbed wire on each one, then each site would need a new application to apply for the variance for the barbed wire. Mr. Liebschutz asked does that require a completely new application for this Board. Mr. Liebschutz asked could they amend it to include the additional variance. John Castellani stated he felt if they don't hear it tonight, they don't need a new application. Beverly Griebel stated but they would need to apply for the barbed wire. John Castellani stated they would have to have the full description. Mr. Liebschutz stated by amendment, they'll include that.

Ralph Barbaro stated they would have to have any amendments to this original set of documents prior to that meeting. Mr. Liebschutz stated that was not a problem. John Castellani stated it has to be fully advertised. Keith O'Toole suggested the applicant call the Building Inspector tomorrow to clarify the procedural aspects. Larry Smith stated he was not sure they could amend the application for the barbed wire or not. Mr. Liebschutz stated if necessary they'll make a separate package and have them all done at once.

Ralph Barbaro asked if the Planning Board issues apply to all five of these applications. Beverly Griebel stated they do. Keith O'Toole stated they apply to everything before the Planning Board. He stated to the extent that the environmental review is something that has to be handled before any application is approved, then it applies to the Zoning Board as well. Keith O'Toole stated any information supplied by the applicant becomes part of the property file and can be consulted by this or any other board.

Beverly Griebel stated the Planning Board has tabled this to August 13th, and the applicant stated at the Planning Board meeting that they would have this information ready. Mr. Liebschutz stated they hope to have it ready. He stated it depends in part on other factors, but they will submit everything that they can have, and then the Planning Board could make its decision on that basis.

Beverly Griebel stated their procedure is if this Board does table an application, they table it to a particular date. She stated the next meeting is August 27th, so if they table it, that would be the earliest they could table it to. Beverly Griebel stated the one after that is September 24th. Mr. Liebschutz stated he thought they want to be on the agenda for August 27th.

On Application #5, John Castellani made a motion to table the application until 8/27/96, and Dan Melville seconded the motion. All the Board members were in favor of the motion.

On Application #6, John Castellani made a motion to table the application until 8/27/96, and Dan Melville seconded the motion. All the Board members were in favor of the motion.

On Application #7, John Castellani made a motion to table the application until 8/27/96, and Dan Melville seconded the motion. All the Board members were in favor of the motion.

On Application #8, John Castellani made a motion to table the application until 8/27/96, and Dan Melville seconded the motion. All the Board members were in favor of the motion.

On Application #9, John Castellani made a motion to table the application until 8/27/96, and Dan Melville seconded the motion. All the Board members were in favor of the motion.

DECISION ON APPLICATION #5: Unanimously tabled by a vote of 7 yes.

Note: Applicant to obtain new signs at the Building Department and post per Town ordinance.

DECISION ON APPLICATION #6: Unanimously tabled by a vote of 7 yes.

Note: Applicant to obtain new signs at the Building Department and post per Town ordinance.

DECISION ON APPLICATION #7: Unanimously tabled by a vote of 7 yes.

Note: Applicant to obtain new signs at the Building Department and post per Town ordinance.

DECISION ON APPLICATION #8: Unanimously tabled by a vote of 7 yes.

Note: Applicant to obtain new signs at the Building Department and post per Town ordinance.

DECISION ON APPLICATION #9: Unanimously tabled by a vote of 7 yes.

Note: Applicant to obtain new signs at the Building Department and post per Town ordinance.

1. Application of Grace Mason, owner; 14 Minute Man Trail, Rochester, New York 14624 for conditional use permit to allow an office in home for student financial aid assistance

at property located at 14 Minute Man Trail in R-1-15 zone.

Grace Mason was present to represent the application. Beverly Griebel stated this was submitted to the Monroe County Planning Department and came back as a local matter.

Beverly Griebel asked the applicant what hours does she plan to do this. Ms. Mason stated she is doing it on a part-time basis. She stated she works overnight, so she will be home during the days. Ms. Mason stated her hours would start between 10 and end at 5. Beverly Griebel asked if that would be Monday, Tuesday, Wednesday, Thursday and Friday. Ms. Mason stated that's correct. Beverly Griebel stated the Board would add that onto the application with the applicant's permission.

Beverly Griebel asked the applicant if she would be having any customers call at her house. Ms. Mason stated she would. Beverly Griebel asked about how many a day or a week. Ms. Mason stated it is through voice mail. She stated she really doesn't have a number on it. Beverly Griebel asked will someone be coming physically to the house. Ms. Mason stated no, they will not. She stated it will be done through the phone and through the mail. Beverly Griebel asked will there be any customer traffic. Ms. Mason stated no, there will not be any traffic at the home.

Ron Popowich asked what is this business. He asked what would she do. Ms. Mason stated it is to locate money for college students and high school students to help them through their financing college, paying their tuition. Ron Popowich asked if it is all done through the phone and by mail. Ms. Mason stated that's right.

John Castellani stated essentially this is a customary office in the home for her to keep her records there and do her work by phone and mail, and that's it. Ms. Mason stated that's right.

Ralph Barbaro asked the applicant if she assists people in filling out the financial aid forms. Ms. Mason stated she does. Ralph Barbaro asked the applicant how does she do that over the phone. Ms. Mason stated she will advertise at the high school and college, and they will get a form through the mail, and when they send it back to her, she will look it over, and if there is any additional information that she thought was needed on there, she would contact them and let them know.

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 the following conditions:

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application (amended at hearing).
5. No outside employees.
6. Minimum 4 1/2" house numbers (Arabic) to be installed in a color to contract with house.

The following finding of fact was cited:

1. Customary Home Occupation.

- Application of Al Arilotta, 3495 Winton Place, Rochester, New York 14623, property owner: M. Falcone; for Land Use Variance to erect a 26' x 108' self-serve carwash at property located at 2948 Chili Avenue in N.B. zone.

Robert Keiffer was present to represent the application. Dan Melville stated he has been advised by legal counsel not to participate in this application. He stated even though he is not involved in it in any way, he is an independent contractor with the real estate company who is involved in it. He stated their legal counsel thought it would be best if he didn't participate in this one.

Mr. Keiffer stated he is joined this evening by Al Arilotta, the applicant and also by Bill Howard, the listing realtor. Mr. Keiffer stated they were before this Board a month ago at which time their application was incomplete. He stated they requested the opportunity to make the application complete, to resubmit and to appear before the Board this evening. He stated they have attempted to do so and they are back.

Mr. Keiffer stated in the packet of information that was provided, there is a brief history of the parcel. He stated it was purchased by the current owner in 1953. He stated it was converted into a restaurant in the '60s. He stated approximately '80, '81 the highway construction occurred which relocated the streets in the area, and in 1983, the structure which was a restaurant eventually burned to the ground, and soon thereafter the property was put on the market for sale.

Mr. Keiffer stated the initial efforts to do that were private via signs posted on the property and by word of mouth. He stated ultimately the property was listed with a multiple listing agency, and that started in 1993.

Mr. Keiffer stated to make this case, they need to demonstrate the inability to have a reasonable rate of return on investment under the current zoning. He stated he has provided to the Board information with regards to the taxes that are currently being paid and the taxes that have been paid for the last seven years. He stated they added into that also a modest amount per year for the maintenance of the property. He stated the bottom line of that is that this property has had expenses in excess of \$9,000 in the last seven years and has had absolutely no income since 1983. He stated it is a property that is costing the owner significant amounts of money and has for some time.

Mr. Keiffer stated the initial offering of the property in 1983 was not formally done via the listing realtors, but with signage on site and word of mouth. He stated there was an offer received during that time frame. He stated that person, that purchaser wanted to develop it as an auto related business. He stated that application was ultimately withdrawn from the Town, and the offer to purchase the property was rescinded.

Mr. Keiffer stated since 1993, the property has been listed with the multiple listing agency organization in Rochester. He stated there have been numerous inquiries with regards to the property. He stated none of the inquiries were for a permitted use. Mr. Keiffer stated there were a couple discussions with regard to purchase offers during that time, none of which proved fruitful. Mr. Keiffer stated the asking price of the property since its initial offering has been reduced from in excess of \$100,000 to a current asking price of \$35,000, so it is their position that the reason that this property has not sold is not because the owner was inflexible in his pricing, but rather that the zoning did not permit an opportunity to develop the property.

Mr. Keiffer stated the current zoning, neighborhood business, lists four permitted uses: Grocery store, barber stop, clothes cleaning pickup agencies, including cleaning establishments, and a drugstore. He stated there are those types of facilities in the immediate vicinity. He stated it is unlikely that there is going to be a demand to build a new facility on a vacant lot for one of those uses. He stated those types of uses with the possible exception of the drugstore or a convenience mini-mart typically retrofit buildings which result in a lower cost of construction than building a new facility.

Mr. Keiffer stated they think that this project and this parcel is somewhat unique. He stated it is

125 by 235 feet with an area of approximately two-thirds of an acre, but it has frontage on two streets. He stated, therefore, it is subject to setback requirements on two sides but does not have the benefit of being a corner lot and having the associated visibility of a corner lot. He stated the actual portion of the site which can have a building constructed on it is 11,000 square feet, so it is modestly small.

Mr. Keiffer stated the parcel is vacant. He stated it does not provide the opportunity to retrofit an existing building into a neighborhood business use. He stated as he stated earlier, a business such as barber shops and beauty shops and dry cleaners frequently retrofit existing buildings in order to keep their building costs within reasonable limit. He stated the parcel is flanked on two sides by pre-existing, nonconforming uses. He stated there is an automobile services facility on one side and an automobile service facility on the other. He stated these existing, nonconforming uses impact on the viability of development of the subject parcel.

Mr. Keiffer stated they think that the proposed use is compatible with those and is less intensive than those. He stated the parcel is surrounded on three sides by neighborhood business. Mr. Keiffer stated there is neighborhood business immediately adjacent to the area. He stated there is a travel agency, a beauty salon, a professional office building, a real estate office, a mini-mart and these automobile related businesses.

Mr. Keiffer stated the proposed structure is a single story. He stated it is residential in architectural style. He stated it looks very much like multiple garages, residential car garages. Mr. Keiffer stated they have provided an elevation view of the proposed structure.

Mr. Keiffer stated the Institute of Traffic Engineers classifies self-serve car washes as traffic diverters as opposed to traffic generators. He stated the vast majority users of self-serve wand bay type washers are people already in the traffic flow that would then detour into the facility, wash their car and then go back to Chili Avenue or to the Main Street. Mr. Keiffer stated unlike a tunnel automated wash, self-serve wand bay washes typically do not experience the huge demand on a spring day when cars are covered with salt and the associated requirement for huge ques where cars potentially could back out into the street. He stated wand bay washes are typically used by people that are going to wash their own car, and don't want to wait a long time. He stated if they have six stalls or five stalls, a person gets in and gets out and the queuing of cars on site is going to be adequate so there won't be any disruption of traffic on Chili Avenue.

Mr. Keiffer stated there is also a growing concern locally and also nationally for washing of cars in one's driveway. He stated the chemicals that are used for cleaning custom wheels or degreasing engines or waxes and so forth that are used are washed down the driveway into the storm sewers and ultimately go untreated into the water shed. He stated by washing a car at a wand bay or tunnel wash, the wash water and the grime and chemicals used for washing ultimately wind up in the sanitary sewers, and therefore, are treated before they're released to the environment, which is significantly healthier. Mr. Keiffer stated there are areas in the country where there are bands on washing cars in driveways, and he stated he thought they are going to see an increase in that over the next few years.

Mr. Keiffer stated there are other site features which impact on the nature of the neighborhood. He stated they would propose that this building be lit primarily from the inside, that there be intense lighting inside the bay areas but point sources of light would not be visible from the adjacent properties. He stated any exterior mounted building lighting would be down lighting, and it would be architectural in purpose.

Mr. Keiffer stated vacuums which are typically the noisiest part of the operation can be installed in the utility room with just the house going out to the vacuum area so that the noise can be controlled and not be a nuisance to the adjacent neighbors.

Mr. Keiffer stated the need for this variance is not self-created. He stated the owner had no say in whether the building burned down, and no say in the way the zoning has occurred, and has made every effort to reduce the price on the property and to market it.

Beverly Griebel asked if the utility room was the central block that is longer. Mr. Keiffer stated that's correct. Beverly Griebel asked if they would have the vacuum machine itself in there and have the vacuums across the asphalt by the shrubs. Mr. Keiffer stated that's correct. He stated the piping for the vacuum would go underground to the vacuum island location. He stated the actual vacuums and the exhaust from the vacuums could be in that room, and therefore, the noise could be effectively controlled.

Mr. Keiffer stated that center room is also the area where the washing chemicals are stored and the mechanical systems for the supply of water are controlled. He stated that's where refuse is stored between pick-ups, so it serves multiple functions. He stated it is also where the money exchanger is serviced and emptied.

Beverly Griebel asked if the residue, the water, the soap, whatever is all collected in drains goes to the sewer or is recycled. Mr. Keiffer stated the typical installation consists of a receiving structure, a catch basin in the bottom grate of each center of the bay. He stated that introduces the water into a structure similar to a septic tank which allows for primary treatment, the settling of sand and grit. He stated there is also a floating pillow that rests in this tank on top of the water which absorbs petroleum product that would float on the water. He stated the water would then, after it has been pretreated by these two processes, would be discharged to the sanitary sewers and would join the rest of the sanitary sewer flow on Chili Avenue. He stated ultimately that goes to the Gates-Chili Ogden treatment facility and is discharged to the Genesee River. Beverly Griebel asked if there would be anything discharged into the street. Mr. Keiffer stated there would be no wash water that would leave the building, that's correct.

Ron Popowich stated on the drawing submitted, there is an entrance and exit out of this project. He stated the entrance is from Chili Avenue, and the exit is out on Fenton Road. Mr. Keiffer stated in the most recent application information, they showed two alternative site plans. Ron Popowich stated he has one that has in and out on Chili Avenue, and one that has in from Chili Avenue and out on Fenton Road.

Mr. Keiffer stated concept site plan number 1 was the site plan submitted with the original application. He stated they subsequently thought it better to have the exits onto Fenton Road, and demonstrated it would be possible to have traffic enter and exit on Chili Avenue, thereby eliminating the need to have traffic out onto Fenton Road. Mr. Keiffer stated the Concept 2 would allow for vegetative landscaping along the west property line that would effectively shield the project from the more residential traffic that uses Fenton.

Ron Popowich asked how many cars do they expect would use this. He stated there is a curve around Chili Avenue, and it is a bad situation. Mr. Keiffer stated they are going to create a point of conflict when they have an entrance and egress onto Chili Avenue, but self-serve wand bay washes typically are not major generators and do not have significant impact on increase in volume on existing traffic flow on Chili Avenue. He stated the vast majority of the people using the facility will already be in the traffic stream, will decide to wash their car, pull in, wash the car and come back out. He stated they'll have to satisfy the sight distance requirements and provide for safe entrance and egress off Chili Avenue. He stated those are site plan considerations which have not been explored exhaustively and would be taken up as part of a site plan application before the Planning Board.

Ron Popowich asked what kind of normal traffic usage do they have with something like that. Mr. Keiffer stated this facility could accommodate 60 to 70 cars an hour under peak loading where there were cars waiting to use the facility with one car pulling out and another car pulling in. Ron Popowich asked what would be the hours of operation. He asked would it be 24 hours. Mr. Keiffer stated the hours of operation would be 24 hours a day. He stated obviously there will not be that kind of demand in off peak hours. He stated the vast majority of cars are washed during the daylight hours. He stated it is difficult to operate such facility where they close it at night, where they physically have the garage doors come down and preclude people from coming to the facility. He stated there are questions associated with security when they have doors on the building as to what might go on inside the building if it was in appropriate activity, to vandalize it or whatever. Mr. Keiffer stated so these facilities are typically run 24 hours a day. He stated

they're typically left without doors on them. He stated there are surveillance cameras to monitor the cars that come in and leave and also the people that would come to use the money exchanger.

John Castellani asked have they made application to the Planning Board yet. Mr. Keiffer stated they have not. John Castellani asked why they're hearing this application at all with the fact being that traditionally going to the Planning Board and getting any kind of an approval may generate other variances that they are going to have to pay for to come back to the Zoning Board. He stated he thought they may be out of step with this because they may have significant problems with this. He stated they may have significant requirements around landscaping and other things that may cause them to ask for other variances.

Mr. Keiffer stated they are responding in the order in which they were instructed to do so by the Town, by the lady that works at the Planning and Zoning Department. Ralph Barbaro stated he thought that the critical issue here is the environmental effect. He stated the Planning Board, because of the nature of this project, will obviously request an environmental impact study of some sort. He stated that means that under New York State law, SEQR law, they would have the SEQR determination. He stated he did not believe that the Zoning Board could render a decision if they're not going to have the SEQR determination. Keith O'Toole stated the Zoning Board could do SEQR tonight. He stated the Zoning Board would have to classify the action and determine whether a long form or short form EAF is sufficient. He stated they already have a short form EAF, the Town's EAF. He stated then there is a question as to whether a coordinated review is required or should be appropriate, and that would depend on whether it is an unlisted or Type I action.

John Castellani stated it seems as if there are no provisions for any parking here. He stated certainly that is going to be addressed at the Planning Board. Keith O'Toole stated this is not a site plan. He stated it is not even close to a site plan. John Castellani stated the thing that he was looking at is they're going to go through this, and whether or not they approve it, it is incomplete.

Larry Smith stated they're asking for a land use variance. He stated they have submitted information to the Zoning Board for approval of the land use variance. Mr. Keiffer stated it is possible at the site plan review process one would need additional variances for setback or other things, and it is also possible that they cannot satisfy the environmental concerns of this use at this location in a site plan review. He stated but they are requesting a use variance so that they can proceed with that application.

Keith O'Toole asked have they applied for a site plan at this point. Mr. Keiffer stated they have not. Keith O'Toole stated that being the case, it would be appropriate for the Zoning Board to deal with it tonight.

John Castellani stated he did not feel there is sufficient information for him to vote. He stated without the Planning Board action and a site plan that they can see to grant a land use variance, and that could be a condition, they are going no place.

Ralph Barbaro stated if this were a simple thing like a person wanting to build a house on a residential lot, the process the applicant was told is adequate. He stated when they get into these more complex commercial applications that have environmental effects, movement of traffic effects, it is different. He stated they have a situation here where it looks like 80 percent of the property or maybe 70 percent of the property is covered by asphalt or building, so there may be some significant drainage issues here which cannot legally be addressed by this Board, but they are a concern for the members of the Board that they are addressed in a way that is satisfactory to them. He stated so in cases like this where they have a very extensive commercial plan, he thought it is wise to go with the Planning Board and let them establish the environmental constraints that they feel are appropriate, and have the applicant then come back to the Zoning Board with a little bit more information as to what they required.

Keith O'Toole stated the points are all well taken. He stated, however, there is no pending application before the Planning Board. He stated in terms of doing a use variance review,

basically what they're concluding is whether or not this additional use is permitted due to some sort of hardship with all the legal standards applying. He stated the Zoning Board has the power to do the environmental review. He stated since there is no other approval required, at least at this point and none pending, it is tough for them to say there is another interested agency that is going to give an approval, like the Planning Board or D.O.T., or whoever, or the County because it is on Chili Avenue. Larry Smith stated the D.O.T. does have an interest.

Mr. Keiffer stated in rebuttal to the comment about the intensity of the development, it may be they go before the Planning Board, assuming that a use variance were granted by this Board, and it could be deemed by the Planning Board that this is too intensive, and that five days is the maximum that the site would support. He stated it is possible that the traffic study undertaken for this project would be unacceptable to the County or the State, and that access onto Chili Avenue for this use would not be advisable. He stated but those are things which are taken up under another application, under another SEQR review process, and he questioned why should this applicant incur the cost of those things only for this Board to say that the hardship was not demonstrated and a use variance is not forthcoming.

Beverly Griebel stated she thought what the Board is saying is it is difficult for them to say this would be an appropriate use for this property when there are many questions in their minds about all of these other factors. Larry Smith stated the reason for their appearance before the Zoning Board is that there are certain criteria that they have to look at for a land use variance. He stated the engineering and whatever on a site plan is much more involved than it is for an appearance before the Zoning Board. He stated if there is no chance of getting a land use variance, the applicant would not go into a lot of engineering work for site plan engineering, D.O.T. requirements, traffic studies. Larry Smith stated if he couldn't put something on a particular parcel, he wouldn't make the investment to go do all the required engineering for a Planning Board.

John Castellani stated he looks at it the opposite way. He stated it is a catch-22. He stated his take is on a commercial piece like this with all of the ramifications of this application, to come in for a land use variance for something that he may never build is not right. John Castellani stated they are locking it into a land use variance for something he can't build. He stated it doesn't make a lot of sense.

Ralph Barbaro asked if a land use variance were granted for a carwash and the Planning Board turns this down for whatever reasons, and there may be a number of them, or they make so many conditions that it is just unreasonable for this party to proceed, now what have they got. He stated then the applicant would have a piece of property that he has been trying to sell for ten years that hasn't sold for one reason or another that now has a variance imposed upon it that it can only be used for a carwash.

Larry Smith stated that is not true. He stated the property can still be used for what it is zoned for. He stated they are adding something to it. He stated they are not saying he can't use that for anything else. John Castellani stated the applicant would have to remove the land use variance. He stated the variance has to be vacated. Larry Smith stated he never has heard of that. John Castellani stated they had to reinstitute a land use variance on Scottsville Road for the dance club because it expired due to lack of use and sale of property even though it was supposed to go with the property.

Keith O'Toole stated they do have a sunset provision in certain zoning changes. Keith O'Toole stated they can make reasonable conditions, and that can be the condition. Mr. Keiffer stated they could make a reasonable condition if subsequent progress wasn't made for developing this site in a certain time that the use variance is null and void.

John Castellani asked where do they go from here if they vote no. Mr. Keiffer stated he doesn't know that he has the answer to that. John Castellani stated he would probably restart the process with the Planning Board. Mr. Keiffer stated he thought that would depend upon what the decision of this Board was and the grounds for that decision. He stated one possibility would be to abandon the project all together. He stated another possibility would be to pursue an Article

78. Mr. Keiffer stated he didn't offer that as a threat, but those are the options.

Ralph Barbaro stated he had a couple of issues with statements made about traffic flow. He stated again, this is really a Planning Board issue not a Zoning Board issue, but the fact that the applicant initiated the conversation, he would just take up from there. He stated it was said this will not increase the flow of traffic. He stated he takes issue with that because he has frequented a similar carwash in North Chili to this proposal. Ralph Barbaro stated when he goes up there, he doesn't go up there because he was going somewhere else and then all of a sudden decides to wash his car. He stated he usually decides to take his car up and get it washed. He stated he would be adding to the traffic flow as he drives up there and he would be adding to the traffic confusion as he turns into the place. He stated exiting the place would be the same situation. He stated oftentimes when he decides to clean his car, everybody else is up there cleaning their cars. He stated there has only been one occasion where he hasn't had to wait for two or three cars ahead of him.

Ralph Barbaro stated most people decide to wash their cars when they are salty or dirty and when they have free time. He stated he has often encountered situations where there has been two or three cars waiting in line at each garage position, and they have a very similar problem there that they are demonstrating here in that they have one driveway in, they have six bays and the cars are stacked up. He stated they have an area about 80 or 100 feet wide and the cars are stacked up, and after a while, one can't tell which line the cars are in, and there seems to be no sense of organization to the thing.

Ralph Barbaro stated he doesn't see this being any different than that. He stated there are certainly no lines delineating the flow of traffic into these separate stalls. He stated there appears to be only one way out, and that is back around. He stated they would be increasing the flow of traffic, and that that comes from the west especially is going to be placed in a hazardous situation, because coming around that corner going east, on Chili Avenue, one can't see the traffic trying to turn into Bright Oaks until he/she gets around that corner. He stated oftentimes there is traffic that is coming from the east into Bright Oaks and they can't see them coming down Chili Avenue. He stated quite often cars will turn in front of a car as one comes around that curve. He stated they are going to complicate that by having another ingress and egress just offset 50 feet from that hazardous intersection. He stated they are going to complicate it with people trying to turn into this facility that will be blocking one lane of traffic, forcing oncoming traffic that is going east on Chili Avenue over to the far right edge of the road, making it even more difficult for vehicles trying to turn into Bright Oaks to see them because they are forcing them way over to the right side of the right-of-way. He stated that makes it even more difficult for them to see oncoming traffic. He stated they are going to have a problem at this intersection that is a lot worse than the problem they already have that exists there. Ralph Barbaro stated it would be nice if they came in with some sort of proposal that would alleviate problems rather than make them more difficult.

Mr. Keiffer stated those are precisely the things that would need to be addressed during site plan review. He stated if this was going to be a drugstore or convenience store, which are permitted uses in the zone, those very same questions would have to be addressed or satisfied. Keith O'Toole stated traffic is a legitimate consideration, as are other indicia. Keith O'Toole stated a number of the other items that the Planning Board will consider as part of site plan can also be considered by this Board because of the inherent nature of the use will generate certain impacts, that certainly this Board has to consider them because it may actually change the character of the neighborhood or harm adjacent properties.

Ralph Barbaro asked when the present owners purchased this property. Mr. Keiffer stated 1953. Ralph Barbaro asked what was their intended use for the property. Mr. Keiffer stated the property was developed at that time with a cider mill on it, and it was run for a number of years after that as a location for distributing pop and beer. Ralph Barbaro asked was it run by the owners. Mr. Keiffer stated that's correct. He stated shortly after, they leased that operation or rented that operation to others and gradually it transitioned into having more food offerings and then ultimately to a restaurant.

Ralph Barbaro asked what was their intent after the restaurant burned down. Mr. Keiffer stated

to find a buyer. Ralph Barbaro asked if their intent was to find a buyer as a commercial location, or as a residential location, or what. Mr. Keiffer stated he does not know for certain, but he assumed they were looking for a buyer for a permitted use in the zone. Ralph Barbaro asked if that was for neighborhood business. Mr. Keiffer stated he did not know when it was zoned neighborhood business. He asked when did that ordinance go into effect. Larry Smith stated probably about ten years ago. Ralph Barbaro asked was that the time it was put up for sale. Mr. Keiffer stated the structure burned down in 1983. He stated if it was ten years ago, then the zoning change occurred after the building burned down.

Ralph Barbaro asked other than putting the property up for sale, have the present owners ever attempted to sell the property for a residential use or sell the property for something other than neighborhood business associated uses. Ralph Barbaro stated he means like a residential use or one of the former uses that it had.

Gale Elder, with Prudential King Arthur Realty, was also present to represent the application. He stated that property has been attempted to be sold for everything. Mr. Elder stated since 1993, they have attempted to sell it for housing, for duplexes, for a plex, for everything there is. Mr. Elder stated they cannot sell the property, period, at any price, for any purpose.

John Castellani asked has this property been offered to the neighboring businesses. Mr. Keiffer stated both of the existing automotive businesses were contacted to see if they had an interest in purchasing the property. He stated it was his understanding there was an inquiry as to whether either of those businesses wanted to sell the businesses with the hopes it would be combined into a larger parcel and sold to another individual. Mr. Keiffer stated they were not interested in purchasing it.

Beverly Griebel asked when did the offering price come down to 35,000. Mr. Keiffer stated it has been a gradual reduction in price. He stated it has been offered for substantially less than \$100,000 for some time. Beverly Griebel asked when did it come to 35,000. Mr. Elder stated about three months ago. Beverly Griebel stated so it really hasn't been on the market that long at that price.

Ralph Barbaro asked has it been advertised at that price. Mr. Elder stated yes, it has. Mr. Elder stated they had an inquiry from CVS, which is a drugstore, that was very interested in the site, but it was too small, and it was tied in between the used car lot and the mechanic station, and therefore they would not go any further. He stated plus they deemed that there would be a traffic problem there with the 66 foot right-of-way off Chili Avenue, so they backed off the proposition.

Ron Popowich asked has the property been listed. Mr. Elder stated it has. Ron Popowich asked how long has it been listed. Mr. Elder stated three years. Ron Popowich asked if there have been any offers, and if so, what were the amounts. Mr. Elder stated there was an offer for \$125,000.

Mr. Keiffer stated he believed there is additional documentation with regards to that further on in the packet. He stated that offer was from a purchaser who wanted to build an auto related facility. Larry Smith stated it was a quick oil change facility. Ralph Barbaro stated that must have gone to the Planning Board because it didn't come before the Zoning Board. Mr. Keiffer stated that application was withdrawn before it appeared before either of the boards because the complications anticipated in getting approval. Beverly Griebel commented so it really wasn't pursued. Mr. Keiffer stated it was pursued for some time. Larry Smith stated it was pursued, but they had talked to the Town quite a bit about it and the Town discouraged it before it went to any of the boards.

Bill Oliver stated on the EAF, number 14, regarding presence of chemicals or other substances, they have marked no. He stated in regards to the question whether the operation would use insecticides, herbicides or other potential harmful chemicals, they marked no. He stated the next thing is on Question 16, will this project have any negative effects on environment, they say no. He asked if they have anything to back their answers up. He stated for Question 18, will this property have any negative effects on neighboring properties, they say no.

Larry Smith stated to clarify an earlier statement made by the applicant, the waste water from the carwash, by State law, has to go into a sanitary system. He stated it has to pass through traps to take some of the hard materials out of it, the sand, whatever. He stated the pillow is needed because they would probably have to have some kind of grease trap, and then it would go into the sanitary system. Beverly Griebel stated so it would have primary treatment there. Larry Smith stated there is no treatment; it is trapping. He stated they would be taking out the sand, the bits of rock, and then there would be also an oil trap that would probably have to be in there. He stated Monroe County would require an oil trap, and then it goes into the sanitary system.

Bill Oliver questioned what would happen to the contents of the septic tank then. John Castellani stated it is not going into a septic tank. He stated it is going into the sanitary sewer for treatment, to the same place everyone's waste goes to. Bill Oliver stated he did not see how just putting it through a sanitary sewer would clear out the negative effects of anything.

Bill Oliver stated Question 18 on the application addresses any negative effects on the neighboring property. He stated this is a point where he feels the neighbors, including the Bright Oaks area, are going to be greatly affected by this here proposal, because number 1, they do have three areas now that are grandfathered with three businesses. He stated they are just putting another business that makes it a fourth business with more cars, more traffic, which again impacts in Bright Oaks. He stated they don't need another business with more cars and traffic in that area. He stated Bright Oaks is a through street over to Paul Road. He stated he did not know how they can handle all this traffic coming in and out of Bright Oaks, Chili Avenue and still not have a problem.

Beverly Griebel stated it doesn't increase the traffic, according to the applicant, but it certainly diverts it and stacks it up differently. Mr. Keiffer stated any development on that site is going to change the traffic patterns at that location. He stated whether it is a permitted use or the proposed use, if that site were to be developed, it is going to impact the traffic on Chili Avenue. He stated he is suggesting that the proposed use is a less significant generator of new traffic than a drugstore would be or than a convenience food mart would be, and that if this use were granted, they would then have to go to the Planning Board and through a separate SEQR review process to address in great detail how this traffic would impact this area. He stated if the levels of service were inappropriate for the intersection location, the application would be denied because they could not solve that problem.

Ralph Barbaro asked what is the wash cycle. He asked how long is a complete wash cycle. Mr. Keiffer stated it is something that can be controlled by the operator of the facility, but typically the wash is for four minutes. Ralph Barbaro asked if there is then a rinse after that. Mr. Keiffer stated the four minutes is the length of time the water comes out of the nozzle.

Ralph Barbaro stated so the maximum capacity that this site could hold would be about 15 cars an hour times 6 units, so they could have 90 cars an hour if there was always somebody in line waiting to go. Mr. Keiffer stated that is assuming that nobody washes for two cycles and that the person doesn't wipe off his windows or scrub his tires in between time. Ralph Barbaro stated it would probably be substantially less than that, even under busy conditions. Mr. Keiffer stated that is why he suggested peak hour volume might be expected to be 60 vehicles. Ralph Barbaro stated during off peaks, it could be as few as two or three an hour. Mr. Keiffer stated at 1 o'clock in the morning it would probably be zero.

Ralph Barbaro asked regarding the coverage of the property, do they have a figure for how much of the property is covered with pavement and building in area footage, or a percentage of the total square footage. Mr. Keiffer stated he has not calculated that. He stated he would estimate that it is approaching two-thirds.

Ralph Barbaro asked how about the rainfall on the roof, where is that disposed of. Mr. Keiffer stated that water will ultimately take the same path that it does today. He stated they will have to design a detention system such that the rate of runoff from the site developed will not exceed the rate of runoff from the site undeveloped. Ralph Barbaro asked where would he propose that detention to be. Mr. Keiffer stated that may be underground, large diameter pipes. He stated

they have not designed that system yet.

Ralph Barbaro stated there will be a lot of water falling on that pavement. He stated it has to go somewhere. He asked are they planning the pavement to be higher or lower than the surrounding area. Mr. Keiffer stated they would expect that to be internally drained, so there would be catch basins in the pavement, and the catch basin would be the low point on site and the vegetation would be higher than the grade of pavement. Ralph Barbaro asked where will they put all that water. He stated the reason he asks that is because he sat for five years on the Drainage Committee, and he is concerned about the flow of water and dirt and other things.

Mr. Keiffer stated Mr. Comeles is in attendance this evening, and he is going to exercise his opportunity to speak with regard to his concerns for drainage on this site and the impact of previous drainage changes on the parcel of the property to the north. Mr. Keiffer stated they concede the fact there a potential drainage problem there and they welcome the opportunity to try to resolve it. He stated they have not undertaken that drainage study because that is something he typically would consider part of site plan review in an application before the Planning Board. He stated the applicant, his client, has not been subjected to that cost yet if, in fact, they're not going to be able to get a use variance.

Beverly Griebel stated in looking at their book under NB zone, maximum coverage of building or structure shall be 30 percent of the lot area. She asked is asphalt a structure. Keith O'Toole stated that is an interpretation for the Code Enforcement Officer. Larry Smith stated they never use the size of the asphalt. Mr. Keiffer stated the size of the building is significantly less than 30 percent of the site.

Ron Popowich stated the Planning Board take care of that part of it. He stated there were three conditions of land use is all they should be concerned with. Keith O'Toole stated this a concept. He stated if the actual proposed building exceeds the maximum allowed site coverage, they can come back in and hope they get a variance from this Board. Mr. Keiffer stated they'll not seek that type of variance.

Ralph Barbaro stated from his experience on the Drainage Committee, the reason the rules were written that way is because for subdivision development and also for commercial development, the 1/3 figure was so that the surrounding property within the site would absorb the water runoff from a building that covered only 1/3 of the square footage, and if that were the case, as in most residential home sites, there is no need for exterior construction of drainage facilities. He stated in a case of commercial properties where large areas of the surrounding properties are paved and there is no absorption of water, then there are requirements for construction of subsequent facilities to control drainage, and to control it to let it outflow at a rate no greater than what would have flowed from the undeveloped piece of property. He stated that has been the practice of the Drainage Committee and the Planning Board for many, many years.

Mr. Keiffer stated the proposed structure represents approximately 10 percent of the lot area. Bill Oliver asked who will oversee this building that they are proposing. He asked will there be someone there to maintain the building, to see if there is a problem there, to instruct anyone what to do. He asked how often will someone be at the establishment. Mr. Keiffer stated there will not be a full-time attendant at the site. He stated the site will be visited twice a day, and the responsibility of that person will be to ensure that the site is maintained from the standpoint of litter and the emptying of trash receptacles and making sure that the equipment is operational. He stated that person will also be responsible for checking the coin machines and making sure that the change is available.

Keith O'Toole stated at this time he would like to submit into the record a copy of a printout he received from the Assessor's Office today that was produced by Cole-Layer-Trumble. He stated the Town has recently come to full value assessment. He stated according to the Assessor's records and as a product of that reassessment, the property is valued at \$53,000 according to that printout.

Keith O'Toole stated on the EAF, the applicant indicates at Question Number 23 regarding

whether the project involves permit approval funding from any other governmental agencies, their response indicates site plan review and zoning. Mr. Keiffer stated he thought that was a misinterpretation of the question as to whether or not approvals were required, not whether other funding was required. He stated the approval is they need site plan review, and ultimately they need a decision by this Board. He stated there is no funding proposed by anything other than the private sector. Keith O'Toole stated the funding really wasn't the concern. Keith O'Toole asked is it their intention to go directly to the Planning Board upon receiving the use variance. Mr. Keiffer stated it is.

ANYONE IN FAVOR OR OPPOSED:

Henry Comeles

He stated he is the President of Comeles Engineering. He stated just for the record, his office is at the same location, same building as the applicant's engineer, but they are in no way connected. He stated they just happen to be on different floors of the same building.

Mr. Comeles stated he represents Mr. Mel Simon who owns the property directly north of this application. He stated Mr. Simon has experienced drainage problems for many years. He stated he did submit to this Board via the U.S. mail a letter dated June 25th, 1996. He asked if the Board received that letter. Beverly Griebel stated they have. Beverly Griebel stated the letter will be an official part of the record.

Mr. Comeles stated he is doing work for Mr. Simon in investigating all of his drainage concerns, and this is one of them, so he asked him to represent him here. Mr. Comeles stated prior to the reconstruction of Chestnut Ridge and Fenton Roads by the County and the Town in 1979 and 1980, drainage patterns were such that drainage from the north along Fenton Road traveled to the south and across the subject parcel, the subject parcel being the Falcone parcel.

Mr. Comeles stated at the time of that construction, there was a large amount of fill placed upon the lot, and this was protested by his client, Mr. Simon. He stated he sought a correction in the Town courts and it is his understanding that he won that decision and the court ordered that the fill be removed, which it never was. He stated Mr. Simon is still concerned that this fill has caused water to back up onto his property, which it has, and for that reason he is concerned about any development on this property. Mr. Comeles stated there were other reasons for the problems in the drainage pattern of the roadway diverted water onto his client's property.

Mr. Comeles stated in addition to the drainage concerns, his client is concerned with increased traffic generation which would have a negative impact on his property, noise impacts from the operation of the carwash. He stated when all the bays are used at a facility like this, it is quite noisy. Mr. Comeles stated even if the vacuum machines are enclosed, there is still some noise involved.

Mr. Comeles stated the visual impacts on the existing open and residential areas would be negative. Mr. Comeles stated there would be a decrease in property value to his client's property. He stated property maintenance issues such as trash pickup, waste generation, dust and noise are all a concern.

Mr. Comeles stated there is the possibility of the increased runoff directed toward the Simon property. He stated the traffic generation would also be a detriment to this intersection. He stated to create a four-way intersection with offset streets is not a good idea. He stated they might point out that is one of the reasons this intersection was relocated in the first place, because there were too many corners involved in one location. He stated if they relocate this driveway back to where Fenton Road used to be, they are going back to the way it used to be.

Ralph Barbaro stated oftentimes, as is the case on new development, in working with an engineer to address these problems, the applicant can alleviate a property owner's concerns around the drainage issues. He commented with the two engineers being in the same building, that might even help expedite that. He stated certainly there is an opportunity here for the property owner to achieve some of the drainage results that he would like to see if this property were

developed in some fashion, not necessarily this fashion.

Ralph Barbaro stated he wondered what Mr. Simon's reaction to this would be if these drainage issues could be resolved so that his property is no longer affected by drainage from Fenton Road or drainage from this property side, would he be more receptive to having some form of development there. Mr. Corneles stated he thought the answer to that would be yes. He stated he doesn't deny the fact that there is a possibility that the drainage issues could be engineered to alleviate some of the problems to his client's property, although he is not in favor of the project in general for the other reasons he mentioned.

Virginia Hayes - 141 Fenton Road

She stated she has lived on Fenton Road for 30 plus years. She stated she lives right near the property that they're questioning. Ms. Hayes stated hers is the last house on Fenton Road next to the beauty parlor. She stated she was opposed to a carwash, especially a 24-hour carwash for the reasons the other people have stated: The noise and the increase in traffic. She stated the traffic on Fenton Road has increased at least 50 percent since she has lived there, and she stated she can't believe that having a carwash is not going to increase it even further.

Ms. Hayes stated the Town has already let go two of their residences with zoning approvals for neighborhood business. She stated this would now create another business, even though this property in question was really the only one zoned neighborhood business. She stated she is strongly opposed to it.

Grace Cybil

She stated she lives on that piece of Chestnut Ridge Road where Fenton comes in. She stated the neighborhood businesses they have, which are a florist, a hair salon, an accountant and then kiddy corner they have a convenience store and the realtor who is trying to sell this property, all of those businesses plus Mr. Carpenter's mechanics business and Mr. Schiano's car business were more or less grandfathered with the relocation of Chestnut Ridge. She stated their little piece of Chestnut Ridge is very residential. She stated they are in an area where the whole Bright Oaks section comes in. She stated she lived there at one point in time and knows what it is like to come out of there. She stated she now knows what it is like to come out of Chestnut Ridge or to back out of her driveway to go up to Fenton. She stated Old Ivy has the same problem. She stated they have a massive traffic problem there.

Ms. Cybil stated Mr. Schiano and Mr. Carpenter are in their mature years. She stated she would encourage the Zoning Board to think carefully about zoning this part of the area because at some point they may have those two properties come on the market, and she did not know what impact that would have. She stated at one point in time she thought the Town had resolved that the center of business would be up in Chili Center. She stated Mr. Rice brought his carwash in and demonstrated his willingness to help the Town. She stated they have a coin-operated carwash in North Chili. She stated they have a coin-operated carwash on Scottsville Road which is within the Town limits. She stated there are carwashes on Jefferson Road in Henrietta or over in Gates.

Ms. Cybil stated a carwash is not a terribly neighborly operation for her definition of neighborhood business. She stated the drainage has always been a problem. She stated they rebuilt the cul-de-sacs on Paul Road and they did the whole drainage through Bright Oaks to take storm runoff. She stated more asphalt in this area can't help that.

Ms. Cybil stated she was concerned that this is a 24-hour operation in her neighborhood. She stated right now they do have the Wilson Farms. She stated that is a six to midnight operation. She stated all these other businesses have someone there to handle the problems. She stated if there are an accumulation of cars in the parking lot or noise, they're there to deal with it. She stated with this 24-hour operation, someone is going to stop by twice. She stated that would essentially be to check on the money. She stated once every 12 hours to have a human at a property in her neighborhood does not make her very comfortable.

Ms. Cybil stated she questions in the late evening hours this becoming a very attractive place for drug exchanges or a meeting place. She stated it is an isolated kind of attractive site. She stated

the potential noise, they have tried to address.

Ms. Cybil asked what is going to happen to the little park. She stated the Town has a little park land there. Beverly Griebel stated that will remain the property of the Town of Chili. Ms. Cybil stated the Chili Garden Club has spent a lot of time in that area. She stated she knows it has been a difficult property. Ms. Cybil stated at the last meeting, several people who wanted to be here in person are out of Town, but there is that concern still about their neighborhood.

Bruce Hastings - 135 Fenton Road

He stated he just wanted to go on record as being against it. He stated he has three little kids. He stated the original plans he saw had it going in one way off Chili and then onto Fenton right at the curve. He stated he hears tires squealing all the time going around the curve. Beverly Griebel stated there is a new proposal to go in and out on Chili Avenue.

Mr. Hastings stated even that, this afternoon there was a girl struck on a bicycle on that curve in front of Carpenters. He stated a 24-hour operation, he doesn't like. He stated he just doesn't like the whole thing. He stated they are going to keep the park, but he asked with the site only having a responsible person there twice a day, who will pick up the litter that blows into the park. He stated they might pick up their property, but they will be generating more trash.

Donald Hayes - 141 Fenton Road

Mr. Hayes stated he is against it for the same reasons. He stated he found out numerous times when he is coming down Chili Avenue near King Arthur, trying to turn onto Chili Avenue, the cars coming around the bend there are just like a sling shot. He stated sometimes he gets frustrated and tries to get out quick and they're right on top of him. He stated this would have to generate a lot of traffic.

Mr. Hayes questioned what they meant by they would reduce the noise. He stated he lives just a stone's throw from there. He stated in the middle of the night, say at 2 o'clock in the morning, if somebody has the vacuums going, they can't muffle all the sounds.

Mr. Hayes stated with all the traffic, they don't seem to have the roads to handle it really. He stated Bright Oaks is the same way. He stated trying to get out of Bright Oaks onto Chili with the traffic coming both ways, it is a nightmare. He stated he is surprised there hasn't been more accidents there really. He stated he is against the application.

Arthur Schilling - 22 Battle Grove

He stated he lives off of Fenton Road. He stated he has lived there for 24 years. He stated he has the same concerns that the people have already stated. He stated he is especially concerned about the children and adults, the safety of both on Bent Oak and Fenton Road. He stated Fenton Road is a narrow, two-lane highway and is in poor condition.

Mr. Schilling asked what is the law or rule by the Town as far as posting the signs for this meeting. Beverly Griebel stated they are to be posted ten days before the meeting. Mr. Schilling asked when do they come down. Beverly Griebel stated the Town regulation says they will be removed five days after the meeting. Mr. Schilling stated it is interesting to him that prior to both these meetings, the previous meeting and this meeting, the sign on Fenton Road was gone three days before the meeting. Beverly Griebel stated sometimes that does happen. She stated they determine on the Board if the applicant made a good faith effort. She stated sometimes it is difficult to keep the sign there. She stated in the wintertime, they have a snow problem. She stated other times there is rain or a wind storm, children in the neighborhood, or maybe an adult that doesn't want it there and doesn't want it to be seen. She stated there is a notice in the Gates-Chili News. She stated the immediately adjacent neighbors get a notice in the mail for the original meeting.

Mr. Schilling stated the impression he has now is that someone didn't want the rest of them to know about the meeting. He stated that is the conclusion that he has come to since it happened twice, two days before this zoning hearing. He stated he would like to go on record opposing the project.

Patricia Ott

She stated she works for Spitz Florist. She stated her family has been there for 50 years and she wants to go on record opposed to this.

Mr. Hayes asked whether Mr. Schiano or Mr. Carpenter were offered the property at the reduced \$35,000 price. Beverly Griebel stated it was mentioned neither one was interested in adding it onto their property. Mr. Hayes questioned whether that was in response to the lower price, though.

Larry Smith asked Mr. Keiffer who is the proposed developer of the carwash. Mr. Keiffer stated Al Arilotta is. Mr. Keiffer stated Mr. Arilotta is an architect and would be developing this as a supplemental enterprise on his part.

Beverly Griebel stated the Board received a letter from Michael Malarney attorney for Mel Simon. She stated he concurs with Corneles Engineering pretty much, in summary of his letter. Beverly Griebel stated the Board was in receipt of another letter received June 21st from Bruce and Karen Hickey. Mr. Schilling stated they live on Bent Oak. Beverly Griebel stated they own property at 137 Fenton Road. Beverly Griebel stated they express much of the same concerns as the speakers in the audience have related. Beverly Griebel stated the Board was in receipt of another letter from Melissa and Bruce Hastings, who were present in person. Beverly Griebel stated the Board was in receipt of another letter from Spitz Florist, Susan Wayland, expressing some of the same concerns also. Beverly Griebel stated the Board was in receipt of another letter from Joseph Steimer of 15 Chestnut Ridge with the same concerns. She stated the Board was in receipt of a letter from Joseph Steimer, III, who is a sixth grader, expressing concern over loud music, crossing the street, traffic on Fenton Road and difficulty in walking in that area. All the letters will be on file in the Building Department.

Beverly Griebel stated the Zoning Board was in receipt of a petition from the Residents Business Owners/Employees of the Chestnut Ridge Road, Fenton Road, Chili Avenue area, indicating they are opposed to the 24-hour self-serve carwash. She stated there were 32 signatures from Chestnut Ridge Road, Homestead View, Chestnut Ridge, Fenton, Ivy Circle, Barnswallow Lane, Saddle Back Trail, White Birch Circle, Hunting Springs, Bright Oaks, Eldora Drive, Keebler Drive and Toni Terrace. The petition will be on file with the Building Department.

Beverly Griebel stated they did receive word back from Monroe County Planning for airport review, and they determined this to be a local matter.

Beverly Griebel stated she personally had a concern about some of the things that are in the code, which she knows would be part of site plan review, but anything that is adjacent to a residential zone would require a 40 foot buffer zone, which on this plot, would be rather difficult to get 40 feet between them and the R-1-12 section that is north of the site. Beverly Griebel stated it would be difficult.

Ralph Barbaro stated it appears that there are a number of issues that are Planning Board issues that are of an environmental nature that cannot be appropriately addressed by this Board because they don't fall within their jurisdiction. He stated so when they come to vote for SEQR, they ought to consider probably deferring that to the board that has more jurisdiction for the issues that are involved here.

Beverly Griebel asked if the Board was feeling there would be a negative effect involved here. Ralph Barbaro stated he certainly would think so. Ron Popowich stated he agreed. Ralph Barbaro stated at this point they can't determine whether there is a negative effect or not because they don't have the jurisdiction to pursue the information, and the information isn't available for them.

Mr. Keiffer asked without having application pending before the Planning Board at this time, if a favorable recommendation were made tonight, a favorable decision were made tonight and they made application to the Planning Board in the next few days or next few weeks, would they once

again initiate a SEQR process and need to once again declare preference for being lead agent in a SEQR review. Keith O'Toole stated there is an issue of determination and the Board hasn't made that as yet. He stated on one hand, they could interpret the applicant is asking for a use variance and that is it. He stated on other hand, the Board, based on testimony, could see this is one phase in a total project, and under SEQR, they have to review it as a whole. He stated if that is the case, they list it as a Type I action that would mandate a coordinated review, and the Planning Board would have to be dragged in whether they like it or not. He stated if the Board lists this as unlisted action, then the coordinated review would be optional and at the Board's pleasure, meaning the Planning Board is dragged in or not. He stated he thought it is not a Type II action by any shape or interpretation. Keith O'Toole stated so they're either talking unlisted or Type I.

Mr. Keiffer stated their desire to come before this Board first was not an effort to put the Board a situation where they are uncomfortable making a SEQR determination relative to Planning Board issues. He stated they fully expected that the Planning Board would have the authority to restart or continue the SEQR review process and request of them any information that they need in order to make a decision with regards to a site plan 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. The vote was 6 yes with 1 abstention on the motion (Dan Melville abstained.)

DECISION:

It was determined that the Appellant has not established by competent financial evidence that strict application of the ordinance would produce unnecessary hardship and deprive the Appellant of all economic use or benefit from the property in question if limited to the use permitted under the ordinance because:

1. By the letter of Applicant's engineer, Robert L. Keiffer PE dated July 11, 1996, Applicant obviously, and mistakenly, believes that there are only four permitted uses in the zone in which the subject parcel is located, namely those listed at subsection 115-15(5) which lists "Dog grooming establishments, excluding boarding facilities or kennels." As applicant has failed to submit any proof that this permitted use has been explored, his application fails.

2. The best evidence of the present value of the property that the Zoning Board of Appeals has seen is the new full value assessment by the Town of Chili which values the property at \$53,000.00. However, it wasn't until 1996, three months ago, that the listing price was reduced from the prohibitive level of \$89,000.00 according to the property owner's realtor. Applicant also failed to provide other "competent financial evidence" including the amount of mortgages, liens or encumbrances on the parcel.

It was further determined that:

A. The hardship created is not unique and applies to a substantial portion of the district or neighborhood because:

1. If "Wegmans," as property owner's realtor argues, has made the area unsuitable for many NB businesses, then the proper solution would be to petition the Town Board to rezone the area.

2. Applicant's argument, that the parcel's mere vacancy establishes a hardship, is without merit.

3. That pre-existing, non-conforming uses are nearby is not a hardship running with the applicant's parcel.

4. Applicant's alleged setback problems are cured via area variance, whether or not a use variance is granted; therefore, such setback problems are not hardships.

B. The variance would alter the essential character of the neighborhood because, the neighborhood is noted for having a large number of homes and a few low intensity uses such as a florist, hair studio, convenience store, accountant and the property owner's own realtor.

In contrast, the applicant proposes to place a carwash, which will attract hordes of cars, which will back up into Chili Avenue, particularly during the spring, due to the clearly inadequate parking mandated by the size of the parcel and the size of the proposed improvements. A 24-hour, fully lit operation is inappropriate for a primarily residential area.

C. The hardship is self-created inasmuch as the applicant, Mr. Arlotta doesn't own the property, is proposing to buy same and obviously is aware of the current zoning and whatever alleged problems the property suffers, for he is, after all, the applicant for the use variance.

D. The requested variance is more than the minimum necessary to grant relief from the hardship.

E. The variance will not preserve and protect the character of the neighborhood and the health, safety and welfare of the community due to the inadequate parking, which will cause traffic to back up on Chili Avenue. Chili Avenue is a heavily traveled State highway and lines of cars will impede ingress and egress to other properties and will block necessary lines of sight for pedestrians and drivers alike. It is noteworthy that the parcel ingress/egress is located at a dangerous curve in the road.

Applicant's realtor testified that a major drugstore rejected this parcel due to traffic problems and small size of the parcel.

CONCLUSION: Therefore, it was determined that the requested variance be denied, by a vote of 5 no and 1 yes with 1 member abstaining (Dan Melville), and that the previous decision of the Enforcement Officer be affirmed.

3. Application of Michael Koban, owner; 7 Hilltop Drive, North Chili, New York 14514 for renewal of conditional use permit to allow a firearms catalog office and gun smithing for customers in home at property located at 7 Hilltop Drive in R-1-15 zone.

Michael Koban was present to represent the application. Mr. Koban stated he owns the property at 7 Hilltop Drive. He stated he was present for a renewal on the permit that was granted last year on the conditional use for an in-home business. Beverly Griebel asked how has that business been going. She asked how many customers do they have. Mr. Koban stated he had a total of five firearm sales last year. Beverly Griebel stated she was not sure what he predicted last year. Mr. Koban stated actually he is below quota from last year. He stated he had predicted one a month, so he is below that.

Larry Smith stated there have been no problems or concerns. He stated he recommends an extended period of time this time. Beverly Griebel asked the applicant if he still has the security system. Mr. Koban stated he does. Beverly Griebel asked is that centrally monitored. Mr. Koban stated it is. He stated all the conditions are still in effect and are being met. He stated this year he went and informed the neighbors personally that there was going to be a renewal process. He stated they wholeheartedly had no complaints, and none of them are here. Beverly Griebel stated she thought they only had one person in here last year from the area with a comment. Beverly Griebel asked the applicant if he still has a security safe. Mr. Koban stated he does.

Bill Oliver stated he would make a suggestion that the Board approves that they increase the time on this application. John Castellani suggested five years.

Ron Popowich stated on the application, Question 5 on the hours, it has Monday through Friday where he is working the business and only Tuesday and Monday has hours, unless those were supposed to be ditto marks for 6:30 to 8 p.m., Monday through Friday. Mr. Koban stated that's 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 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. Renewed for a period of five years.
- 2. No on-premises advertising.
- 3. No on-street parking pertaining to the business.
- 4. Hours of operation as per application.
- 5. No outside employees.
- 6. Applicant to maintain required State and local licenses.
- 7. Security system to be centrally monitored and maintained.
- 8. Gun safe to be maintained.

The following findings of fact were cited:

- 1. Customary Home Occupation.
- 2. Not detrimental to the neighborhood.
- 4. Application of William Querney, 200-14 Still Moon Crescent, Rochester, New York 14624, property owner: Blueberry Hill Associates; for variance to erect a 12' x 12' deck to be 48' from front lot line (60' req.) at property located at 117 Old Chili Scottsville Road (200-14 Still Moon Crescent) in RM zone.

Alan Plantone was present to represent the application along with William Querney. Mr. Plantone stated he was present on behalf of Blueberry Hill Associates LP, joined by the applicant Mr. and Mrs. Querney who would like behind their apartment to build a deck. Mr. Plantone stated they moved into Blueberry Hill and they like it so much, in fact, they signed a five-year lease, which is quite a commitment to the area.

Mr. Plantone stated they were approached by Mr. and Mrs. Querney, and they requested if they could have a professionally installed deck built behind their apartment home. He stated they concurred with their wishes for many reasons; however, during the application process it was determined that the deck encroaches inside the Town of Chili setback according to the zoning.

Mr. Plantone stated the deck is not enormous by any means. He stated it is a 12 by 12 deck which they believe will offer an aesthetically pleasing elevation to the building.

Beverly Griebel stated she would assume that when these people are living there, they would be maintaining the deck. Mr. Plantone stated that is correct. Beverly Griebel asked what would happen when they would no longer be renting there. She asked would they take the deck with them or would Blueberry Hill take over maintenance. Mr. Plantone stated they agreed while they are living at that apartment to maintain the deck according to manufacturer's recommendations, which would mean preserving it, staining it. He stated if they so choose to take another apartment or to no longer live there, Blueberry Hill Associates will maintain the deck.

John Castellani asked is removal also an option. Mr. Plantone stated actually, it isn't. He stated they have agreed to leave it there. John Castellani asked would they remove it if they weren't

going to maintain it. Mr. Plantone stated yes, they would.

Dan Melville asked if this is going over an easement. Mr. Plantone stated it just encroaches in the 60 foot setback. Mr. Plantone stated they actually did request a stakeout of RG&E, and it is also not going over any utilities.

John Castellani asked if potentially they would be seeing something upstairs above it. Mr. Plantone stated there is a balcony which is upstairs with cantilevers off the sliding glass door. John Castellani asked if that would go to the level of this deck. Mr. Plantone stated it would not. John Castellani asked if there are plans at this point for expanding that. Mr. Plantone stated there are not.

Beverly Griebel commented this might be contagious with some of the other residents. Mr. Plantone stated if they're willing to sign a five-year lease and stay a part of the community, he thought they would probably welcome that. Beverly Griebel stated it would be attractive.

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. No impact on neighboring property.
2. Deck will enhance appearance of the property.
3. Minimum variance.

The meeting ended at 10:20 p.m.

CHILI ZONING BOARD

August 27, 1996

A meeting of the Chili Zoning Board was held on August 27, 1996 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, Dan Melville, Gerry Hendrickson, Ron Popowich, Bill Oliver 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 Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: D. Harris; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 704 Ballantyne Road in AC & FPO zone.
2. Application Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: Tesoh Trust; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 918 Chili Scottsville Road in AC zone.
3. Application Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: J. Robfögel; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 291 Fisher Road RA-10 zone.
4. Application Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: R. Graham & E. Wehle; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 60 Golden Road in R-1-20 zone.
5. Application Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: J. Perna & G. Perna; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 3785 Chili Avenue in N.B. zone.

Beverly Griebel read a letter from Chamberlain, D'Amanda, Oppenheimer & Greenfield, attorneys representing the applications of Sprint Spectrum for variances for the height on cellular towers that were supposed to be erected on Ballantyne Road, Chili Scottsville Road, Fisher Road, Golden Road, and Chili Avenue. The letter indicated the hearings on above applications were adjourned until the Zoning Board's meeting of August 27th 1996. The letter indicated since that time, the Planning Board has not yet completed its action with respect to the SEQR process. The letter indicated they are still awaiting completion of the visual EAF studies requested by the Planning Board so they can be filed. The letter indicated since the Zoning Board is not in a position to take any action on the applications, they request that the matters be adjourned in their entirety for tonight's public hearing until the Zoning Board meeting of September 24th. The letter indicated, in addition, they formally request that the application with respect to the property at 291 Fisher Road be withdrawn. The letter indicated it has since been determined that a cellular tower at that site at an adequate height could not be erected due to FAA regulations.

Dan Melville made a motion to table Applications 1, 2, 4 and 5, and John Castellani seconded the motion. The Board was all in favor of the motion. Beverly Griebel stated Application Number 3 for Fisher Road has been withdrawn.

DECISION ON APPLICATION #1: Unanimously tabled until the September 24th, 1996 meeting by a vote of 6 yes to table for the following

reason:

- 1. The Planning Board has not yet completed its action with respect to the SEQR process.

NOTE: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

DECISION ON APPLICATION #2: Unanimously tabled until the September 24th, 1996 meeting by a vote of 6 yes to table for the following reason:

- 1. The Planning Board has not yet completed its action with respect to the SEQR process.

NOTE: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

DECISION ON APPLICATION #3: Withdrawn at the applicant's request.

DECISION ON APPLICATION #4: Unanimously tabled until the September 24th, 1996 meeting by a vote of 6 yes to table for the following reason:

- 1. The Planning Board has not yet completed its action with respect to the SEQR process.

NOTE: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

DECISION ON APPLICATION #5: Unanimously tabled until the September 24th, 1996 meeting by a vote of 6 yes to table for the following reason:

- 1. The Planning Board has not yet completed its action with respect to the SEQR process.

NOTE: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

Beverly Griebel stated she was out visiting all these sites on Saturday the 17th and didn't see signs on any of them. Dan Melville stated he did. Gerry Hendrickson stated he did. Dan Melville stated on Saturday he saw them. Beverly Griebel stated she went out the first Saturday. Dan Melville stated he was there last Saturday. Gerry Hendrickson stated they were all there except for Number 6 that was flat on the ground and looked like it had been there for a while. Beverly Griebel stated she was out the first day. Ron Popowich stated the house next to this one had one laying on the ground flat.

- 6. Application of Colin Smingler, owner; 85 Ballantyne Road, Rochester, New York 14623 for conditional use permit to allow an office in home for a retail gun shop at property located at 85 Ballantyne Road in RA)-20 & FPO zone.

Mr. Smingler stated he is just trying to get a variance to run a small retail shop in the spare room of his house. He stated the impact on the neighborhood will be minimal. He stated the main clientele he has is people he works with and acquaintances. He stated the business will not be advertised where people can drive by, see a stock, come in and look at inventory.

Beverly Griebel asked the applicant if he plans to keep an inventory. Mr. Smingler stated the only inventory he will have is his own personal use. He stated if somebody wants something, he will order it from a catalogue, a wholesaler.

Ron Popowich asked the applicant has he been doing this at all. Mr. Smingler stated he has for the last 15 years. Ron Popowich asked what kind of volume of business are they talking about. Mr. Smingler stated he has sold 40 to 50 over the last 15 years. Mr. Smingler stated in the last three years probably 12 maybe. Ron Popowich asked if this is long guns and handguns. Mr. Smingler stated long guns only at this point. Ron Popowich asked the applicant if he would also handle ammunition. Mr. Smingler stated he does not handle ammunition because it is not worth it.

Ron Popowich asked the applicant if he has a gun safe in the house. Mr. Smingler stated the room upstairs is padlocked on the outside, plus there is a lock on the door. He stated as far as a metal gun safe, he doesn't have one. Ron Popowich asked the applicant if he has a security system in his house. Mr. Smingler stated his front door has an alarm. Ron Popowich asked if the windows or back door or anything else has an alarm. Mr. Smingler stated they do not.

Dan Melville asked why the applicant was here now at this point. Mr. Smingler stated it is required by ATF to comply with all local state laws. He stated if he doesn't have the zoning variance in a residential area, then they pull your license. Dan Melville asked the applicant if he has any intention in the future of putting in an alarm system. Mr. Smingler stated if necessary, he would.

Bill Oliver stated there is a lot of apprehension about gun shops of this nature in a residential area. He stated there is an awful lot of people against this stuff. He asked the applicant is it worth his while to handle this. Mr. Smingler stated he makes a little at it. He stated he is not making a killing. He stated it helps him out if he wants to acquire something for his own collection, so he can get it at the wholesale price.

John Castellani asked is the alarm system centrally monitored. Mr. Smingler stated it is not. John Castellani stated that is probably something the applicant is going to need to do as well as the safe. Beverly Griebel stated they generally require those two things as a condition, as protection because there is always a concern in the neighborhood, a centrally monitored alarm system and a gun safe for all the weapons. She asked would that be a problem. Mr. Smingler stated for what he makes, the \$20 a month would make it cost prohibitive. He stated he doesn't make that kind of profit a year.

Beverly Griebel asked the applicant what kind of records does he keep. Mr. Smingler stated all records required by the federal government which include disposition of anything he has acquired and what is on hand. Beverly Griebel asked the applicant has he ever been investigated or have they ever come by to look at his books. Mr. Smingler stated they have not, but they will at this renewal. He stated they have been so understaffed supposedly for the last 15 years. He stated they can have an inspection one time a year unannounced. He stated in 15 years, he hasn't been inspected. Beverly Griebel stated they had an applicant who was in for renewal of this type thing and he had them come to look at the records.

ANYONE IN FAVOR OR OPPOSED:

Pat Strassner

She stated she lives on Black Creek Road, which is in the general vicinity. She stated as living in the neighborhood, she does have concerns. She stated there are a lot of children in the area. Ms. Strassner asked is there any intention of selling handguns. She asked will there be any practice areas. She stated living by the creek and the river, they hear a lot of gunshots. She stated she even has shell casings come into her yard. Ms. Strassner stated people, even though it is private land back there, they go back and practice shooting and things of that nature.

Beverly Griebel stated the applicant said that he is only going to have long guns, no handguns at this time. She stated if they grant the variance, that is all it would allow. Ms. Strassner stated she

was not against guns. She stated her husband is a hunter and all that stuff, but just having it in a residential area does concern her. Beverly Griebel stated they're looking at something this gentleman has been doing in that area for a while, selling guns on order to friends and relatives. Ms. Strassner stated that does sound different than advertising and bringing in a lot of outside people.

Beverly Griebel stated the applicant will not be allowed to have any signs on the property. She stated he won't be advertising. She stated he doesn't intend to do that. She stated he intends to sell to friends and relatives. Mr. Smingler stated that's right. Beverly Griebel stated the applicant sold 40 guns in 15 years, so that is two to three guns a year.

Beverly Griebel asked the applicant when he gets the items in, does he keep them at his house. Mr. Smingler stated he does. Beverly Griebel asked if a friend has ordered the gun and it is delivered to him, how long would he keep that before it would be picked up. Mr. Smingler stated about a half an hour. He stated if somebody orders something, they want it as soon as it comes in. He stated they pick it up immediately.

Beverly Griebel asked how are they delivered. Mr. Smingler stated by UPS. He stated they have to have a signature. He stated it can't be delivered at the door. He stated it has to have a signature on it at the time of delivery. Beverly Griebel commented a signature by an adult. Mr. Smingler stated that's right. He stated what normally happens is when they try to deliver, if he is not there, he picks it up at the UPS terminal. Beverly Griebel stated this is an item they definitely would not leave sitting between his doors. Mr. Smingler stated that was right. He stated about ten years ago they would, but they changed that for the better. Beverly Griebel stated they won't leave it with a child. Mr. Smingler stated it has to have an adult signature.

Bill Oliver stated if, in fact, the Board starts to consider this on a positive side, he can almost guarantee they're going to ask for a security system that is centrally monitored. Mr. Smingler stated he would understand the Board's position, but economically it is really not feasible. Beverly Griebel stated the Board could give the applicant the conditions, and then he can decide at that point. Mr. Smingler stated he has pretty sure now the extra installation and the monthly fee adding up to 240 a year is more than the profit he shows in his best year. Beverly Griebel stated they can proceed to write a decision later in the meeting, send that to the applicant and he can make a determination then where or not he wants to have a license to sell firearms. Mr. Smingler stated he wouldn't renew it. Beverly Griebel stated even if they do the variance, if it is approved, he can still choose not to renew.

Mr. Smingler stated if it would only be approved with the contingency of the monitoring system, that would put him out of the financial ball park. Beverly Griebel asked with that in mind, would he not be interested. Mr. Smingler stated unfortunately, no. He stated he would be losing money every year in the deal. He stated he is not in it for that. Beverly Griebel asked if that decision involves the cost of his licensing. Mr. Smingler stated the alarm system cost would mainly do it. He stated the license is \$30 a year. He stated he can recoup that, but \$20 a month service fee for an alarm system is not feasible.

Keith O'Toole stated the Board as a body has not made a condition. He stated they have concluded taking testimony, but maybe they should make a decision down the road. He stated the applicant could make his decision after they make their decision. Keith O'Toole stated the applicant has already paid his money, so he might as well go forward.

Beverly Griebel stated this was submitted to the Monroe County Planning Department and came back 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 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-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to obtain required federal, state and local licenses.
7. Minimum 4 1/2" house numbers (Arabic) be installed in a color to contrast with the house.
8. Security system to be centrally monitored and maintained.
9. Gun safe to be installed and maintained.
10. No sales of hand guns, automatic firearms or ammunition.

The following finding of fact was cited:

1. Customary Home Occupation.
7. Application of John Glassman, owner; 13 Gateway Circle, Rochester, New York 14624 for conditional use permit to allow an office in home for computer based on-line advertising at property located at 13 Gateway Circle in R-1-15 zone.

John Glassman was present to represent the application. Mr. Glassman stated he is asking for a variance because it is required. He stated he is setting up a couple computers through high speed data. He stated he will be offering worldwide web hosting services to other advertising agencies, small companies, HTML conversion. He stated it is simple. He stated it would not be advertised outside the home. He stated he will have the yellow page ad, but it should be absolutely zero impact on the neighborhood.

Beverly Griebel asked the applicant will he be employing anybody outside his family to work in this business. Mr. Glassman stated not currently. He stated he can't say a year from now if he gets busy he wouldn't need someone else, but if he gets that busy he, will probably move the location. Beverly Griebel stated if he says he doesn't have any outside employees, they can restrict it to that. She stated the applicant could have one outside employee. Mr. Glassman stated that should be sufficient.

John Castellani stated this is essentially an office in the home scenario. He stated he doesn't have customers visiting on a regular basis. Mr. Glassman stated not on a regular basis. He stated occasionally he may have somebody come to review a site on his monitors, give approval for it, but that would be rare. John Castellani commented there would not be a large volume of people. Mr. Glassman stated five a month would be a lot. John Castellani asked if those people would come one at a time. Mr. Glassman stated absolutely.

Ron Popowich asked what is on line advertising. Mr. Glassman stated the computer networking has come a long way. He stated they have a lot of people that spend a lot of time in front of their computers. He stated computers are out selling television sets. He stated it is a projectile market that is huge. He stated more and more people are getting involved with it. He stated advertising on the worldwide web will be more essential than having an ad in the yellow pages. He stated it is a window of opportunity to get into a market while start up costs are low. He stated he has many years of experience working in computer as both a computer artist and technical facilitator of technology. He stated he is the perfect person to set up and get into this right now.

Mr. Glassman stated essentially he takes the operation end of running the computers and massages the technical files than can be transmitted over data phone lines and then be received on people's computers at home that are more limited in their scope. He stated he provides the advanced infrastructure. He stated basically it is a repeater point.

Beverly Griebel stated the applicant indicates this operation would be 24 hours a day. She asked is that when he would be on line. Mr. Glassman stated theoretically his computer will be hooked up to the worldwide web 24 hours, seven days a week, and his service is based on having all that information available. He stated if he can't come near to that figure, then his service is not valuable for somebody to buy it.

Beverly Griebel asked is this going to be a part-time job or a full-time job. Mr. Glassman stated he would be full-time dedicated. He stated he left a job in Syracuse to come and set up this business. Beverly Griebel asked the applicant would this be his full-time employment. Mr. Glassman stated it will be.

Beverly Griebel asked if he needs more employees, would he move to another site if he needs more room. Mr. Glassman stated if he needs more help, initially he would probably work with temporary typists or freelance artists who might come in on a carte basis, but as far as a full-time employee, if he gets to that point where he might need somebody, he will probably have long out grown the capabilities of being able to house this within the local residence, and he will have to move to a more commercially oriented structure.

ANYONE IN FAVOR OR OPPOSED:

Jack Bailey - 289 Chestnut Ridge

He stated he is a neighbor of John's. He stated he has no objection. He stated this will be a very unobtrusive phone business.

John Grummin - 287 Chestnut Ridge Road

He asked if the computers will affect the television or anything like that. Mr. Glassman stated it should have absolutely no effect. He stated all the equipment complies with the FCC regulations. He stated if they have a cordless phone and brought it right up to the repeater on the side of the house, they might notice some interference, but they are a distance away and they shouldn't have any problem. He stated this is no different than somebody setting a modem up on their computer.

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. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. One outside employee.
6. Minimum 4 1/2" house numbers (Arabic) to be installed in a color to contrast with house.

The following finding of fact was cited:

1. Customary Home Occupation.

8. Application of Richard Cromer, owner; 10 Wyncrest Drive, Rochester, New York 14624 for variance to erect a 12' x 20' detached garage to be 7' from side lot line (10' req.) at property located at 10 Wyncrest Drive in R-1-12 zone.

Richard Cromer was present to represent the application. Beverly Griebel stated this was sent to the Monroe County Planning Department and came back as a local matter.

Mr. Cromer stated he was interested in having a one-car garage. Beverly Griebel asked did that property have a garage previously. Mr. Cromer stated it did actually, but it was converted into a Florida room. He stated it is a 1940 structure which was actually built pretty strangely in that it was just a one-bedroom home, so he thought the previous owner had took the old garage which was attached the home and converted it into a Florida room, so now he has basically no garage.

Beverly Griebel asked if that portion right by that stub was the garage at one point. Mr. Cromer stated that is correct, to the rear of the home. Beverly Griebel asked is there any way that he could place the garage any differently. She asked could he move it over and not require the variance. Mr. Cromer stated he was trying to avoid having to actually have to turn the car into the garage. He stated they want to buy a new vehicle, and the last thing they want to do is scratch it up against the side of the garage trying to turn it in, or damage the garage by trying to turn it into an awkward angle.

Beverly Griebel asked would it be possible to put it next to that Florida room and swing the driveway in that way. Mr. Cromer asked if she meant behind the home. Bill Oliver stated adjacent to the Florida room.

John Castellani stated to make another left-hand turn essentially is what they're saying. Beverly Griebel asked would that be possible. Mr. Cromer indicated where it is all windows, so if he did that, he would be obstructing the entire view. He stated he tried to consider every possible way of avoiding doing this and not making the cost so prohibitive that he couldn't do it anyway.

Beverly Griebel stated so then the straight shot looks like the way to do it. Mr. Cromer stated he also has a deck behind the house.

Keith O'Toole stated if he understands correctly what the Board proposed as part of its question, was that if the applicant turns the garage 90 degrees, locates the longest dimension parallel to the aforescribed Florida room and makes it adjacent there to, therefore it would require that the applicant not only locate the garage there but also extend his driveway over there. Beverly Griebel stated that is correct. Beverly Griebel stated the applicant would need to extend the driveway, but that is not feasible due to windows on the Florida room and the deck that would interfere with that plan. Keith O'Toole asked the applicant what his response to that question was. Mr. Cromer stated the fact that the deck was there and the Florida room had windows, it is possible, but whether he would go ahead and build one, he probably wouldn't if he had to do it that way. Keith O'Toole stated so aesthetically it would ruin the Florida room. Mr. Cromer stated it would be ugly and ruin the entire character of the room and he wouldn't do it. Beverly Griebel stated it would block the view. Mr. Cromer stated it would just destroy this whole idea.

Keith O'Toole stated they should be clear since the statute has changed, the applicant, even though he has the ability to locate the garage elsewhere, is not under a requirement that he has to do so. He stated it is his benefit versus the statutory factors.

Ron Popowich asked if the edge of his garage that lines up with his driveway the way it shows on the plan, would it be the south side of the garage is seven foot from the property line. Mr. Cromer stated that's correct. Ron Popowich stated when he looked at it, he doesn't remember seeing a wood fence there. Mr. Cromer stated when they purchased the home, there was a wood fence, but as soon as they purchased the home, someone, he thought the neighbor, actually removed it. He stated maybe he didn't like it. He stated so there is no more wood fence. He stated there is just sort of shrubs lining that area.

Ron Popowich asked if this garage is for the car and not for some business. Mr. Cromer stated it

is for the car, not a business.

Bill Oliver asked the applicant if he has talked to his neighbors about this. Mr. Cromer stated he spoke to them prior to submitting this request. He stated they have a good relationship, and he didn't want to sever that in any way, so he did speak to them. Rob Ron Popowich asked the applicant how long has he lived there. Mr. Cromer stated for about eight years. Ron Popowich stated it is kept up very nice.

Beverly Griebel stated the Board was in receipt of a letter hand delivered to the Town, and it will go to the Building Inspector as part of the file. She stated it was addressed to the Chili Zoning Board of Appeals from Charles and Ester McCullum. Mr. Cromer stated they live at 8 Wyncrest Drive.

The letter indicated they're in their '80s. The letter indicated the structure planned for this location would block their view of the woods which give them a park-like setting from their deck and adds to value of their property. The letter indicated if built, this will depreciate the value of their property.

ANYONE IN FAVOR OR OPPOSED: No one.

Ron Popowich asked will the garage be finished the same as the house. Mr. Cromer stated it will be the same color.

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. Applicant described site of garage to be most logical and best location.
2. Minimum variance.

The meeting ended at 8:15 p.m.

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CHILI ZONING BOARD

September 24, 1996

A meeting of the Chili Zoning Board was held on September 24, 1996 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, Dan Melville, Gerry Hendrickson, Ron Popowich, Bill Oliver, 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 on Application Number 2, she did not see any signs. Gerry Hendrickson stated he didn't either. John Castellani stated there was no sign. Bill Oliver stated there was no sign. Gerry Hendrickson stated on 9/16, there was no sign.

Beverly Griebel stated the sign must be posted for ten days prior to the meeting, so at this point they'll have to table the application until the October meeting, which is October 22nd. Dan Melville made a motion to table the application until the October 22nd ZBA meeting. Ron Popowich seconded the motion. The Board was all in favor of the motion.

Beverly Griebel stated if anyone was present to talk about that application, the Board would not be hearing any comments on that tonight.

Applications 6 through 9 were addressed out of the order printed on the agenda.

6. Application Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: D. Harris; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 704 Ballantyne Road in AC & FPO zone.
7. Application Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: Tesch Trust; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 918 Chili Scottsville Road in AC zone.
8. Application Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: R. Graham & E. Wehle; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 60 Golden Road in R-1-20 zone.
9. Application Sprint Spectrum, 2165 Brighton Henrietta TL Road, Rochester, New York 14623, property owner: J. Perna & G. Perna; for variance to erect a cellular tower to be 150' high (35' allowed) at property located at 3785 Chili Avenue in N.B. zone.

Beverly Griebel stated on the Sprint applications numbers 6, 7, 8 and 9, at the various locations, she received a letter from Eric Lyons, an attorney at Chamberlain, D'Amanda, Oppenheimer & Greenfield asking that those four applications be tabled until the next hearing, which would be October 22nd. Beverly Griebel stated the letter indicates they are asking for a workshop between the Planning and Zoning Boards and any other interested Town members to review the proposed sites and share information, ask questions. Beverly Griebel stated she has not heard anything further on that at this point. She stated they will have to table these four applications because the Planning Board hasn't reached a determination yet on the SEQR process.

Bill Oliver made a motion to table the four Sprint items. Keith O'Toole stated before the Board

did that, they have another motion that they need. Beverly Griebel stated they have gotten information for the lead agency on these applications, so she asked for a motion for the Planning Board to be the lead agent unless anyone had any objections to that. Dan Melville made a motion that the Planning Board be the lead agent for SEQR. Bill Oliver seconded the motion. The Board was all in favor of the motion.

Bill Oliver made a motion to table the four Sprint Spectrum applications to their next meeting of October 22nd. Dan Melville seconded the motion. The Board was all in favor of the motion. Beverly Griebel stated if anyone was present to discuss the Sprint applications, the Board would not be hearing anything on those tonight.

Ralph Barbaro asked what does that do to the October agenda. Beverly Griebel stated she did not know.

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

- 1. Tabled to the October 22nd meeting at the applicant's request pending further Planning Board action. A motion was made with the Zoning Board voting unanimously to allow the Planning Board to be lead agent on this application with regards to SEQR.

Note: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

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

- 1. Tabled to the October 22nd meeting at the applicant's request pending further Planning Board action. A motion was made with the Zoning Board voting unanimously to allow the Planning Board to be lead agent on this application with regards to SEQR.

Note: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

DECISION ON APPLICATION # 8: Unanimously tabled by a vote of 7 yes to table for the following reason:

- 1. Tabled to the October 22nd meeting at the applicant's request pending further Planning Board action. A motion was made with the Zoning Board voting unanimously to allow the Planning Board to be lead agent on this application with regards to SEQR.

Note: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

DECISION ON APPLICATION # 9: Unanimously tabled by a vote of 7 yes to table for the following reason:

- 1. Tabled to the October 22nd meeting at the applicant's request pending further Planning Board action. A motion was made with the Zoning Board voting unanimously to allow the Planning Board to be lead agent on this application with regards to SEQR.

Note: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

- 1. Application of Peter Corrigan, owner; 28 Evergreen Drive, Rochester, New York 14624 for

conditional use permit to allow an office in home for a property maintenance business at property located at 28 Evergreen Drive in R-1-15 zone.

Peter Corrigan was present to represent the application. Mr. Corrigan stated it is a basically handyman type business, doing whatever work, painting, yard work, whatever people have essentially, and the main market he has been working with is realtors so far. He stated essentially at home he just uses his computer in the office, one file drawer and that's about it. He stated all his work is actually done on site at various locations. Beverly Griebel asked if he just uses a telephone and answering machine. Mr. Corrigan stated that's right. He stated at this point he is still using just his home number. He stated he uses it as a mailing address and a home phone. Beverly Griebel asked if any customers call at the house. Mr. Corrigan stated he does not anticipate that at all.

Ralph Barbaro stated this type of business generally requires storage and transportation of a number of tools used in the trade. He asked where does he presently maintain his tool supply. Mr. Corrigan stated he has shelves in the garage which he keeps his tools on. He stated he is just doing small jobs, no large projects, so it is just essentially hand tools, painting equipment, that type of thing. He stated there is shelving he has built in the garage, and it's all there.

Ralph Barbaro asked the applicant if he is doing primarily painting and carpentry work. Mr. Corrigan stated it is a real mixture. He stated he has done lawn mowing, trimming, and really to this point, he hasn't been in business that long. He stated he is using all of essentially just his home tools that he had on his own. He stated he bought almost no tools or any other equipment.

Ralph Barbaro asked the applicant how does he transport all that stuff. Mr. Corrigan stated he has a van. Ralph Barbaro asked if it is an enclosed van. Mr. Corrigan stated that's right. Ralph Barbaro asked is it a commercial type body van, or is it an ordinary cargo van. Mr. Corrigan stated it's a Ford Aerostar. Mr. Corrigan stated if he needs to, he takes out the seat. Mr. Corrigan stated it is just a normal mini van.

Ralph Barbaro asked the applicant how he stores the materials and supplies that he uses. Mr. Corrigan stated he just purchases them job by job, a few cans of paint or boards. Ralph Barbaro asked the applicant if he has a supply of lumber, paint or cleaning compounds. Mr. Corrigan stated he does not. He stated he has a box with cleaning stuff. He stated if he needs to take that along, he throws it in the van and takes it. He stated there is nothing beyond what he would keep for his house.

Ralph Barbaro asked the applicant what means does he have for disposal of things like empty paint cans. Mr. Corrigan stated with the latex paint, as long as it is empty and dry, he can put it in his regular trash. He stated he has cleaned out houses as part of his job, and in that case, he goes to the landfills in the area and pays them their fee. He stated he is aware of the paint regulations for disposing of paints, but at this point, it has just been empty cans.

Bill Oliver asked the applicant if he has any notification on his vehicles as to what he does, or is it on his mailbox or anything advertising what he does. Mr. Corrigan stated he doesn't have anything like that, no.

Dan Melville asked does the applicant need to have it in the application that he is using his garage for the tools. Dan Melville stated he is basically using the home for an office. John Castellani stated he is indicating what he is using is not over and above what he would normally use for his own house, so that washes out.

ANYONE IN FAVOR OR OPPOSED: No one.

Ralph Barbaro asked the applicant is he regularly employed other than this. Mr. Corrigan stated he has not been, but he has just been offered a job and he anticipates accepting the job, so this will probably become just a small side line as it turns out. He stated since the first of July, he has essentially been doing this full-time, as much work as he could get. Ralph Barbaro asked the applicant what did for a living. Mr. Corrigan stated he retired from the Navy and did on-site

environmental work for On-site Environmental.

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 advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Minimum 4" house numbers (Arabic) to be installed in a color to contrast with house.

The following findings of fact were cited:

1. Customary Home Occupation.
 2. No change in character of the neighborhood.
2. Application of Michael Dey, owner; 2681 Chili Avenue, Rochester, New York 14624 for conditional use permit to allow an office in home for a home repairs business at property located at 2681 Chili Avenue in R-1-15 zone.

Beverly Griebel stated if anyone was present for Application 2, it has been tabled until October 22nd, and all of the Sprint Spectrum applications have been tabled, too.

DECISION: Unanimously approved by a vote of 7 yes for the following reason:

1. Applicant failed to post required signs on property.

Note: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

3. Application of Theodore Piendel, owner; 3890 Union Street, North Chili, New York 14514 for variance to erect a 31' x 6' open porch to be 65' from front lot line (100' req.) at property located at 3890 Union Street in PRD zone.

Theodore Piendel was present to represent the application. Beverly Griebel stated she thought she saw this applicant before for a garage. Mr. Piendel stated that was correct.

Mr. Piendel stated what he wants to do now is put a porch across the front of it and come down toward the garage so it will be covered for walking from the garage into the front of the house. He stated he would reroof everything, and it will look very nice. He stated basically that is all he is asking for, is a porch, a covered porch.

Beverly Griebel stated in regard to the 100 feet requirement, the house presently is not at 100 feet. Mr. Piendel stated it is 71 feet. He stated actually, the two houses next to him are even closer. Beverly Griebel asked were they built with a variance, or built before the code was changed. Mr. Piendel stated his was built he thought in 1955. Larry Smith stated that is preexisting. Mr. Piendel stated on every side, the house is too close on the right. He stated he had to get a variance for the barn, and the house is already too close to the road.

John Castellani asked will this be a covered porch, not an open porch. Mr. Piendel stated it would be an open porch with a roof over it. Mr. Piendel stated right now there is like a little breezeway thing that is on there, about 4 feet. He stated he would be taking that down and just have a full porch across the front. He stated they want that so in the winter when it is raining, they can walk through the garage door right to the front.

John Castellani asked how high off the ground will the floor be. Mr. Piendel stated he doesn't think it will be higher than eight to ten inches. John Castellani asked if it will require a railing. Mr. Piendel stated no, it will not.

Beverly Griebel asked if the applicant said it would be a closed porch. Larry Smith stated it would be covered. Beverly Griebel stated the Board would amend that application in that regard. Larry Smith stated they don't really have to.

Ralph Barbaro questioned there being no railings Mr. Piendel stated they're not required, but he will eventually be putting a railing around it. Larry Smith stated for porches over 18 inches above grade they're required. Mr. Piendel stated he will put one on there.

Ralph Barbaro asked if the roof will match the roof on the house. Mr. Piendel stated he was going to reroof the whole thing. He stated after he puts the porch on, he is going to match the roof on the house and the barn together, so they will all match. He stated right now it is a black roof on the barn. He stated he was going to do the house roof black also.

Ralph Barbaro asked if it will be all shingled with the same material. Mr. Piendel stated it will. He stated hopefully it will look a little better.

Larry Smith asked the applicant for his signature in a couple places on 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 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. Pre-existing, non-conforming home lot.
2. No impact on neighboring properties.
3. Will improve aesthetics of the property and conformance of neighborhood.
4. Application of Richard Manginell, owner; 47 Orchard Street, North Chili, New York 14514 for variance to erect a 20' x 26' detached garage to be 8' from rear lot line (40' req.) and 2' from side lot line (10' req.) at property located at 47 Orchard Street in R-1-15 zone.

Larry Smith stated he has a problem with the 2 feet. John Castellani asked isn't 4 feet required by the State. Larry Smith stated yes, there is a minimum of 4 feet.

Dan Melville stated they have a lot of these that come through like that. He asked if it is required by the State, why are they allowed to even apply for less than 4 feet. Larry Smith stated because it is a different code.

Ralph Barbaro stated they can apply to a State board for a variance from the State Code, as well. Larry Smith stated the only thing they're asking for now is a variance on the Town's code. He stated he won't give them a permit on the 2 feet, but he can't deny them application to ask for a

stated he won't give them a permit on the 2 feet, but he can't deny them application to ask for a variance on the Town code. Larry Smith stated the State Code says they can't build within 4 feet of the property line for a combustible building.

Richard Manginell present to represent the application, stated he is not near a building. Larry Smith stated if there is a garage there, he can build closer. He stated if there is no garage, they can't. Mr. Manginell stated he doesn't follow that. Larry Smith stated neither does the Board. Larry Smith stated they have to stay 4 feet away from the property line. He stated the Board can give a variance for 2 feet, but he as the Building Inspector can't give out a permit for 2 feet.

Mr. Manginell asked what would he do from there. Larry Smith stated he could move it over 2 more feet. Beverly Griebel told the applicant maybe he would like to amend his application to be 4 feet from the side lot line. Mr. Manginell stated he would like to amend that.

Beverly Griebel stated it looks as if there is room in the back to move it so that it would be 4 feet away instead of 2 feet. Mr. Manginell stated there is plenty of room in the back. He stated there is a vacant lot in the back. Beverly Griebel stated it would still be behind the pool, and there is nothing on the other side behind the pool. Mr. Manginell stated no, there is not.

Mr. Manginell stated he did want to keep it in line with the existing driveway. He stated that is why he was applying for 2 feet. Beverly Griebel stated there would be a little jog, but if they have more than a one-car garage, they would have to jog a car to get it in anyhow. Mr. Manginell stated the far side would be a workshop area with the 3 foot entry door.

Mr. Manginell stated the garage will be 20 by 26, a cement foundation with two courses of block on top of that and wood frame. Beverly Griebel stated right now they don't have a garage. Mr. Manginell stated they do not. Mr. Manginell stated this will be someplace to work to maintain the cars. Beverly Griebel stated it would be a place to store the lawn mower. Mr. Manginell commented and the kids' bikes.

Ralph Barbaro asked the applicant would he build this himself or have it built. Mr. Manginell stated the foundation, excavation and all the masonry work he would have done. He stated his father-in-law and his father will help him do the wood frame part.

Ralph Barbaro asked what the siding will be. Mr. Manginell stated T-111, grooved wood siding. Ralph Barbaro asked how will that be finished. Mr. Manginell stated white paint. Ralph Barbaro asked is that the color of the house. Mr. Manginell stated no, it's gray. He stated they intend to paint the house white within the next couple of years.

Ralph Barbaro asked the applicant what backs up to his property. Mr. Manginell stated it's a vacant lot. Ralph Barbaro asked if it fronts on Union Street. Mr. Manginell stated there is a house and then Sunnybrook behind them.

John Castellani asked moving this over 2 feet, will that have an impact on the pool. Mr. Manginell stated it will put it somewhat behind it. He stated he will have to jog over a little bit to get into it, but it shouldn't interfere with it. John Castellani asked will it still be in full operation. Mr. Manginell stated it would.

Beverly Griebel stated that would be a storage area rather than for a car. Mr. Manginell stated that is correct. He stated the double car garage door would be to the right.

Bill Oliver asked will they have electric service in the garage. Mr. Manginell stated they would. Bill Oliver asked if it would be overhead or underground. Mr. Manginell stated it would be underground. He stated it will be dug by the contractor.

Dan Melville asked will they be using the garage to run any kind of business out of there, because the applicant mentioned repair work. Mr. Manginell stated it would be repair on his own cars.

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 as amended by a vote of 7 yes with no conditions, and the following findings of fact were cited:

- 1. When considering property, garage location will have minimum impact on neighboring properties.
- 5. Application of Bruce Steele, owner; 95 Fenton Road, Rochester, New York 14624 for variance to erect a 12' x 23' addition to garage to be 9' from side lot line (10' req.) at property located at 95 Fenton Road in R-1-12 zone.

Bruce Steele was present to represent the application. Beverly Griebel asked if they are going to get rid of the shed and add a garage. Mr. Steele stated that's correct. Beverly Griebel asked will all the siding match. Mr. Steele stated it will match exactly what the garage is now. He stated the front proportions of the mullions will match, the roofing will match and the siding will match. He stated the overhead doors and the concrete stoop will be repaved in front to come up to the third car garage.

Ron Popowich asked if they would be taking the shed down. Mr. Steele stated that would be removed. Ralph Barbaro asked if the shed is being removed entirely from the property, not just relocated. Mr. Steele stated that's correct. Ralph Barbaro asked the purpose of this addition is for what. Mr. Steele stated he is eliminating the shed. He stated it does not sit on a foundation, so it is actually just deteriorating in one corner into the ground and there is no sense in putting money into it. He stated he has a 15-year-old, so he was sure he was going to have a third car on the property in the next year or two. He stated so between that and lawn equipment, he needs to have some storage.

Ralph Barbaro stated the rear corner of this garage encroaches on the 10 foot setback because of the angle it was built at. Mr. Steele stated that's correct.

ANYONE IN FAVOR OR OPPOSED: No one.

Mr. Steele stated he has a letter from the closest neighbor stating that she doesn't have any problem with that. Beverly Griebel stated they can put that on file. The letter will be on file with the Building Department. Beverly Griebel asked if that is the one right over the property line. Mr. Steele stated that's correct; she is the adjacent neighbor. Beverly Griebel stated there is quite a stretch of shrubbery and trees in there. Mr. Steele stated that's right. He stated they're very private where they sit.

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 need for additional garage as the addition replaces a shed which will be removed.
- 2. No impact on neighboring properties.

The meeting ended at 8:15 p.m.

CHILI ZONING BOARD

October 22, 1996

A meeting of the Chili Zoning Board was held on October 22, 1996 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, Dan Melville, Gerry Hendrickson, Ron Popowich, Bill Oliver, 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.

1. Application of Michael Dey, owner; 2681 Chili Avenue, Rochester, New York 14624 for conditional use permit to allow an office in home for a home repairs business at property located at 2681 Chili Avenue in R-1-15 zone.

No one was present to represent the application. Beverly Griebel stated the Board would postpone hearing that application and would call it again at the end of the agenda.

2. Application of Robert Stiner, owner; 31 Haverhill Circle, Churchville, New York 14428 for renewal of conditional use permit for an office in home for catalog sales of firearms at property located at 31 Haverhill Circle in R-1-12 zone.

Robert Stiner was present to represent the application. Beverly Griebel asked how has the business been in the past year. Mr. Stiner stated the business has been average. He stated he has had five sales this past year. Beverly Griebel asked has anything else changed on the application. Mr. Stiner stated no, it hasn't.

Ron Popowich asked the Building Inspector if there have been any complaints. Larry Smith stated there have been no complaints. Dan Melville asked the applicant has he had any problems meeting the conditions of the last approval. Mr. Stiner stated no, he has not.

Dan Melville asked the applicant if he has a security system and a gun safe. Mr. Stiner stated yes, he does. He stated it has been inspected by the Building Inspector.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel asked the applicant if he has a centrally monitored alarm system. Mr. Stiner stated he does. Beverly Griebel asked the applicant how long does he hold onto one of the firearms if he has to hold onto it, how many days. Mr. Stiner stated his agreement with the customer is, the procedure is he will order the firearm possibly on a Friday or a Monday and should receive that firearm by Friday the following week with the agreement from his customer, since he gets the money from them before, he makes the order and they pick it up on either that Saturday or Sunday, so it would be in the home one, two days.

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 on-premises advertising.
- 3. No on-street parking pertaining to the business.
- 4. Hours of operation as per application.
- 5. No outside employees.
- 6. Applicant to maintain required federal, state and local licenses.
- 7. Security system to be centrally monitored and maintained.
- 8. Gun safe to be maintained.

The following findings of fact were cited:

- 1. Customary Home Occupation.
- 2. Low sales volume will have negligible impact on residential character of Haverhill neighborhood.
- 3. Application of David Geil, owner; 8 Harold Avenue, Rochester, New York 14623 for variance to erect a 24' x 24' and 4' x 12' addition to garage to be 26' from side lot line (75' req.) at property located at 8 Harold Avenue in RAO-20 & FPO zone.

John Castellani stated he thought the Overlay District was to take the Rural Agricultural District and make it a Residential area, and he stated he didn't know of any residential area that has a 75 foot setback. He asked what was happening.

Larry Smith stated the house technically is on the right-of-way for Scottsville Road, and Scottsville Road is classified as a major thoroughfare. He stated a major thoroughfare requires 75 feet. John Castellani stated he was just surprised to see it. Larry Smith stated that is for the whole Town, regardless of where it is.

David Geil was present to represent the application. Beverly Griebel stated they are going to be putting in a new garage. She asked if the applicant was going to be removing the old garage. Mr. Geil stated no, he would just be extending out the existing garage. Beverly Griebel stated right now they have a one-car garage. Mr. Geil stated that's correct. Beverly Griebel asked will this be a three-car garage. Mr. Geil stated that's correct.

Beverly Griebel stated that's a little bigger than usual. She asked what the reason for that was. Mr. Geil stated the garage he has now is really small. He stated he can't even get a car into it.

Larry Smith stated the code permits up to 900 square feet of garage area. Dan Melville asked how much square footage he would have total with the extra space. Larry Smith stated it would have to be 30 by 30 to be 900 square feet, and it is less than that, so it is under what is required. Dan Melville stated the additional garage is 24 by 24. He asked what the existing garage measures. Beverly Griebel stated it is 12 by 24. Ralph Barbaro asked is that within the frame of the house. Mr. Geil stated that's correct.

Ralph Barbaro asked if they are adding an area 24 by 28. Ralph Barbaro stated the way he is seeing this, he was seeing a 24 foot by 28 foot addition being added onto the existing garage except for a 4 foot by 13 foot area cut off in the back. Mr. Geil stated it will be basically 24 by 24 feet, but one of the garage bays will go back 4 more feet. Ralph Barbaro asked the applicant what is he going to do with the existing garage. He asked will that remain a garage. Mr. Geil stated it will.

Ralph Barbaro asked what is the size of the existing garage. Larry Smith stated if the drawing is to scale, it looks like it is 12 by 16. Ralph Barbaro asked is all that square footage under 900

square feet. Ron Popowich stated it is about 864 square feet. Larry Smith stated he calculated 816 square feet. Ralph Barbaro stated he calculated 816 square feet also.

Gerry Hendrickson asked the applicant what will he use the garage for. Mr. Geil stated to store his own vehicle. Gerry Hendrickson asked the applicant how many vehicles does he have. Mr. Geil stated two. Gerry Hendrickson asked if the other space will be used for storage. Mr. Geil stated that's correct.

Bill Oliver stated in this garage the applicant has said it is going to be for storage of his vehicle and that the other one is too small. He asked is this one that is left big enough to put a car in, the original garage. Mr. Geil stated he could get a car in, but he could probably not open the doors to get out of the car. Bill Oliver asked will there be electric service put into this garage. Mr. Geil stated there will. Bill Oliver asked who would put that in. Mr. Geil stated a contractor would do that.

ANYONE IN FAVOR OR OPPOSED: No one.

Beverly Griebel stated this was submitted to the Monroe County Planning Department and was returned 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 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 infringement on neighboring properties.
2. No change in the character of the neighborhood.
3. The final square footage of the garage will be within the guidelines of the Town.
4. Application of Providence Housing/Rochesters Cornerstone Group, owner, 1150 Buffalo Road, Rochester, New York 14624 for variance to erect 8 three-bedroom townhouse units (4.8 units allowed) with no efficiency units (4.8 units required) at property located at 138 Attridge Road in RM zone.

Gerry Hendrickson stated when he was out on Sunday, he didn't see a sign. Beverly Griebel stated she saw a sign on the Union Street area of the property last week one day, and she stated she did see the holders for signs on both areas, Attridge and Union. An unidentified woman in the audience stated she believes there was a sign at one point on the Attridge roadside. She stated she was not sure what happened to it as of last Sunday, but she believes it was noted appropriately. Another unidentified person from the audience stated it was posted. Beverly Griebel stated maybe it came down in the rain.

Maggie Bringewatt, Executive Director of Providence Housing Development Corporation was present to represent the application. She stated they, with Rochesters Cornerstone Group, are developing the Union Meadows project.

Ms. Bringewatt stated their request is basically an appeal to the provisions in Section 115-13, paragraph D 4, which requires the minimum 10 percent of their total units be efficiency, and that no more than ten percent be three bedrooms. Ms. Bringewatt stated the project as proposed from about a year ago has never included efficiency units. She stated their principal funding source, the State of New York, in fact, in its design handbook now states that housing projects for the elderly should have complete apartments rather than studio and efficiency units. She stated virtually no one is building efficiency units any more for seniors. She stated those older buildings that do have

them often have waiting lists for the one bedrooms and no waiting lists for the efficiencies.

Ms. Bringewatt stated they're asking for relief in this element simply because they want to provide the ease and comfort that separate living, cooking and bedroom facilities would provide for the seniors that would be occupying the one-bedroom units. Ms. Bringewatt stated also because of the market conditions, it is very difficult to rent efficiency units. Ms. Bringewatt stated they're asking for a waiver from the three-bedroom requirement. Ms. Bringewatt stated they have 3.2 additional three bedroom units than is allowed under the code.

Ms. Bringewatt stated they had planned basically in terms of the rental component to serve young families, working families perhaps with children. Ms. Bringewatt stated when they get into a situation where there may be two kids of the opposite sex and they get to a certain age, they need separate bedroom facilities. She stated they had originally had the suggestion of the County Planning Department to include the three-bedroom units in the project. Ms. Bringewatt stated they just discovered, as they went through their site plan approval with the Town Planning Board, these requirements in the zoning statute, so they are here tonight requesting a waiver of those requirements.

Ms. Bringewatt stated she did have the elevation drawings of the buildings and the floor plan. Beverly Griebel asked if the three-bedroom units will be a two-story model. Ms. Bringewatt stated it would be a two-story model with a bath and a half, approximately 1,025 square feet with an attached garage. She stated the garage is in addition to that.

John Castellani asked what is the square footage of the other units. Ms. Bringewatt stated the one bedrooms are 650 square feet and the two bedrooms are 850 square feet, plus the garage. She stated the one bedrooms are all single-story with an attached garage. She stated there will be two groups of six units each. She stated the two bedrooms are also primarily single-story units. She stated, in fact, they're all single-story.

Beverly Griebel stated one of the recommendations for the change with more three-bedroom units was from Monroe County Planning. Ms. Bringewatt stated that's correct. Beverly Griebel stated this was submitted to the Monroe County Planning Department, and it came back as a local matter. She stated it was submitted for density, et cetera.

Ralph Barbaro asked where in the property would be Roads A, B and C. Ms. Bringewatt indicated on the drawing where Road B comes in off Attridge Road. She indicated where the proposed single-family development which abuts the single-families on Attridge Road would be. Ms. Bringewatt stated their project is actually down in the interior of the project and will be abutted by new single-family homes developed to the north of their site.

Ms. Bringewatt indicated on the drawing the proposed open space wetland area. Ms. Bringewatt indicated what road would run through over to Union Street, Road A. Ralph Barbaro asked if Road A goes to Union. Ms. Bringewatt stated it does. She stated Road B goes to Attridge and Road C goes over to the single-family subdivision.

Ralph Barbaro asked what is going to be in the apex between Road B and Road A. Ms. Bringewatt stated along either side of Road C will be single-family detached homes. Ms. Bringewatt stated the original site plan also had apartment projects over on the side of the wetlands.

Ralph Barbaro stated the only issue they're really addressing here is whether to approve the three-bedroom unit density being higher than what it was. Ralph Barbaro stated he sees the three-bedroom units are commingled with two-bedroom units. Ms. Bringewatt stated that's correct. Ralph Barbaro stated he would think that would tend to mitigate that, since there are not three-bedroom units thrust together in the same area. He stated there are actually two three-bedroom units and two two-bedroom units in one housing structure, and then there are two of those. Ms. Bringewatt stated that's correct. Ralph Barbaro stated so there is not a high density of three-bedroom units in the same area. Ms. Bringewatt stated that's correct. Ralph Barbaro stated they're spread out and commingled with two-bedroom units. Ms. Bringewatt stated that's

correct.

John Castellani asked where does Road A come into Union Street. Ms. Bringewatt stated that is not really her project. She stated she was not sure. Larry Smith stated it comes into Union Street north of King Road. Larry Smith stated there is an older house sitting there, and it is just north of that. He stated it is south of the greenhouse. Ralph Barbaro asked if that was between the big old farm house and the greenhouse. Larry Smith stated that is correct. An unidentified person from the audience stated it is right opposite Meadow Brook. Ralph Barbaro stated that's compatible.

Ralph Barbaro stated the two senior buildings are Numbers 8 and 10, and they straddle the community building. Ms. Bringewatt stated they did receive preliminary site plan approval from the Planning Board with the recommendation that the elderly buildings and the community building be moved to a different location on the site, and what they are proposing in their latest submission to the Town, to the Planning Board is that the community building and the two elderly buildings be moved to provide the management office the opportunity to basically have a good overview of the whole site. She stated the seniors will be closest to the management building but will be a little bit away from the concentration of the two and three-bedroom units. She stated they have done that to accommodate the recommendations of the Planning Board.

Ms. Bringewatt stated they also added additional parking and additional play space. Ralph Barbaro stated he was going to question the parking for the community building. Ms. Bringewatt stated there is space provided now for the community building, actually additional parking space. She stated because of where it is located, it will also be able to provide some overflow parking for some of the other buildings around there. Ralph Barbaro asked will that then change the location of the three-bedroom units in question here tonight. Ms. Bringewatt stated the three-bedroom units are still not clustered in one particular site of the unit. She stated they are still interspersed with the two-bedroom units. She stated they have tried not to create a massive appearance structurally, so that they're interspersed among the other lower buildings.

John Castellani asked what is the intended use of the community building. Ms. Bringewatt stated the community building will include a management office, a small maintenance facility for storage of maintenance equipment and a small meeting room that could be used by the residents for a pot luck supper or some kind of social event. Ms. Bringewatt stated it is not meant to provide any ongoing type of community program. She stated it is really meant to be a meeting place for neighbors and management office. John Castellani asked if she meant for residents of this community. Ms. Bringewatt stated of Union Meadows; that's correct. John Castellani stated he was thinking they might have the seniors coming in contact with a lot of traffic if it were being used by outside people; that was his concern.

John Castellani asked if even though the drawing is essentially changing based on relocation, are they, in fact, maintaining the same number and the same number of units in total. Ms. Bringewatt stated that's correct. She stated the overall program has not changed at all. She stated the floor plans of the units, the size of the units, none of that has been altered. She stated just the location of where that would be has changed, and that was in response to the Planning Board's direction.

Bill Oliver asked the one-bedroom units being 600 square foot, would that be for an elderly couple. Ms. Bringewatt stated they are 650 square feet and it would be for an elderly couple. She stated in the experience of most folks who manage these types of projects, it is more likely to be an elderly woman living by herself. Bill Oliver stated they are aiming this at elderly people. He asked if the fixtures in these units will be accommodating for wheelchairs. Ms. Bringewatt stated all of those units will be what is called handicapped adaptable, which means that if someone were in a wheelchair, it could be adjusted. She stated they will have handlebars in the tubs for seniors. She stated with some minor adjustments, the faucets and that kind of thing can be altered. She stated there can be additional grab bars installed in the bathrooms. She stated in addition four of the two-bedroom units are handicapped units, totally handicapped. She stated the one bedrooms and the two-bedroom units are single-story units, so access will be fairly simple.

Bill Oliver asked will there be ramps to allow them to enter. Ms. Bringewatt stated they are not

planning ramps. She stated the grade change, other than a small step up into the unit from the front and from the garage, there is virtually no grade change in the units. She stated they are not at this point ramping all of the units. Bill Oliver stated if a person were to ask for a ramp, would they accommodate them. Ms. Bringewatt stated they would accommodate them, sure.

Ron Popowich asked is this whole complex for the elderly. Ms. Bringewatt stated two buildings are for seniors. She stated she thought the reason they're focusing on those is because of the requirement for efficiencies, which they are replacing with the one-bedrooms which will serve seniors.

Ron Popowich asked where the community building would move to. Ms. Bringewatt indicated where the community building will be. She indicated where there would be additional parking. She indicated where the two elderly residents buildings will be. Ms. Bringewatt stated she would be glad to get a drawing to the Board tomorrow if they wanted it for their records, of the revised site plan. John Castellani stated it should be sent to the Building Office.

Ms. Bringewatt stated they have to go to the Planning Board for final site plan approval in November. Keith O'Toole stated they have read the code sections, obviously. He asked if they have looked at the configuration they envisioned in the early '80s and have adapted it to current market forces. He stated they are not asking for a variance 4.8 units or this or that. He stated they are asking for a configuration they presented to the Board, the 650 for the one bedroom, so basically they have taken their numbers and shifted them a bit up scale to market. Ms. Bringewatt stated that's correct.

Larry Smith stated they were stating that the one bedrooms are 650 square feet. Ms. Bringewatt stated that's correct. Larry Smith stated it was brought to his attention today that the minimum square footage for a one-bedroom apartment is 700 square feet.

Keith O'Toole stated his understanding is that is a lesser included aspect of their application. Larry Smith asked is that going to be included. Keith O'Toole stated yes, it is. John Castellani stated that does not impact them as long as the number of units does not change. He stated square footage is not part of this.

Keith O'Toole stated she is presenting a package deal. He stated they looked at the ratios in the code and juggled it a little bit, and rather than having a 550 square foot efficiency, whereas 700 for one bedroom would have been too high, she knocked down the square footage and added a wall and a door, so it is an oversized efficiency with a wall or a door.

John Castellani stated there is no square footage per unit as part of this application as he understands it. Keith O'Toole stated it is his understanding they are going to be building 650 square foot units, and their code for a one-bedroom requires 700, so basically they're asking for relief for that, as well. Keith O'Toole stated they can approach it as one of two things. He stated they can approach it as a lesser included aspect of the variance as noted, which he thought is a valid argument; or the Board always retains power to impose conditions, so they can basically impose a condition that says no unit will be less than 650 square feet.

John Castellani stated he realizes they're going up 100 square feet over and above the efficiency. He stated that is what he wanted to clarify. Beverly Griebel asked if this involves a dimension that they were not aware of, or is this something that they would be recommending in their final application. Ms. Bringewatt stated this is the first that she has been aware of that particular requirement. She stated they previously had developed the program for the project based on what they considered to be market conditions, and also because of some of the funding sources, what was reasonable and fundable given their concern with making these units affordable for people. Ms. Bringewatt stated actually the State minimum is 650 square feet for a one-bedroom unit, so they felt they were really in the ball park in terms of meeting State requirements and most local market requirements. She stated the HUD projects actually are even smaller, which is why they're not interested in going that route right now.

Ralph Barbaro asked now that this has been brought to light regarding the one-bedroom

apartments, how do they stand on two-bedroom and three-bedroom unit apartments. Ralph Barbaro asked do they have minimum square footage for two-bedroom and three-bedroom units. Larry Smith stated they do. Beverly Griebel stated a one-bedroom is 700 square feet. She stated a two-bedroom is 850 square feet. She stated an additional 150 square feet for each bedroom shall be added for larger apartment sizes. Beverly Griebel stated for three bedrooms, it would be 1,000. Ms. Bringewatt stated they're at 1,025 and they're at 850 on the two-bedroom.

John Castellani stated what they are deficient on is their one-bedroom units. Keith O'Toole stated it is his understanding in the RM zone, the multiple family zone in which this property is located, the legislative purpose was to have a mix of sizes of units, and the theory as he understands it is, they don't want to have too many teeny units, so basically they had percentages of efficiencies or what other people would call studio apartments and then one-bedrooms and two-bedrooms and three-bedrooms and so on. He stated basically what the applicant is saying is, they looked at their mix, their basic mix and based on the current market since studios really don't rent in this area, because frankly there are not that many land constraints that people have to build studios around here, they adapted their application and their project and dropped out the efficiencies as their smallest unit and substituted one-bedrooms. He stated, however, in order for them to keep within affordability rather than have it as the one-bedroom the code envisions at 700 square feet, they made them a 650 square foot bedroom. He stated they took the 550 square foot studios and substituted them with 650 square foot one-bedrooms. He stated that is his understanding of the application.

Ms. Borgus stated what they are saying is they took their project and just tailored it to whatever they felt was good and never looked at Chiff's law. Keith O'Toole stated they looked at the market, is what they're saying to them. Keith O'Toole stated he was not present to make their argument.

Ralph Barbaro stated the State Law is 650 minimum. He stated she stated they went according to the State requirements not realizing that Chili's were 50 square feet greater than the State.

Beverly Griebel stated the Board was not into the audience comment yet portion, so she asked if the audience could hold their comments.

Beverly Griebel asked at this point do they have any idea what their plans are going to be: To stay with the 650, or to go with 700 for the final plans before the Planning Board. Ms. Bringewatt stated their plans that have been submitted to the Planning Board last week included the 12 units at 650 square feet. Ms. Bringewatt stated their total financing package is based on the program that was presented. She stated the funding they have received from the State of New York and from Monroe County and the private funding is predicated on a certain development budget which relates to building out units in this size range. Beverly Griebel commented at a certain cost per square foot. Ms. Bringewatt stated that's correct.

Beverly Griebel stated the way she sees it, there are a couple of choices. She stated since that is definitely a factor with the small one-bedroom apartments that don't meet the code, she stated she did not know if they could approve it at this point or if it would have to be readvertised to come back and seek a variance on the one-bedroom aspect. She stated it is a considerable change.

Dan Melville asked would that be heard before the Zoning or Planning Board. Larry Smith stated this is a zoning issue. Keith O'Toole stated Section 278 doesn't get rid of that sort of requirement; it is only for setbacks.

John Castellani asked the applicant what is their planned schedule. He stated they have another appearance with another drawing in front of the Planning Board this coming month. Ms. Bringewatt stated that's correct. She stated that is November 12th. John Castellani asked what kind of a problem would it be to bring this whole thing back to the Zoning Board with the correct drawing and the full advertisement. Ms. Bringewatt stated she could not speak for the Planning Board. She stated she suspects it may delay any action that they may take, but if that is the wish of the Zoning Board, they'll certainly adhere to that.

John Castellani stated there appears to be enough concern that he thought it ought to be advertised properly. Keith O'Toole stated this should not hold up the Planning Board. He stated the statute provides for dual traffic. John Castellani stated he would make that recommendation, that since they don't have the latest drawing and they know there are changes, and since this is a sizable enough change that there might be some interest in it, he would like to recommend that they do a tabling action this month and rehear this in November. He asked if that would be acceptable. Ms. Bringewatt stated that was acceptable.

Beverly Griebel stated November 26th is the date of their next meeting. John Castellani stated that would save the applicant coming in for two pieces of it, and if there are any problems, it would all be done once in the proper fashion. Beverly Griebel stated sometimes they can amend an application that comes before the Board, but this is a considerable change from the code, so that amending it would not be proper. She stated they need to fully advertise it and allow the public input on that aspect. John Castellani stated that way those attending the meeting will get a chance to see the drawing and everything will be up to date.

Ralph Barbaro asked if this was advertised to allow eight three-bedroom units instead of the allotted 4.8 density. Keith O'Toole stated no, that is not a density issue. Keith O'Toole stated density involves more units or less units. He stated what they're doing is changing the mix of the units. He stated it is a rather unusual code provision. Ralph Barbaro stated perhaps he used the wrong term when he said "density." He stated the issue that was before them tonight when they started was approving that there be eight three-bedroom units rather than 4.8 as required by the formula for the number of units that they were going to have in the area.

Ralph Barbaro stated he could attest there is a shortage of three-bedroom units, because he was looking for one for months for his daughter and never did find it. Ralph Barbaro stated he thought that they could in all fairness to both the applicant and the Planning Board, which is waiting for the Zoning Board's decision, render a decision on that item this evening and hold for next month the issue on the square footage of the single-bedroom units. Ralph Barbaro stated the Zoning Board ought to also keep that in perspective. He stated he stated they're talking 50 square foot, which is a 5 foot by 10 foot area. He stated it is relatively the size of a good walk-in closet in a one-bedroom apartment. He stated if they spread that 50 square foot out amongst the living room, kitchen and bedroom, they are really talking a closet in each room, so it is not really a great deal of space. He stated it should be advertised and held over for a month. He stated he thought they could render the decision on the three-bedroom units tonight so the Planning Board could proceed.

Dan Melville stated the Planning Board still can proceed, the way he understood it. Keith O'Toole stated they can. John Castellani stated they should hear the thing once in its entirety with the right drawing, with all the new answers and the changes and do it once the right way. Beverly Griebel stated she would prefer doing it that way.

John Castellani moved to table the application until the November 26th meeting. Dan Melville seconded the motion. John Castellani suggested they hold public comment until the next meeting when the public could hear the whole application in its entirety.

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

DECISION: Unanimously tabled by a vote of 7 yes for the following reason:

- 1. Applicant to submit completed plans and additional variance requests for square footage of one-bedroom apartments to be 650 sq. ft. where 700 sq. ft. is required.

Note: Applicant to obtain new signs at the Building Department and post as per Town ordinance.

- 5. Application of College Greene Associates, 850 Clinton Square, Rochester, New York 14604, property owner: Roberts Wesleyan College; for variance to erect a dwelling to be 5.4' from

side lot line (6' req.) at property located at 37 College Greene Drive in PUD zone.

6. Application of College Greene Associates, 850 Clinton Square, Rochester, New York 14604, property owner: Roberts Wesleyan College; for variance to erect a dwelling to be 21.5' from rear lot line (25' req.) at property located at 39 Freedom Pond Lane in PUD zone.
7. Application of College Greene Associates, 850 Clinton Square, Rochester, New York 14604, property owner: Roberts Wesleyan College; for variance to erect a dwelling to be 21.5' from rear lot line (25' req.) at property located at 41 Freedom Pond Lane in PUD zone.

Laurie Willard was present to represent the applications. She stated the first request is for a side setback. She stated in order to get their standard bay window on, they needed a little relief, about 6 inches.

Ms. Willard stated what has happened is, on the back lot line of that lot, it is 49.26 feet. She stated when she reviewed the initial maps, it escaped her it was not their standard. She stated the front is the 56 feet, but then it pie shapes narrower in the back and she did not catch it in their initial plans. She stated their standard bay window which has a 2 1/2 foot overhang, does not fit. She stated they probably would have to take an inch off their normal 2 foot bay window. She stated they would like to be able to sell their standard home on that lot.

Ms. Willard stated a similar situation happened on Lots 41 and 39. She stated their standard length dimension on their lots that they had given the engineers were at 120 feet. She stated somehow it escaped her again in reviewing the plans that they had two dimensions that did not meet that. Ms. Willard stated the 118 1/2 and the 116.47 on Lots 39 and 41.

Ms. Willard stated so the problem that develops is when they go to build a standard home, as soon as they want to put a porch on, which has become an option, 80 percent of the buyers have been choosing to pick the porch on the back, and they cannot put their standard porches on the back. She stated that is a big reason why those lots have not sold. She stated those three lots remain open and predominantly for that reason, because they cannot put a porch on them.

Ms. Willard stated she does have someone interested in those lots, but at this point she does not have final contracts. Ms. Willard stated she would like to get the variance in place so that when someone signs a contract, they can begin building. She stated typically a person is in a time frame. She stated it takes three or four months to build one, and if they have to have a variance making it another six weeks, they end up with a problem.

Beverly Griebel stated Lots 39 and 41 are kind of sliced off a little on the back. Ms. Willard stated that's correct. Beverly Griebel stated it is caused by the curve of the road in the front. She stated the ones on either side are not affected because of the way the road curves, along with where the back property line is. Ms. Willard stated that's correct. She stated they do have a buffer that those lots back up to, so it is not like they're backing up to existing homes.

Ms. Willard stated she did submit a piece of paper with a pencil drawing on it to the two adjacent homeowners most affected by these variances. She stated Mr. Griffey was present tonight. She stated he is the resident on Lot 43, adjacent to Lot 41, and he is in agreement with it. Ms. Willard stated also the homeowner on Lot 121, adjacent to Lot 123 is also in agreement. Beverly Griebel stated that is owned by Kenneth Kulzer. Ms. Willard stated that is right.

Beverly Griebel asked does it matter which model of house is put on. Ms. Willard stated their two predominant models are the Boxwood and Dogwood. She stated they have a model up of the Dogwood. She stated probably 70 percent of the homes they sell are Dogwoods.

Beverly Griebel stated on some of these lots, if people had chosen a smaller model, they probably wouldn't be in here for a variance. Ms. Willard stated that's correct. Ms. Willard stated the three lots didn't sell because people wanted the porch option.

Ron Popowich asked what is the square footage of the Dogwood. Ms. Willard stated it is 1450

square feet. Beverly Griebel stated the Boxwood is 1230 square feet, the other popular design.

ANYONE IN FAVOR OR OPPOSED:

Dorothy Borgus - 31 Stuart Road

Ms. Borgus asked where are the lots. Ms. Willard indicated on the plan where the lots are. Ms. Borgus asked how much front yard is involved in these lots. She stated on one of the lots she heard they're concerned about mere inches. She questioned why they can't move that house forward enough a few inches. John Castellani stated it would violate the front setback.

Ms. Borgus stated they're trying to put too big a house on too small a lot with too big a density to bring a little more profit out of a piece of land. She stated it is annoying to her as a lifelong resident that they're having houses crammed on pieces of land when they're talking inches here. She stated they're talking about a situation that was too close to call from day one.

Ralph Barbaro stated the comment that was made regarding inches was in reference to the bay window on the side of the house. He stated it was not in reference to the rear setback. Ralph Barbaro stated in order to put that larger home on the lot without a bay window would be no problem, but if they add the bay window which sticks out 2 1/2 feet, that 2 1/2 feet brings them a couple inches too close to the line. He stated so instead of being 6 foot away from the line, they are 5'8" away from the line. He stated they're talking about a four-inch encroachment of a bay window on a side setback.

Ms. Borgus stated in the scheme of thing 4 inches should not and probably will not be a big deal, but the major underlying point that she is trying to make is that this probably was too crowded, too dense with too small of lots to start with.

Ralph Barbaro asked how many lots are in the subdivision. Ms. Willard stated there are 140 lots. Larry Smith stated not everybody likes big lots. Ralph Barbaro stated these are the only requests they had for variance out of the 140 homes in a subdivision and they're talking about 4 inches. He stated he doesn't think people have been encroaching on setback lines to make outrageous profits. He stated it doesn't look like that is the case when they are dealing with three requests out of 140 lots. Beverly Griebel stated there was one other porch that she remembers, but they have not had a lot at all.

On Application No. 5, 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.

On Application No. 6, 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.

On Application No. 7, 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 ON APPLICATION NO. 5: Unanimously approved by a vote of 7 yes with no conditions, and the following findings of fact were cited:

- 1. Minimum variance.
- 2. No impact on neighboring properties.
- 3. Encroachment is only for a short distance, just for width of the bay window.

DECISION ON APPLICATION NO. 6: Unanimously approved by a vote of 7 yes with no

conditions, and the following findings of fact were cited:

1. The lot configuration is dictating the need for variance of the porch.
2. Other alternatives for porch size were explored and not found to be valid.

DECISION ON APPLICATION NO. 7: Unanimously approved by a vote of 7 yes with no conditions, and the following findings of fact were cited:

1. The lot configuration is dictating the need for variance of the porch.
2. Other alternatives for porch size were explored and not found to be valid.

8. Application of David Baliva, owner; 520 Chestnut Ridge Road, Rochester, New York 14624 for renewal of conditional use permit to allow office in home for catalog sales of firearms at property located at 520 Chestnut Ridge Road in R-1-20 zone.

David Baliva was present to represent the application. Mr. Baliva stated everything is still the same. He stated they still have the central alarm system. He stated they still have the safe. He stated for renewal of the federal license, the federal investigator came down to investigate the premises and he got his okay on that. He stated he had three sales this year.

Beverly Griebel asked is that about what he was doing last year. Mr. Baliva stated he thought it was like five or six before. Beverly Griebel stated people probably had to find him again because he just moved to the house. Mr. Baliva stated that's correct.

Beverly Griebel asked the applicant if he still has the alarm centrally monitored. Mr. Baliva stated yes, he does; ADT.

Ralph Barbaro asked if there have been any comments from the neighborhood. Mr. Baliva stated there have been no problems. Larry Smith stated the Town has never received any complaints.

Bill Oliver asked selling three guns, is it worth all the expense he has to go through. Mr. Baliva stated he enjoys doing it and he does a lot of gunsmithing. He stated he takes guns apart and cleans them and mounts scopes and stuff like that. He stated it is not only gun sales but gunsmithing. He stated he loves to do it. He stated he enjoys in the middle of winter taking apart a gun instead of watching television. He stated his relatives come over, too, wanting to get things.

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 the following conditions:

1. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.

- 5. No outside employees.
- 6. Applicant to maintain required federal, state and local licenses.
- 7. Security system to be centrally monitored and maintained.
- 8. Gun safe to be maintained.

Beverly Griebel recalled Application Number 1. No one was present to represent the application. Dan Melville stated this is the second time around. Keith O'Toole stated the Board could deny the application without prejudice. Dan Melville made a motion to deny the application without prejudice. Bill Oliver seconded the motion. The Board was all in favor of the motion.

DECISION: Unanimously denied by a vote of 7 no for the following reason:

- 1. Applicant failed to appear for the hearing and also failed to appear for hearing on September 24, 1996.

The meeting ended at 9:25 p.m.

CHILI ZONING BOARD

November 26, 1996

A meeting of the Chili Zoning Board was held on November 26, 1996 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, Dan Melville, Gerry Hendrickson, Bill Oliver, 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 was out on the 23rd, Saturday around the middle of the day and did not see a sign for Application Number 1, Providence Housing; Number 3, Paul Valla; and Number 11, Patsy Cavuoto. She asked if anyone saw signs on the property.

John Castellani stated he saw a sign for Number 1. Dan Melville stated he did not see one for Applications 3 or 11. Gerry Hendrickson stated he saw the one on 3 tonight. Dan Melville stated he was there Sunday and it wasn't there. Beverly Griebel stated she was there Sunday.

Mr. Cavuoto stated this is his third time he was present. He stated the sign got blown away and he does not know what happened. He stated he wasn't able to go fix it. Beverly Griebel stated the sign has to be maintained on the property for the required ten days. Mr. Cavuoto stated he didn't have anybody protest. Ralph Barbaro suggested they delay the application until December and have him get another sign. Beverly Griebel stated the application would have to be tabled until December 17th at 7:30.

Mr. Cavuoto stated that is when he thought they were going to schedule it for and then he got a letter in the mail indicating the meeting was tonight. Mr. Cavuoto asked if they could just make approval permanent. He stated he has a brother that does the same thing in Gates and he has a permanent license. Beverly Griebel stated that is not the way it is done in Chili. She stated it has to be renewed in order to continue to do it. She stated he will get a notice in the mail that this will be tabled and the notice will also contain a statement indicating he will need to obtain new signs at the Building Department to post them. She stated they have to be posted ten days before the meeting. Beverly Griebel stated the meeting will be December 17th, so the posting date will be December 7th.

Mr. Cavuoto asked if he should put the sign back on the tree where he had it before. Larry Smith told Mr. Cavuoto when he comes in to get a sign, they will give him instructions on where to put it. He stated he will have to put it where those instructions indicate, and it will have to be maintained there for ten days before the meeting. He stated if the wind blows it down, the applicant has to come in to get another one.

Beverly Griebel stated if it falls over, it has to be tacked up again. Mr. Cavuoto stated he wasn't able to go out. He stated he was just getting out of the hospital. Beverly Griebel stated it will be tabled. Gerry Hendrickson made a motion to table Application Number 3 and Application 11 until the December 17th meeting at 7:30. John Castellani seconded the motion. The Board was all in favor of the motion.

1. Application of Providence Housing/Rochesters Cornerstone Group, owner, 1150 Buffalo Road, Rochester, New York 14624 for variance to erect 8 three-bedroom townhouse units (4.8 units allowed) with no efficiency units (4.8 units required) at property located at 138

Attridge Road in RM zone.

Maggie Bringewatt was present to represent the application. Beverly Griebel stated this was tabled from last month for an update on the site plan and the question of the small sized one-bedroom units. Ms. Bringewatt stated she is the Executive Director of Providence Housing. She stated she was present to renew their request for a variance to allow eight three-bedroom townhouse units and to construct no efficiency units. She stated the Town Code allows only a maximum of 4.8 three-bedrooms and requires the construction of 4.8 efficiencies.

Ms. Bringewatt stated they have clarified in subsequent correspondence to the Zoning Board Chairperson, dated November 9th, that the one-bedroom units planned for the project are indeed 737 square feet which surpasses the minimum Town requirement of 700 square feet. She stated she did have the floor plans present if the Board wanted to check the square footage tonight.

Ms. Bringewatt stated Union Meadows is a 48 unit rental project that is part of the larger Union Square plan. She stated there were some questions at their prior meeting about the overall location of their project within Union Square. She showed the Board a larger map that was also forwarded to the Board. Ms. Bringewatt stated the map shows Union Meadows. Ms. Bringewatt stated they also had for the Board's edification an indication of the site plan for Union Meadows which was approved.

Ms. Bringewatt stated the Planning Board did give them final site plan approval at their meeting November 12th. Ms. Bringewatt showed the audience the approved site plan. Ms. Bringewatt stated their request for the variances dealing with the three-bedrooms and the efficiency units, they feel are necessary to create apartments which meet the needs of the community. She stated there is virtually no one building efficiency apartments, independent apartments for seniors any longer. She stated seniors want the same kind of living space with separate living quarters, kitchen, bath as anyone else. She stated in those few projects where those apartments exist, efficiencies are usually the last to rent and indeed some projects located in the city, there is virtually no waiting lists for the efficiency units and many are being retrofitted to one-bedroom units.

Ms. Bringewatt stated what they are proposing provides a much nicer living space than an efficiency. She stated all of their apartments are handicapped adaptable on a single story so they will be comfortable space for seniors.

Ms. Bringewatt stated their request to build the eight three-bedrooms reflect the reading of the market. She stated often folks have different sex kids and the children may require different bedrooms. She stated their market studies have shown that there are very few vacancies, and in some cases, a year and a half to three-year waiting lists for apartments similar to theirs. She stated there are virtually no three-bedroom vacancies in apartments of a project similar to theirs. She stated county wide the overall vacancy rate for projects for working families is less than 4 percent. She stated it is around 3.7, which indicates a tight rental market. She stated they feel the need is there for these types of units.

Ms. Bringewatt stated overall, part of the real genesis for doing the project is the problem that suburban rents have increased faster than people's incomes have, and their project is an attempt to provide an affordable rental arrangement to families in the community. She stated their request is basically based on their careful assessment and knowledge of the market.

Ralph Barbaro stated the only question that was left standing at the last meeting was the question on the size of the one-bedroom apartments. He stated he thought they had discussed quite fully the preference of the three-bedroom units over having efficiency units. He stated he just wanted to say he can attest to that, because recently they searched high and low for a three-bedroom apartment for his daughter and her two children in the Town of Chili and there just were not any three-bedroom apartments in the Town. Ralph Barbaro stated they ended up having to get a larger two-bedroom apartment and subdivide one bedroom so her son and daughter could have some privacy. He stated there is nothing available in the Town as far as three-bedroom apartments. He stated eight units are not going to go very far. He stated it is too bad there aren't

more planned.

John Castellani asked which complexes will be the senior citizen units. Ms. Bringewatt indicated on the drawing where they will be in relation to the community building. John Castellani asked in the senior building, how many two-bedroom units would there be. Ms. Bringewatt stated there would be two buildings, each with six one-bedroom apartments with attached garages.

ANYONE IN FAVOR OR OPPOSED:

Beverly Neder - 82 Attridge Road

Ms. Neder stated she was present tonight to represent not only herself, but the rest of the neighbors on Attridge Road. She stated they are requesting that no variance be issued to Providence Housing and Rochesters Cornerstone Group for the property located at 138 Attridge Road.

Ms. Neder stated Providence Housing and Rochester Cornerstone Groups' desire to build eight three-bedroom units and no efficiency units will add to the overburdened local property and school tax. She stated Providence Housing is a non-profit agency and will not be paying full property and school taxes.

Ms. Neder stated at the August 13th, 1996 Planning Board meeting, Providence Housing estimated there would be 40 to 50 children in this development. She stated the cost to educate a child in the local school district is \$3,202 per student. She stated it will cost \$160,100 in local tax dollars to educate the children from this development. She stated the proposed 48 units will cost approximately \$4.6 million.

Ms. Neder stated at current school tax rates of \$19.06 per thousand dollars, the development would generate \$87,680 in school taxes. She stated at full tax rate, this would still mean a loss to the local school district of \$72,320 per year. She stated, however, since Providence Housing Corporation will only be making a total payment in lieu of taxes, it will cost the taxpayers of Chili considerably more to make up the difference.

Ms. Neder stated they already have over \$25 million of tax exempt property within a one mile radius of this site. She stated residents of this Town have already been more than generous in subsidizing taxes for tax exempt and non-profit organizations. She stated they are requesting a denial of a variance for the additional three-bedroom units and request that 10 percent of the units be efficiency units as required under local zoning code 115.13, Item D, Section 7.

Ms. Neder stated they conducted a market survey and found that there is a need for efficiency units. She stated she just called one apartment complex in their local area. She stated they have 49 efficiency units. She stated they are fully rented and they usually have a waiting list when they become available. She stated she questions their market analysis. Ms. Neder indicated the apartment complex she called was Meadowbrook. She stated the need may be there for the three-bedroom units, but can the local residents and the taxpayers afford it.

Beverly Griebel presented the Board with a petition from the North Chili Neighbors' Action Committee, residents of Attridge Road and the Union Street neighborhood, requesting that no variance be issued. Beverly Griebel stated the petition contained what looked like 32 signatures. She stated that will go on the permanent file in the Building Department.

Dorothy Borgus - 31 Stuart Road

She stated she, too, had occasion to check with one of the nearby apartment complexes. She stated the complex had 49 efficiency apartments which are quote, "hot items." She stated the apartment complex indicated they have a waiting list at times, most of the time. She stated she was told they can't get them cleaned up and painted and rented fast enough to suit the public.

Ms. Borgus stated she could not address the three-bedroom apartments. She stated she thought it is a very, very serious mistake when they don't make them put in some efficiency apartments. She stated that is the Town's zoning law. She stated until it is fixed, it is still their law. She stated

there was a reason it was put in place and she stated she does not see a reason for the variance.

Ms. Borgus stated she did not know where the market studies are coming from that Ms. Bringewatt talks about, but she wonders if the Board has seen them, what the basis is, how old they are and whether they are even local. She asked were these studies done in New York State. She stated she seriously doubts the credibility when right across the street they have a totally different situation.

Ms. Borgus stated in coming down and going through the file, on this project, about a month ago, she did notice a letter in there from the Monroe County Department for the Aging, which goes under a different name now, but is headed up by Lori Anderson. Ms. Borgus stated in the file she did notice a letter from Lori Anderson and she mentioned that she was in favor of housing for the elderly in Chili, but she also mentioned that these apartments should be handicapped accessible.

Ms. Borgus stated she has heard Ms. Bringewatt say these are going to be handicapped ready. She stated that is not the same thing as handicapped accessible. She stated she was wondering how wide the door ways are going to be in these apartments because handicapped ready, she would hope that the doorways are of sufficient width that when and if the handicapped status was addressed, that they wouldn't be having another hardship situation where the doorways were not wide enough. She stated she thought they should get an answer as to how wide the doorways are as planned.

Ms. Borgus stated the statement was made that originally it was 30 children in these 48 apartments. She stated now they're talking 40 to 50. She stated originally there was a play area designated which was right behind the senior citizen area for the senior citizen apartments. She stated she is wondering now if they could hear from the applicant as to where these 40 to 50 children are going to play. She stated she has not heard any mention about any playground space.

Ms. Bringewatt stated the discussions about play space and the concerns of the Planning Board they felt were adequately addressed in their revised site plan. She stated they have moved the elderly buildings. She stated they have provided additional space and actually expanded the size of the project area, approximately another .6 acres to provide sufficient space behind some of the family units, and they think that will address the issue. She stated there is also additional space behind the community building.

Ms. Bringewatt stated in terms of building efficiency units for senior citizens, there are probably five or six projects under development right now by all of the major providers of elderly services in the community: St. Ann's Home, St. John's, The Friendly Home, The Jewish Home, et cetera. She stated there are numerous market studies that have been done in conjunction with all of those. She stated the demand and the need for efficiency units for elderly citizens is not shown to be the case in independent housing. She stated the only time that people are building new additional units is where there is a lot of support services provided, and generally they're supervised facilities. She stated in her own mind she doesn't feel that it is equitable in their situation to be building new affordable units for seniors and building inefficient units. She stated she is getting close to the stage where she would be eligible and she would not want to live in one. She stated she does not see the need to necessitate a senior living in one, especially when they have the funding to build one-bedroom apartments.

Ms. Bringewatt stated in terms of the PILOT agreement, those discussions are under way with the Town Board right now and she cannot comment on those any more.

Ms. Bringewatt stated she could say all of their units are handicapped adaptable. She stated each of the corridors are wide enough. She stated the doorways are wide enough and have sufficient turning radii in the bathrooms. She stated the architect that has designed these has designed literally probably 1,500 to 2,000 units of elderly housing and is fully aware of all of the code requirements. She stated they also have four handicapped adaptable units, specifically adaptable units, which will be available and they feel that they're more than meeting the need for handicapped adaptability and accessibility.

John Castellani stated his parents live in senior citizen housing over in College Greene. He asked what handicapped adaptable means. Larry Smith stated the doors have to be easily replaced with wider doors. He stated there has to be backers for grab rails. He stated they don't have to have grab rails, but they have to have backers for them behind the drywall.

John Castellani asked, so in other words, it doesn't mean they're going in necessarily right at the beginning, but if there is a need, it would be easy to accommodate the need. Larry Smith stated they have to be able to adapt them. John Castellani asked if a need is demonstrated, is that what they're talking about, making them adaptable. Beverly Griebel asked if the management would adapt them at that particular point. Ms. Bringewatt stated that is right. John Castellani asked if that would be at their own cost. Ms. Bringewatt stated that's right.

Ralph Barbaro asked if the doors are wide enough to begin with. Ms. Bringewatt stated she believes so. Ralph Barbaro stated according to the drawing that was provided for them of the handicapped adaptable unit, it shows a handicapped radius. Ralph Barbaro stated it shows the circle, the handicapped bath and it shows the circle between all of the components. Ms. Bringewatt stated that means the bathroom has been designed sufficient to accommodate a wheelchair turning radius. Ralph Barbaro stated it appears from the sketch anyway, that everything is there that is required.

Ms. Bringewatt stated she is not an expert on handicapped adaptability and accessibility. She stated it is a semantics issue in some cases, but if the Board was interested in more definition on that, she would be glad to obtain that from their architects.

Ralph Barbaro stated according to the scale, all doors are 3 foot doors. Ms. Borgus stated that is not wide enough. Ms. Bringewatt stated she would be glad to provide the Board with more information on adaptability.

Beverly Griebel asked if the efficiency units, the information refers to the whole Rochester area. Ms. Bringewatt stated it does. Beverly Griebel asked if that involves the Monroe County area. Ms. Bringewatt stated in the specific elderly market. She stated there may be elderly who are living in these other units who cannot afford any more. She stated there may be some doing it by choice, but in their opinion, to build new units for the elderly and to make them efficiencies is not an equitable situation.

Ralph Barbaro asked if they were forced by the zoning organization, if they did not get relief from that part of the zoning and they had to put in 4.8 efficiency units, 5 efficiency units, would they be put in at the expense of one-bedroom apartments then. Ms. Bringewatt stated that was correct.

Beverly Griebel stated they're also asking for a variance for additional three-bedrooms. Ralph Barbaro stated he didn't hear anybody talk against the need for the three-bedroom. He stated they would have essentially five less one-bedroom apartments in order to have five efficiencies. Ms. Bringewatt stated that may vary somewhat. She stated it may depend on how the architect can put the efficiencies together with the one-bedrooms and how it would affect the total floor plans.

Ralph Barbaro asked if they had any projections on the what the rental is for the various apartments. Ms. Bringewatt stated they do. Ralph Barbaro asked what would the difference be between an efficiency and a one bedroom. Ms. Bringewatt stated they have not run a rent for an efficiency. She stated that has never been a part of their design from the very beginning, so she really couldn't tell. Ralph Barbaro asked what is the rent for a one-bedroom. Ms. Bringewatt stated it varies upon the tenant's income. She stated the lower income scale, it is \$315 a month, and at the little bit higher income, it is \$350 a month plus utilities.

Ralph Barbaro asked at that income level is that based upon the square footage or the size of the apartment. Ms. Bringewatt stated it is based on the income of persons in a one-bedroom. She stated as an example, a person with an income less than \$15,950 a year, it is \$315 plus utilities. She stated a person earning around \$17,000 or \$18,000 a year would pay \$350 a month plus utilities.

Ralph Barbaro asked is there a significant rental difference between the cost of a one-bedroom apartment and what they might project the cost of an efficiency to be if the efficiencies were to be included in the plan. Ms. Bringewatt stated an efficiency is going to draw less rent and it will have to draw significantly less rent because their belief is it is going to be harder to market, so it will have to be more competitive, but it would be less than the numbers she just quoted. Ms. Bringewatt stated she would hesitate to put a figure on it at this point since she has not looked at it.

Dan Melville asked is this entire project subsidized. Ms. Bringewatt stated the entire project is funded by four or five different sources, the New York State Housing Trust Fund; the Monroe County Home, which are federal dollars; something called low-income housing tax credits which provide equity to the project and a permanent mortgage on the project. She stated the funding sources, the State and the County require that the project be rented to folks at certain income levels.

Dan Melville asked if they have to qualify. Ms. Bringewatt stated that's correct. Dan Melville asked if this project pays property taxes. Ms. Bringewatt stated they're asking for what is called a payment in lieu of taxes based on a percentage of shelter rent. She stated, in other words, based on the total rent roll, they're requesting that they make a payment as a percent of that back to the local taxing jurisdictions.

Ralph Barbaro stated he just read in the newspaper where a figure had been agreed upon with the Town. Ms. Bringewatt stated they have proposed a figure to the Town, and it is really up to the Town Board now. Dan Melville asked what percentage of that are they actually paying in taxes on these units. Ms. Bringewatt stated it is hard to say. She stated they looked at comparisons of other rental projects that exist in the Town, but they're older projects, and their assessment may not be as current as their assessment, but looking at those some cases, the one or two they looked at, they would be paying 70 to 80 percent of what they are paying. She stated they looked at comparables of existing projects.

John Castellani stated those numbers are being handled through the Town Board. Ms. Bringewatt stated that is through the Town Board. She stated it is really up to them to negotiate that. She stated providing a PILOT is a requisite to develop these type of projects. She stated the Town of Henrietta has done this several times to develop projects similar to what they're proposing. She stated other suburban towns have done it. She stated College Greene has some kind of tax abatement in order to be able to rent at the rent levels that they have set. John Castellani stated they have subsidized apartments there, but not all of them.

Larry Smith stated the State definition of handicapped adaptability indicates a structure must be capable of certain building spaces and elements such as kitchen counters, sinks and grab bars to be altered or added to so as to accommodate the needs of persons with or without disabilities, or to accommodate the needs of persons with different degrees of disability. Larry Smith stated it is the height of counter, grab bars, et cetera, nothing very complicated.

John Castellani stated he just did not understand the term. He stated his experience in seeing apartments for senior citizens has been College Greene where they have railings in there. Larry Smith stated at College Greene, all apartments are adaptable. John Castellani stated they're all accessible. Larry Smith stated they're all adaptable. He stated one cannot see the things that are in that building that makes them adaptable. John Castellani stated that is right, but they have already done the work up front. Larry Smith stated they have to do it by State Building Code.

Dorothy Borgus

Ms. Borgus stated having spent about 30 years working for hospitals, she could tell everyone right up front that the big thing about going from handicapped adaptable to handicapped accessible, the big item, the big expensive item is the width of the doors. She stated the doors are a major problem down the line when one starts to try to make a door 6, 8 inches wider to accommodate a wheelchair. Larry Smith stated they have to be wide enough, 32 inches. Ms. Borgus stated a 32-inch door won't accommodate a wheelchair. Larry Smith stated that is what the State Code requires.

Dan Melville stated he thought they were putting 36-inch doors in. Ms. Borgus stated she doesn't believe it is 32. John Castellani stated all the doors at College Greene are running 40 or 42. Ms. Borgus stated 40 inches is the minimum. She stated in the hospital they had to have 40-inch doors. Ralph Barbaro stated they're putting beds through those doors, though. Ms. Borgus stated that was not just on rooms that have doors that beds would go through; that was for shower rooms, for x-ray rooms, for therapy rooms.

Beverly Griebel stated Larry Smith said earlier there has to be the adaptability for them to remove the door jambs easily and put up new door jambs. She stated it was indicated on the floor plan that it is a handicapped bathroom. Keith O'Toole stated he thought they're getting a little off point here.

Ms. Borgus stated they were talking about studies for efficiency apartments and the next thing she knows they're talking about seniors not wanting efficiency apartments. She asked where did they come up with the idea that seniors will be the ones that are in the efficiencies. John Castellani stated that is where the major one-bedrooms are that would go away if they had to have the efficiencies. John Castellani stated the one-bedrooms are in the senior citizen building. Ms. Borgus stated she was under the impression they were scattered around.

Beverly Griebel stated this was submitted to the Monroe County Planning Department and came back as a local matter.

Ralph Barbaro stated regarding the efficiencies, he happens to have a father-in-law who is 95 years old that lives in a senior housing project on the hill in Brockport. He stated those are all one-bedroom apartments, and being there today, he was just trying to visualize what it would be like if he did not have a separate bedroom and had an efficiency. He stated he happens to have a couch that can be made into a bed, and that is what he would envision in an efficiency apartment, would be dual purpose furniture like that that he could pull out. Ralph Barbaro commented the elderly may not be able to operate dual purpose furniture themselves, though. He stated there are other alternatives for having an efficiency apartment. He stated one could have a bed in the corner, but then it is not the same as having a separate bedroom with a dresser and a place for the person's clothes where they are not going to be entertaining people. Ralph Barbaro stated if the difference in cost is \$25 to \$30 or \$40 a month, he thought people would far better off to have one-bedroom apartments than efficiencies. He stated he did not think it makes a lot of sense for them to say they have to have efficiencies for these folks when really that is not what they want. He stated this is their last stop before a nursing home where they crowd two people into a room the size of most people's bedroom closets. He stated he thought that they could offer them more than that in this Town.

Bill Oliver made a motion to table the application until the 12/17/96 meeting, and no one seconded the motion. The motion died for lack of a second.

DECISION: Denied without prejudice by a vote of 3 yes to 3 no (Dan Melville, Bill Oliver, Gerry Hendrickson) with the following findings of fact having been cited:

1. Applicant failed to provide sufficient quality of proof relative to market analysis concerning marketability of efficiency apartments. Without that information, the Board is unable to determine whether the benefits sought by the applicant could be achieved by some method feasible for the applicant to pursue other than an area variance.
2. By proposing to eliminate all efficiency apartments required by the Code, the applicant's proposed relief is quite substantial.

Beverly Griebel stated Application Number 3 and Application Number 11 were tabled until December 17th.

- 2. Application of Kevin Klein, owner; 718 Paul Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for an upholstery and carpet cleaning business at property located at 718 Paul Road in R-1-15 zone.

Kevin Klein was present to represent the application. Mr. Klein stated he would like to renew his permit. He stated he would like to do it for five years again if he could.

Beverly Griebel asked how has business been. Mr. Klein stated it has been very good. Beverly Griebel asked the applicant if he has two people employed and do they work in the applicant's home. Mr. Klein stated no, it is a service. He stated they go to the customer's home to do the work. He stated they just start out from there. He stated they pick up the truck, the equipment and go to do the work at the customer's home. Beverly Griebel asked if they park their cars at the applicant's place. Mr. Klein stated yes, they do.

Beverly Griebel stated she did not remember what the width of the driveway is. Mr. Klein stated it is big. Beverly Griebel asked do they park on the driveway or on the street. Mr. Klein stated they park in the driveway. He stated they're both part-time employees. He stated it is not like there cars are there all day. He stated it might be four hours one day and two hours another day.

Dan Melville asked have there been any complaints from the neighbors. Larry Smith stated there have been no complaints. Dan Melville asked the applicant if he has had any problem meeting the conditions from last time. Mr. Klein stated not at all.

Ralph Barbaro stated when the applicant first applied for this, he was pretty much the sole operator of the cleaning business. Mr. Klein stated that's correct. Ralph Barbaro stated and he had a vehicle that was also partly used as a family vehicle. Mr. Klein stated at that time, no. He stated he had his wife's vehicle which was used for the family, and he had a Blazer that he had converted to hold all of the equipment. He stated it couldn't be used as a family vehicle. Ralph Barbaro stated but they used it for their transportation. Mr. Klein stated rarely.

Ralph Barbaro asked now they have what kind of a vehicle. Mr. Klein stated it is a 1992 Astro van. Ralph Barbaro stated they have two outside employees, so it looks like the business has grown a little bit. Mr. Klein stated it has grown a little bit. He stated it has not been quite as fast as he wished, but he has patience.

Ralph Barbaro asked the applicant if he envisions at some point in time, since the business has gone beyond or is in the process of going beyond what the original scope was when he had a home office approved, that it might be time to consider commercial property. Mr. Klein stated not really, because the only thing that has to be at the starting point is the vehicle, and that doesn't even have to be there really. He stated it really is just a place to collect phone calls, take care of the invoices and give directions, route the drivers. He stated he could run four or five trucks out of the same place, the same amount of space.

Ralph Barbaro stated there have been other applications that came before this Board where there were one or more service vehicles and one or more employees who came and parked their vehicles there to then depart in the service vehicles that were parked there, and they were turned down because those were commercial activities, having employee parking and parking for multiple service vehicles. He stated those were commercial activities that were not part and parcel of a residential neighborhood. He stated they were not desirable in a residential neighborhood. He stated it seemed to him they are growing into that. Mr. Klein stated his plans are not to go to that size. Mr. Klein stated his plans are to stay a small business.

Ralph Barbaro stated he thought the applicant just said he hasn't grown as fast as he hoped. Mr. Klein stated over the seven years that he has been in business, the growth to get to this point may not have been as quick as he would have liked three years ago, but he is still at the same point.

Beverly Griebel asked if the two part-time people come to his house on the same night or on alternate nights. Mr. Klein stated the same day usually. He stated the schedule fluctuates. Beverly Griebel asked if they leave their cars and each take a van, so that there are three vans. Mr.

Klein stated he has one van and usually two people go out in the same van.

Beverly Griebel stated this is something that they have been looking at very closely, because that tends to change the character of the neighborhood when employees are parking there and leaving to go to another site. Beverly Griebel stated the home office is for home office, for phone calls and file cabinets with some paperwork and that sort of thing. Beverly Griebel stated they have required other people to park their vehicles somewhere else if it is a commercial vehicle, to park it somewhere else and have other workers meet at the job site. She stated the Board would deliberate on it, but that definitely is a concern, that the applicant's driveway becomes a parking lot for his employees to go off somewhere and do a business.

Beverly Griebel asked in relation to the prior condition that was placed on the application before she was a member of the Board, the Fire Marshall approval and inspection on a yearly basis, she asked is there material there that is subject to fire inspection. Mr. Klein stated he has solvents, about a gallon of each, two different types. He stated all of the Material Safety Data Sheets have been submitted to the Town. He stated the Fire Marshall has come and inspected it every year. He stated as far as he knows, there have been no problems with this business being run out this house. He stated the only problem they have is getting out onto Paul Road sometimes.

Beverly Griebel asked the applicant where does he store those materials. Mr. Klein stated they're stored in a separate room in his basement. Beverly Griebel asked the applicant if he has about a gallon of each of two different types. Mr. Klein stated that's correct. He stated one is a dry cleaning solvent for upholstery and one is a solvent for removing petroleum based stains from carpets.

ANYONE IN FAVOR OR OPPOSED:

George Merz - 7 Duncan Drive

He stated he was in favor of the application. He stated he owned a small business at one time, too, and it is very difficult to make ends meet. He stated he doesn't know the applicant personally.

Mr. Merz asked what is the difference if the applicant has two employees that come to meet maybe two, three times a week, two to four hours a days; whereas, three or four people work at the same place, all meet at one house, park their cars there and car pool.

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. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. Subject to Fire Marshal inspection on a yearly basis.
6. No retail business or customers allowed on property to conduct business.
7. For phone business and storage only.

The following findings of fact were cited:

1. Customary home usage.

2. Not detrimental to neighboring properties.
 3. No complaints from neighboring property owners.
 4. Meets conditional use requirements.
3. Application of Paul Valla, owner; 2744 Chili Avenue, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a heating and plumbing business at property located at 2744 Chili Avenue in R-1-12 zone.

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

1. Applicant failed to post required signs.

Note: Applicant to obtain new signs at the Building Department and post as per Town regulations.

4. Application of Frank Pignatelli, owner; 2816 Chili Avenue, Rochester, New York 14624 for renewal of conditional use permit to allow a chiropractic office in home at property located at 2816 Chili Avenue in R-1-12 zone.

George Springett was present to represent the application. He stated he lives next door at 2820 Chili Avenue. Mr. Springett stated Mr. Pignatelli has had an operation, has been laid up and has asked Mr. Springett if he could represent him this evening. Keith O'Toole stated there is no problem with having someone stand in on the applicant's behalf. He stated one of the things the Board can do is ask him to provide proof of authority as a condition of the approval such as a letter signed by the doctor to the Building Department saying that he was authorized to be here. Beverly Griebel asked what would they do if the Board had any questions that Mr. Springett could not answer. Keith O'Toole stated the Board could table it or adjourn it in some fashion.

Beverly Griebel asked Mr. Springett if he had a letter from the applicant. Mr. Springett stated he did not. Mr. Springett stated he spoke with the applicant this evening, because he was not feeling that well, and he asked if he would be a kind neighbor and come up to talk to the Board. He stated they did converse on the phone for about 15 minutes this evening, so he does have some data that he could provide.

Beverly Griebel stated she had some questions on the application. She stated she would prefer that the applicant be here to answer her questions. John Castellani stated without proof of authorization they would wind up tabling it anyway. Beverly Griebel asked if they table this until December 17th, would that be a better time for the applicant to come in. Mr. Springett stated he believed it would, because of his condition. John Castellani stated or the applicant could send Mr. Springett back in with a letter.

Mr. Springett stated he is the applicant's next door neighbor, closest neighbor. He stated for the record, he finds the applicant as a very good, prudent chiropractor, good businessman and an excellent neighbor.

Dan Melville made a motion to table the application. Bill Oliver seconded the application. The Board was all in favor of the motion.

Mr. Springett expressed the applicant's sympathy for not being here this evening. Beverly Griebel stated they'll just look for it next month. Ralph Barbaro told Mr. Springett the applicant would need to get a new sign for him to post.

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

1. Neither applicant nor qualified representative was in attendance at the above meeting.

Note: Applicant to obtain new signs at the Building Department and post as per Town regulations.

5. Application of Universal Joint Sales, c/o William Forster Corp., 1050 Plastermill Road, Victor, New York 14564 for variance to erect a second wall sign to be 15 1/2' x 2 1/2' at property located at 1437 Scottsville Road in G.I. zone.

Nelson Barones was present to represent the application for Universal Joint Sales. He asked before the start, is the size figured out taking the width of the awning, or is it figured on a square around the actual signage. Larry Smith stated the Town uses a rectangle around the furthest extremities.

Mr. Nelson stated the awning is 15'6". He stated the sign is 10 foot wide by 2'9" tall. He stated there is a total of 27 1/2 square feet versus whatever it was there. Beverly Griebel stated the notice went out as 15 1/2 by 2 1/2. Mr. Nelson stated 15 1/2 is the width of the whole canopy. He stated the sign is not that wide. He stated it is 10 foot wide. He stated it is actually 2'9" overall tall.

Beverly Griebel asked do they have to amend the application. Mr. Nelson stated it is 3 square feet less. Keith O'Toole stated an applicant can always ask for less. He stated if the applicant prefers to amend it, he can certainly do that.

Mr. Nelson stated the canopy is up, all set. He stated they needed it because they have an automatic door that opens automatically and the wind was just terrible coming in and blowing everything around, so he put the awning up for them. He stated and 9.9 out of 10 awnings usually have a sign on them. He stated a sign would just fit perfectly. He stated they're stick-on vinyl letters.

Mr. Nelson stated the whole canopy itself looks attractive with the sign on it. He stated it would be lit. Beverly Griebel asked if the awning is lit with a spotlight. Mr. Nelson stated there are fixtures inside. Mr. Nelson stated it will have side curtains going up next week, also. He stated they're removable, but are there just for the protection, the extra protection in the winter.

Beverly Griebel stated that is a nice addition to the neighborhood considering what is across the street. Dan Melville asked did the canopy seem to do what they wanted it to do. Mr. Nelson stated the side curtains are not up yet, but it has cut down on the down type wind. He stated they will delete a lot of snow coming in.

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. Applicant described need to shield entrance from wind and weather.
2. An attractive addition with advertising sign to additionally identify business.

Note: A sign permit is required.

6. Application of Gary Steves, owner; c/o Arnold Carmichael, P.E., 551 Lexington Avenue, Rochester, New York 14613 for variance to allow existing garage to be 36 1/2' from front lot line (40' req.) at property located at 56 Lester Street in RAO-20 & FPO zone.

Arnold Carmichael was present to represent the application. Beverly Griebel stated this was at

the Chili Planning Board and it was approved subject to this variance request.

Mr. Carmichael stated what they're proposing to do is to knock down the single-family house that now exists and is attached to this frame garage, but what they would like to do is keep the frame garage in place and put the new house properly so the setback is correct. He stated they're asking for an area variance of 3 1/2 feet on the one corner because the garage was not installed parallel to the road, but skewed on the north side. Mr. Carmichael stated in this particular case, this is the only building on the east side of Lester Street. He stated there is none on either side, so they're not blocking any view.

Beverly Griebel asked was this reconstructed already. She asked was there another garage there. Mr. Carmichael stated this garage was built sometime ago, and probably it was built without a stakeout of the setbacks. He stated the houses on the other side, one is brand new, and then the another one is fairly new. Mr. Carmichael stated the lot immediately to the north is Lot 31. He stated it faces Names Road, so it does not face this street. He stated there is no more occupancy to the south of this lot, so this is the only lot on the east side.

Beverly Griebel asked when the discrepancy came about. Mr. Carmichael stated it came about when they did the instrument location. Beverly Griebel stated they found out that there was a little bit of overhang and rather than slice that off, they are asking for the variance. Mr. Carmichael stated that's correct.

John Castellani stated this is just the one corner. He stated the other corner more than conforms. Mr. Carmichael stated that's 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 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. Minimum variance.
- 2. Pre-existing lot condition.
- 7. Application of Michael Dey, owner; 2681 Chili Avenue, Rochester, New York 14624 for conditional use permit to allow an office in home for a home repairs business at property located at 2681 Chili Avenue in R-1-15 zone.

Michael Dey was present to represent the application. Mr. Dey stated he was sorry he missed the last two meetings. He stated he would like to have an office area out of his residence also. He stated it will be a small home repair business with carpet cleaning. Mr. Dey stated on occasion he had a couple carpets that he needed to clean out onto the lawn area where he put a large drape onto the lawn area, but that was a very rare occasion. He stated that is the only time he has worked outside other than cutting some oversized wood, doing some special cuts with the table saw or radial saw. He stated other than that, for any inconvenience to the neighborhood, he doesn't believe there would be any unsightly garbage or trash. He stated it is a 2 1/2 car garage. He stated he keeps everything inside, whatever equipment, down to the bear minimum.

Mr. Dey stated there is a hair salon next door. He stated a lot of people from the Town and neighborhood are aware of that, too.

Beverly Griebel asked the applicant, the work that he does, is it at his place or does he go somewhere else to do it. Mr. Dey stated he goes somewhere else, but on occasion, because he has a small pickup, like a small S-10 Ford,, he doesn't have the ability to carry large sizes of wood, so there are some occasions he has to carry plywood on top from the plywood store back

to be cut it at the residence so he can transport it somewhere. He stated on occasion that may be a possibility. He stated that is about the only time that he can foresee something oversized. He stated he does have racks on top of the truck. He stated the wood could be on the vehicle for a day or two tied down before he delivers it, but nothing that will be laying around the outside of the exterior of the home.

Dan Melville asked the applicant if he wants to operate a home repair business, having an office in the home. Mr. Dey stated that is correct. He stated he has a large living room area. Dan Melville asked the applicant if he would actually conduct business in the house as far as the actual work, rather than just cutting some wood. Mr. Dey stated he has a couple carpet cleaning machines that he keeps inside, too, but they're small machines.

Dan Melville asked the applicant if he was running any other business out of that location other than that. Mr. Dey stated he is not. Dan Melville stated he has seen a somewhat permanent garage sale there. Mr. Dey stated he has had about 12 of them. Dan Melville stated he thought residents are only allowed three a year. Larry Smith stated they are only allowed three a year by law.

Mr. Dey stated his garage sales are kind of an excuse to take a day off. He stated he is a nurse full-time and on call. He stated when he got that house, there was quite a mess there. He stated he had a pile outside 40 foot long probably 6 foot high of just remnants, not to mention the daily accumulation he had to take out.

Ralph Barbaro asked is that the stuff that is being sold. Mr. Dey stated that was mostly all of it. He stated he had some things in storage that he had to eliminate. Mr. Dey stated they're just about gone. Dan Melville asked the applicant if he has been buying stuff and bringing it there and selling it. Mr. Dey stated he does have a couple items he picked up that he didn't need that went back out, but other than that, no. Ralph Barbaro asked the applicant if he envisions having to do that any longer. Mr. Dey stated he does not. He stated it is too much work, but it was a nice excuse to have a few days off.

Ralph Barbaro asked the applicant if his pickup truck is his sole transportation. Mr. Dey stated he also has a Geo Tracker. Ralph Barbaro stated the applicant mentioned having to bring wood back for special cutting. He asked where does that take place. Mr. Dey stated he has the garage, and he uses a couple saw horses. Ralph Barbaro asked what kind of cutting equipment is used. Mr. Dey stated a radial saw, a hand saw. He stated he does not have any no permanent table saws or anything like that. Ralph Barbaro asked the applicant if he has a radial arm saw or large table saw. Mr. Dey stated he does not.

Ralph Barbaro asked the applicant why he can't take that saw to the work site. Mr. Dey stated when he pick ups plywood, he has to cut it ahead of time. He stated it is for convenience. Ralph Barbaro asked the applicant would it be a problem if the Board stipulated that he took that equipment to the work site and not did power saw cutting in this residential neighborhood.

Mr. Dey stated when he picks up plywood, it is cumbersome. He stated he has a small truck. He stated it is convenient to put it on top, and after one or two cuts, it is more convenient to put it in the back of the vehicle.

Ralph Barbaro asked the applicant does he store any materials in his garage. Mr. Dey stated he has ladders, some carpet cleaning equipment and some 2 x 4s occasionally. Ralph Barbaro asked the applicant does he park his car there. Mr. Dey stated he has the truck in the middle. He stated he has the other vehicle outside. He stated he could put both of them in.

Ralph Barbaro asked the applicant does he have any helpers that work with him. Mr. Dey stated he does not. Ralph Barbaro asked the applicant is this his full-time job. Mr. Dey stated he is a nurse for Community Care of Rochester, also for Interim Health Care and he does private home duty pediatric care and hospice care.

Bill Oliver stated the application indicates there may be an occasional sign posted for home repair specials. He asked the applicant if he could elaborate on that. Mr. Dey stated he would like a sign the size of realtor signs. Mr. Dey stated he has a sign for a carpet cleaning special with a phone number, and another one for a gutter cleaning special. Bill Oliver asked if the sign is removable. Mr. Dey stated it is. Mr. Dey stated it is an upright, squarish sign with two posts, two metal rods. Bill Oliver asked how long would the sign be left in the ground for. Mr. Dey stated up to a week at a time, two weeks.

Bill Oliver asked the applicant if he has talked to his neighbors about how often he uses his cutting tools in the yard. He asked has anybody been over to him asking him to cut out the noise. Mr. Dey stated he got that for his dog once, but nothing about the saw. Larry Smith stated the Town has had some complaints on noise, signs, the garage sales and working outside. Mr. Dey asked if that was from the hair salon next door. Larry Smith stated he could not say who made the complaints. Mr. Dey stated there hasn't been that much outdoor cutting. He stated he recalls only three occasions. He stated he remodeled the kitchen at the residence and did the work himself.

John Castellani stated there is a high probability with a granting of approval this evening, he would get a lot of visits from the Town. Mr. Dey stated that is fine; he is open any time. John Castellani stated there will probably be a restriction on the signs, that there be no signs. He stated this is a residential neighborhood. He stated the complaints could potentially lead to the loss of his business license. John Castellani stated what he was trying to get at is, it is time to repair the problems he has had with the neighborhood, the complaints, wherever they're coming from.

Beverly Griebel asked the applicant how long has he been doing this business at the site. Mr. Dey stated he only registered in March, but he really hasn't been doing any work until this summer. He stated he has been doing repairs on the house, and he did remodel the kitchen. He stated he has been working on the deck in the back.

Beverly Griebel asked how many persons will be employed outside the home. Mr. Dey stated he wanted to include that in the application in case he needed someone to come and help him out. John Castellani asked if that extra person would come to the applicant's house. Mr. Dey stated the helper would not come to his home. Mr. Dey stated they would meet him where the repair was, if that came up. He stated it would be an independent subcontractor he would call to have some assistance at the job site.

Beverly Griebel asked if the home office is for telephone use. Mr. Dey stated he has a filing cabinet, too, that sort of thing. Mr. Dey stated he also has a calculator and, a fax machine with the telephone attached. Mr. Dey stated his home is always open for inspection at any time. Beverly Griebel stated generally requests for a home office, which is essentially what is being applied for, it is for a phone and record keeping and that sort of thing. Mr. Dey stated that is what is there, yes.

Dan Melville stated they don't normally allow signage on that, any kind of advertising. Beverly Griebel asked the applicant does he have any chemicals that he stores on site. Mr. Dey stated he has gasoline for the lawn mower. He stated the others are citrus based. He stated everything is citrus or biodegradable, the safest stuff.

ANYONE IN FAVOR OR OPPOSED:

Jerry Brixner - 14 Hartom Road

Mr. Brixner asked where is the location of the proposal. Beverly Griebel stated this is at 2681 Chili Avenue, on the corner of Dauntun.

George Merz

He stated the applicant's backyard is parallel to his side yard, 7 Dauntun Drive. He stated he is not so much against this application. He stated he has nothing against anybody trying to earn some extra money, running a business out of a home, that is fine. He stated he thought the Town code does not allow someone to make noise between 11 p.m. and 7 a.m.

Larry Smith stated the Town does not have a noise ordinance. Mr. Merz stated he has never heard the applicant do anything past 11, 10:30. Mr. Merz stated he was the one that complained about the applicant's dog, and that was on weekends when it was waking him up.

Mr. Merz stated his other concern was just left over materials from jobs and things likes that, will it be left at the side of the road for people to pick up, and how long will it be left there. He stated he doesn't want to see a lot of left over rotted out trusses or something like that from somebody's house along the road. He stated he knows in the spring there is spring clean up and a lot of people throw junk and things out that they're not going to keep and the Town picks it up, but he stated he does not want to see things there on a regular basis. He stated that is the only thing he would oppose.

Mr. Dey asked if the noise complaints were referring to the saw. Larry Smith stated he didn't take the call himself. Mr. Dey stated he was doing a lot of remodeling of the inside. Beverly Griebel asked if that was late at night. Mr. Dey stated he is on call, so a lot of times he has to work night shift or evenings, so when he happens to get an hour or two he does some work. He stated he may not have been conscious because he knew he had to get something done within a timely frame. Mr. Merz stated he has never heard any annoying noise.

Beverly Griebel asked the applicant what does he do with debris, construction debris that he would take from another house. She asked does he leave it at that residence. Mr. Dey stated yes, he does. He stated he does not have the vehicle to take it away. He stated it wouldn't be feasible financially or even worth the risk to be bothered with transporting debris back and forth.

Mr. Dey stated he had a contracting business, Daylight Constructing, for at least ten years. He stated he did a lot with Chili, Gates, Brighton and the City.

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-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to obtain and maintain required State and local licenses.
7. Minimum 4 1/2" house numbers (Arabic) to be installed in a color to contrast with house.
8. No business-related debris to be on premises.

The following finding of fact was cited:

1. Home office is a customary home occupation.
8. Application of Calvary Assembly of God of Chili, owner; 740 Marshall Road, Rochester, New York 14624 for variance to erect a 7 1/2' x 8' double-faced illuminated freestanding sign at property located at 740 Marshall Road in R-1-12 zone.

Beverly Griebel stated this was submitted to Monroe County Planning and came back as a local matter.

Nathan Richardson, Pastor, was present to represent the application. Beverly Griebel stated presently they have a sign on the building. Pastor Richardson stated on the side, that is correct. Beverly Griebel asked if they want to move it so it will be more visible. Pastor Richardson stated that's correct.

Gerry Hendrickson asked if all they are going to do is move it up front. Pastor Richardson stated they're purchasing a freestanding sign. Dan Melville asked are they removing the old sign and putting this sign in its place up by the road more. Pastor Richardson stated that is correct. He stated it will be two-faced. He stated it will be perpendicular to the road so it can be seen from both directions.

Ralph Barbaro stated if it would be 24 feet back from the road right-of-way, where the closet driveway would be. Pastor Richardson stated there is a driveway on both sides of the building. Pastor Richardson stated it is their driveway that goes around the building.

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 condition:

- 1. Present sign on building to be removed.

The following finding of fact was cited:

- 1. More visibility to better locate building with sign closer to roadway.

Note: A sign permit is required.

- 9. Application of Christa Lentine, owner; 1506 Davis Road, Churchville, New York 14428; property owner: M/M George Engels; for variance to erect a 2' x 8' addition to existing freestanding sign at property located at 3183 Chili Avenue in G.B. zone.

Christa Lentine was present to represent the application. Beverly Griebel stated this was submitted to the Monroe County Planning Department and came back as a local matter. Ms. Lentine stated she needs the additional sign because she operates her business out of the house. She stated the way the sign is positioned to Chili Avenue, it can't be seen when people are going east or when they are coming west.

Ms. Lentine stated the sign that she needs to get approved would be on an existing sign out in front. She stated she was having a lot of trouble with her customers not being able to find her business. Beverly Griebel stated there is always a lot of traffic around there, too. Beverly Griebel asked how long has the sign been up. Ms. Lentine stated three or four weeks.

Bill Oliver commented evidently the applicant didn't ask if she was allowed to put up a sign. Ms. Lentine stated that was correct.

Dan Melville asked is that sign also going to be illuminated. Ms. Lentine stated it is not. She stated the Hair Court owns the sign, existing post. She stated that is illuminated. Dan Melville asked is that internally lit. Ms. Lentine stated there is a little light that shines down on it. Larry Smith stated the bottom of the existing sign is rusting out, that is why. Dan Melville stated he thought probably a sign is needed. He stated it is a hard area to get in and out of, especially if someone is looking for a 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 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. Applicant described need to identify and locate existing business.

Note: A sign permit is required.

10. Application of Westside Meadows Inc., 21 Union Hill Drive, Spencerport, New York 14559, property owner: E. Fallone; for variance to erect a 2' x 3 1/2' temporary double-faced freestanding sign on side lot line (20' req.) at property located at 4201 Buffalo Road in N.B. zone.

Beverly Griebel stated this was submitted to Monroe County Planning and was returned as a local matter.

Joanie Rosati, a real estate broker with Nothnagle Realtors, was present to represent Crystal Construction. She stated she is the sales agent for Mayflower Village and was responsible for putting the sign up.

Ms. Rosati stated there was an existing sign there from the previous builder. She stated there were two metal posts in the ground and it stood in there. She stated it got pretty old and tattered looking. She stated she took that down and replaced it with their sign that is the sign that they use for identification. She stated it is a sign that will be used only until the project is sold, and they feel that they probably will be there about two more years.

Ms. Rosati stated they currently have 24 more lots available and when they go in the last section, they'll be finished after that. She stated they would like to have the sign continue to be there because they have an identification problem at the site.

Ms. Rosati stated she would ask the Board if they could have a variance for a temporary or a two-year renewable permit to have the sign there. John Castellani asked if there is something in the code about temporary signs. He asked is the length determined by the applicant or is there something in there. Larry Smith stated the only realty signs they permit are ones on the property for sale. He stated this is not on the property for sale.

John Castellani stated they need this because they're located behind the Sheriff's substation property. John Castellani stated with some of the other projects, it seemed to be rather short because they were going to replace the sign with a permanent sign. Dan Melville stated this will not be replaced.

Beverly Griebel asked how long has this been in place. Ms. Rosati stated she could not answer that. She stated at least six months. She stated she thought it was put in probably about May or June of last year, but it might have been longer.

Larry Smith stated a real estate development sign is permitted for a temporary period of not more than 12 months, provided that such sign does not exceed 32 square feet. Beverly Griebel stated the applicant is requesting two years. Keith O'Toole stated 12 is the standard. Larry Smith stated she is requesting 24. Beverly Griebel stated she has asked for two years or until it is sold. Keith O'Toole stated until it is sold is too vague.

Ms. Rasoti stated her sell out period will not be less than two years at the current rate, that they're going.

Larry Smith stated they could grant the sign for 24 months or fully developed, whichever is shorter. He stated after they are totally developed, they will not want the sign there anyway.

Dan Melville asked how far is the sign back. Beverly Griebel stated it is on the property line. Dan Melville stated it says on side lot line, 20 foot required. Beverly Griebel stated it is hard to put anywhere else because of all the signs there.

Dan Melville asked is that just a standard real estate sign. Ms. Rosati stated it is.

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. Temporary sign approved for two years or full development if earlier than two years.

The following finding of fact was cited:

- 1. Sign needed to locate subdivision while under construction.

Beverly Griebel reannounced the tabled applications.

- 11. Application of Patsy Cavuoto, owner; 81 Archer Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a car dealership business at property located at 81 Archer Road in R-1-15 zone.

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

- 1. Applicant failed to post required sign.

Note: Applicant to obtain new sign at the Building Department and post as per Town regulations.

The meeting ended at 10:37 p.m.

CHILI ZONING BOARD
December 17, 1996

A meeting of the Chili Zoning Board was held on December 17, 1996 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, Dan Melville, Gerry Hendrickson, Ron Popowich, Bill Oliver 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 on Application Number 2, she did not see a sign. Others members of the Board indicated they did see a sign. Ron Popowich stated on the 15th he saw one. Gerry Hendrickson stated he saw all the signs up. He stated the wind got a hold of the few of them, but then they replaced them. Beverly Griebel stated she did see signs on the rest of them for the full time.

1. Application of Paul Valla, owner; 2744 Chili Avenue, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a heating and plumbing business at property located at 2744 Chili Avenue in R-1-12 zone.

Paul Valla was present to represent the application. Mr. Valla stated he is applying for a conditional use permit renewal. Beverly Griebel stated Mr. Valla was here about a year ago. Mr. Valla stated that is correct. Beverly Griebel asked what has happened in that time. Mr. Valla stated nothing really major. He stated they still have their business in the home, and he is complying with everything that was set forth last year at this time.

Beverly Griebel asked Larry Smith if there have been any complaints to the Building Department. Larry Smith stated there have been no complaints. Beverly Griebel stated this was granted for a period of one year. She stated the second condition was commercial vehicles relating to the business to be removed from the property. She stated the third condition was no on-street parking pertaining to the business. She stated the next condition was no on-premises storage of parts and equipment pertaining to the business. She stated another condition was no non-family employees to be on premises for business purposes. She stated another condition was that the hours of operation would be per the application and no on premises advertising or signs related to the business.

Beverly Griebel stated essentially what the applicant had was a home office for phone calls, phone machine, file cabinets, business records. Mr. Valla stated that's correct. Beverly Griebel stated during the past year, she has on several occasions observed the vans on the premises that she believes they were told last year were the applicant's work vans. She stated they're white vans with letters on top and the big white tube. Mr. Valla stated that is his personal truck. Beverly Griebel stated she has seen them there on one occasion, one van, and other times she has seen two.

Mr. Valla stated a lot of times they have people over there repairing the computers or having rugs installed. He stated he has other contractors working in the house. He asked what color van did she see. Beverly Griebel stated it was white. Mr. Valla stated he owns a white van, a 1992 Dodge Ram 250 van. He stated it has an orange ladder rack and a white tube on top. He stated that is his van that is not registered to the business.

Beverly Griebel stated last year they discussed the vans he uses in the business. She asked the applicant how many white vans does he have. Mr. Valla stated just one. He stated that is his truck that he drives everywhere. He stated it is not registered to the company. He stated he has to drive something. He stated that is his own truck. He stated he has two company vans that the employees take home.

Beverly Griebel asked if they take them home where they live. Mr. Valla stated they just drive them all the time as their trucks. He stated they are not parked at his house. He stated his truck is in for service, so now he has one of their trucks, something that he can drive around.

Beverly Griebel asked the applicant does he have the employees parking at his house. Mr. Valla stated no, they don't. He stated there is no reason for them to park at the house. He stated if they have to drop off paperwork, they drop it off and leave.

Beverly Griebel asked the applicant if he still stores the equipment and parts in his garage. Mr. Valla stated no, he does not. He stated he moved all that stuff to 497 State Street. He stated he rented a storage place there from Joe Sietta. Beverly Griebel stated she recalled last year that he had a storage space somewhere downtown and that he didn't like to store things there. Mr. Valla stated he does keep everything there. He stated when they're done, they go back there. Beverly Griebel asked the applicant if he then no longer stores things in his garage. Mr. Valla stated everything he has in his garage is his personal stuff, personal tools.

Beverly Griebel asked if the white van is used in the business. Mr. Valla stated it is. Beverly Griebel asked if it is registered to the business. Mr. Valla stated no, it is 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 the following conditions:

1. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. No on-premises storage of parts and equipment pertaining to the business.
6. No non-family employees to be on premises for business purposes.

The following finding of fact was cited:

1. Home office is a customary home occupation.
2. Application of Frank Pignatelli, owner; 2816 Chili Avenue, Rochester, New York 14614 for renewal of conditional use permit to allow a chiropractic office in home at property located at 2816 Chili Avenue in R-1-12 zone.

Frank Pignatelli was present to represent the application. Mr. Pignatelli stated he was present to renew the conditional use permit. Beverly Griebel asked the applicant how long has he been at that location. Mr. Pignatelli stated about nine years now, since '87.

Beverly Griebel stated on the application, on the second page, question 6-E, "How many persons will be employed outside the family," "none" is written down. She stated one of the conditions

from the last time was that there shall be no more than one additional employee other than owner. Mr. Pignatelli stated he has a secretary, but she works through Manpower. He stated she is not employed by him directly. Mr. Pignatelli stated she is a temp. Beverly Griebel asked if she is there on the premises. Mr. Pignatelli stated she is.

Beverly Griebel asked Keith O'Toole if it would be more appropriate to list one outside employee. Keith O'Toole stated he would leave it as a condition of one employee. He stated the Board is not in a position to make a determination as to what is an employee and what is an independent contractor. Keith O'Toole stated the Board can grant additional relief to the extent that the code provides for one outside employee.

Dan Melville stated he is allowed one. Dan Melville stated it doesn't have to be a condition, but the applicant would probably like to change his application to have it reflect one employee. Mr. Pignatelli stated he would like to change his application to indicate one employee.

Ron Popowich asked have there been any complaints. Larry Smith stated none whatsoever. Ron Popowich commented he wouldn't even know that it exists there. He stated the property is fixed up nice.

Dan Melville asked the applicant does he just use a portion of the building for the office and the rest is rented out. Mr. Pignatelli stated he lives there. He stated he uses just a portion for the business. He stated nothing has changed. Dan Melville stated he doesn't even notice it is there most of the time, and he goes down that street almost every day.

Beverly Griebel commented there are a lot of plantings and a huge corner to take care of.

John Castellani asked if there have been any hours of operation changes. Mr. Pignatelli stated no, it would stay the same.

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. The conditional use permit is granted for a period of five years.
2. Office hours shall be between 9:00 a.m. to 7:00 p.m. on Monday, Wednesday, and Friday; and 9:00 a.m. to 6:00 p.m. on Tuesday and Thursday.
3. There shall be no more than one (1) additional employee other than owner.
4. On-street parking will not be permitted.
5. There shall be no further expansion of the business without proper Town of Chili approvals.
6. There shall be no outdoor advertising, other than that expressly permitted by the Town of Chili sign ordinance.

The following findings of fact were cited:

1. Dr. Pignatelli has stated that there shall be no more than one (1) outside employee.
2. The total square footage to be occupied by the office is approximately 29% of the total structure, the remainder to be used for residential use.

- 3. The applicant will reside on the premises.
- 4. The chiropractic office will be a secondary use to the main dwelling.
- 5. No complaints from neighboring properties.

3. Application of Patsy Cavuoto, owner; 81 Archer Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a car dealership business at property located at 81 Archer Road in R-1-15 zone.

Patsy Cavuoto was present to represent the application. Beverly Griebel asked how long has he had this business there. Mr. Cavuoto stated he has been there about 45 years. He stated he retired about four years ago, and being still affiliated with the car business all his life, he just wanted an office with a phone, and motor vehicles went along with it. He stated this is his third time here for an application.

Mr. Cavuoto stated he doesn't retail or advertise. He stated he strictly does wholesale auctions twice a week. Larry Smith stated the original application was made in 1992 and it was renewed in '93. Mr. Cavuoto stated he doesn't advertise. He stated if someone were to come to his house, they wouldn't see a sign or name or nothing. He stated he has been there since Mr. Buttarazzi built it.

Bill Oliver stated he can go along with that. He stated he lives around the corner from him. He stated just once in a while there is a car there for sale.

Beverly Griebel stated she had some concerns. Beverly Griebel stated the conditions at the last renewal, which was in December '93, it was approved for a period of three years. She stated the applicant was not to have unlicensed vehicles on the property consistent with Town Code. She stated one vehicle for sale was allowed to be on the property at one time.

Mr. Cavuoto stated he has his wife's permanent car with a private plate on it. He stated then he always has one, maybe two. He stated his son just came out of drug rehabilitation. He stated he was away for about a year. He stated he has two cars temporary, but he will be moving out. He stated he was away for about nine months.

Beverly Griebel stated she was there on 12/7 and there was a dark gray wagon and a white car, both without plates. Dan Melville stated he knows there was a Cadillac there. Mr. Cavuoto stated that is his wife's car. Dan Melville stated and there was an escort.

Beverly Griebel stated a few dates later there was a yellow Cadillac without plates. Mr. Cavuoto stated that is his son's. He stated on the right side, he has a blue '85 and a yellow '84. Mr. Cavuoto stated his son was away for nine months, he is 40 years old and living with him now. He stated his son has gone straight and is going to get an apartment around here. He stated until then, he told his son he could park his cars on the property, but he is not driving them. He stated his son is waiting for his license.

Beverly Griebel stated the conditions say that applicant is not to have unlicensed vehicles on the property consistent with Town Code. Mr. Cavuoto stated he didn't realize that. Beverly Griebel stated the conditions were written on the approval/decision letter. Beverly Griebel stated she was there twice within one week. Mr. Cavuoto stated he has been there for a while now.

Beverly Griebel stated when she was out there, there were three vehicles without plates. Mr. Cavuoto stated two of them were his son's and one was his. He stated the two on the right side of his driveway are his son's cars. He stated he didn't want to put them in storage. Beverly Griebel stated it is not allowed by Town Code to have unlicensed vehicles there. Mr. Cavuoto stated he has enough dealer plates to put on them there if he has to.

Beverly Griebel stated she is saying, for the record, she was there twice within a few days' time and there were three vehicles without plates. Beverly Griebel stated that is not consistent with the

conditions of approval. Mr. Cavuoto stated he understands that. He stated actually his son is a dealer, but everything is suspended until he gets back on his feet.

Dan Melville stated everything should be licensed. Mr. Cavuoto stated he can get them out of there to night. He stated he was just doing him a favor. Larry Smith told Mr. Cavuoto he can't do him a favor. He stated he can't have unlicensed vehicles there. Mr. Cavuoto stated he took him in to help him. Mr. Cavuoto asked where will his son put his cars. Larry Smith stated wherever he wants to, but not on this property.

Mr. Cavuoto stated he could go to other places in Town to find unlicensed vehicles on people's properties. Beverly Griebel stated then he should call the Town Hall and report them. Beverly Griebel stated tonight they are talking about Mr. Cavuoto's application. Beverly Griebel stated they're talking about the conditions that were imposed on this application.

Beverly Griebel stated the applicant had applied for renewal of a home office. She stated home office means in a residential area. She stated it means that he would have a telephone, an answering machine, some record keeping. Mr. Cavuoto stated that is all he has, a telephone. Beverly Griebel stated the conditions allow for there to be one vehicle for sale on the property at a time with dealer plates on it.

Mr. Cavuoto stated he might have two. He stated if he buys one, he went to the auction today, but they're gone tomorrow. Beverly Griebel stated one vehicle for sale will be allowed on the property at a time. Larry Smith stated not two; one. Mr. Cavuoto stated that is other than his wife's car; that has a plate on it. Beverly Griebel stated he is allowed one for sale and no cars without plates. Mr. Cavuoto stated the other two are his son's cars. Beverly Griebel stated it doesn't matter who they belong to. Mr. Cavuoto stated that is why there are no plates. He stated if he has to get them off, he will get them off. Beverly Griebel stated they should not have been there.

Bill Oliver asked are the garages full of vehicles. Mr. Cavuoto stated it is like a summer room with a rug and lights. Mr. Cavuoto stated on the warm days they have like a patio there. He stated he has never used his garage for his cars. He stated he sends his work out if he needs anything done.

ANYONE IN FAVOR OR OPPOSED: No one.

Mr. Cavuoto asked if he could have a longer extension. Beverly Griebel stated it hasn't even been determined if this is going to be renewed. Mr. Cavuoto asked if it is approved, could he get it for longer. Beverly Griebel stated that will be determined when they have a discussion, but she told him he has not been abiding by the conditions that were imposed three years ago.

Ron Popowich asked have there been any complaints. Larry Smith stated there have not been any complaints. Beverly Griebel stated that is something they'll discuss when they come to the second part of the meeting. Mr. Cavuoto asked should he stick around. Beverly Griebel stated he could stay here. She stated they won't take any more conversation from him at that time. She stated he could stay if he liked or he could call in the morning to the Building Department to find out whether it was accepted or rejected.

Mr. Cavuoto stated he has been there since the house was built and never had any trouble as far as the neighborhood. He stated he never sold cars out of there even when he could have. He stated all he wants is his phone. He stated he won't have a sign, nothing. He stated he has a clean record. He stated he owned a lot and sold it because he didn't care to retail. He stated he is strictly wholesale, that is all he does.

John Castellani made a motion that the application be approved for five years, and Dan Melville seconded the application. The vote on the motion was 3 yes to 3 no (Beverly Griebel, Ron Popowich, Bill Oliver). The motion died.

Bill Oliver made a motion that the application be approved for one year, and Ron Popowich

seconded the motion. The vote on the motion was 4 yes to 2 no (John Castellani, Dan Melville). The motion passed.

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 4 yes to 2 no (John Castellani, Dan Melville) with the following conditions:

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. No outside employees.
5. Applicant to maintain any required state and local licenses.
6. Applicant is not to have unlicensed vehicles on property, consistent with Town code.
7. One vehicle for sale will be allowed on property at a time.

The following findings of fact were cited:

1. The home office is a customary home occupation.
2. Application was renewed for a one-year term due to failure of applicant to follow previous conditions.
4. Application of James Sanagorski, owner; 902 Chili Center Coldwater Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for catalog sales of firearms and sporting goods display at property located at 902 Chili Center Coldwater Road in R-1-12 zone.

James Sanagorski was present to represent the application. Mr. Sanagorski stated he was present for his renewal. Mr. Sanagorski stated all conditions are the same. He stated the hours of operation are the same. He stated nothing has changed since last year's application. He stated if possible, he would like to have it for three or five years, if granted.

Beverly Griebel asked how many guns have been sold during the past year. Mr. Sanagorski stated two. Ron Popowich asked if those were long guns. Mr. Sanagorski stated that is right. Larry Smith stated he hasn't had any problems at all.

John Castellani asked what the conditions were last time. Larry Smith stated it was granted for a year, no on-premises advertising, no on-street parking, hours of operation per the application, no outside employees, minimum 4 1/2 inch numbers, maintain central monitored security system and no sales of handguns or auto firearms. John Castellani asked if anything has changed. Mr. Sanagorski stated no, it is still the same.

Beverly Griebel stated they have been requiring that anyone who does this out of their home have a gun safe for further security. Mr. Sanagorski stated he has one. Beverly Griebel stated they'll add that as one of the conditions as further reassurance that they are storing them properly and there won't be a problem.

Mr. Sanagorski stated the only ones that are stored there are his own personal guns. He stated it is strictly a catalogue business. He stated the only guns on premises are his. Beverly Griebel

asked after he would order something that somebody wants, how is that delivered. Mr. Sanagorski stated he usually picks it up at the wholesaler. Beverly Griebel asked if he picks it up at another dealer. Mr. Sanagorski stated that's correct. He stated then it gets put in the safe until they come to pick it up, which is usually the same day. Beverly Griebel commented people are kind of anxious to get their new guns. Mr. Sanagorski stated that's right. Beverly Griebel asked the applicant if he has to keep it overnight or until the weekend, what would he do with it. Mr. Sanagorski stated then it goes in the safe.

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 five (5) years.
2. No on-premises advertising.
3. No-on street parking pertaining to the business.
4. Hours of operation as per application.
5. No outside employees.
6. Applicant to maintain any required federal, state and local licenses.
7. Security system to be centrally monitored and maintained.
8. Gun safe to be maintained.
9. No sales of hand guns or automatic firearms.

The following finding of fact was cited:

1. Customary Home Occupation.
5. Application of Patrick Donnelly, owner; 9 Sunderland Trail, Rochester, New York 14624 for variance to allow existing 12' x 20' storage building to be 240 sq. ft. (180 sq. ft. allowed) and to be 6' from side lot line (8' req.) at property located at 9 Sunderland Trail in R-1-15 zone.

Pat Donnelly was present to represent the application. Beverly Griebel asked the applicant what does he store in this structure. Mr. Donnelly stated a pickup truck. Beverly Griebel asked how long has he had it there. Mr. Donnelly stated about six months.

Mr. Donnelly stated he considers this a portable building. He stated he could move this if he had to within a half hour. He showed the Board a picture of it. Beverly Griebel stated the Board had some attached photos with the application.

Beverly Griebel asked the applicant if he plans to make a driveway to that. Mr. Donnelly stated no, it is like for winter storage. Beverly Griebel stated the yard is kind of dug up. Mr. Donnelly stated he just went through there the other day. Mr. Donnelly stated the truck is for show more than anything.

Beverly Griebel commented so it is there for winter. She asked is it intended to be removed in the spring. Mr. Donnelly stated not unless he has to. Beverly Griebel asked would that fit into the garage. Mr. Donnelly stated the truck won't. He stated it needs a ten foot door on it. He stated

that is why it is so high.

Beverly Griebel asked if is this one of the trucks where the wheels are up real high. Mr. Donnelly stated that is correct. He stated a person needs a stepladder to get into it. Beverly Griebel asked is that raised bed. Mr. Donnelly stated the whole body is raised up.

Ron Popowich asked how high is the door opening on this. Mr. Donnelly stated ten foot. He stated the one he has is ten foot. He stated they come in different heights but he needed a ten foot opening. Ron Popowich asked what is stored in the garage right now. Mr. Donnelly stated a car. Ron Popowich asked is the garage full. Mr. Donnelly stated it is. Ron Popowich stated a lot of people take the trucks off and put steel wheels on to put them in garages. Mr. Donnelly stated his wife has a car, he does, his two boys have cars and his son has a company truck he brings home. He stated his driveway is only good for four cars.

Ron Popowich asked the applicant why did he place this structure in the location he did. Mr. Donnelly stated he thought it was the best for aesthetic reasons. He stated he has a shed behind it and he didn't want to block the shed. Ron Popowich stated he did not understand what the reason was why he couldn't be 8 foot from the property line. Mr. Donnelly stated he could have, and he didn't realize just where the property line was until he came down. He stated he went home and measured it. He stated when he first came down, he thought he needed a permit to put this thing up. He stated the brochure indicated no permit is needed. He stated then he came down and talked to the people in the office, and they asked him if he knew how far he was from the lot line. He stated he told them not for sure. He stated he always thought the fence was the property line, but it wasn't.

Mr. Donnelly stated he is 6 foot from the property line, and then he also found out that because of the size of it, he needs a variance because of the size. He stated he is only allowed 180 square feet, and this is 240. Ron Popowich asked if this structure would have some stakes driven in the ground. Mr. Donnelly stated that is correct. Ron Popowich asked if those can be readily pulled back up and moved 2 feet. Mr. Donnelly stated he would have to cut them, but they are bolted with a U bolt onto the frame of the building, so all they have to do is disconnect the U bolt and leave them there if they have to. He stated he guessed he could dig them up. He stated he wouldn't want to do that. Ron Popowich asked how long is something like this supposed to last. Mr. Donnelly stated ten years. He stated they make one that they guarantee for 20 years out of a different fabric.

Dan Melville asked if the son's truck is something that is just going to stay in there for the winter. Mr. Donnelly stated he doesn't drive it in the winter. Dan Melville commented he took it out recently. Mr. Donnelly stated he took it out to wash it this weekend because it was nice weather. Dan Melville asked how will he maintain the lawn and everything, without a driveway, if he is going to take it in and out. Mr. Donnelly stated in the summer it is parked in the driveway. He stated it is there for storage for the winter.

Mr. Donnelly stated his son was paying 150 bucks to rent a garage, and he couldn't see it, so he thought this was a little cheaper. Dan Melville asked to have something like that up, are they required to have a road cut. Larry Smith stated they are only permitted one driveway per parcel without a variance. Keith O'Toole stated the Town Code has no definition of driveway.

John Castellani asked how many accessory structures are allowed. Larry Smith stated the Town Code doesn't say. John Castellani stated he thought they got into that down in the Ballantyne area. Larry Smith stated a person can have as many accessory structures as they want. Larry Smith stated just garages are restricted by total square footage. Beverly Griebel stated each one would have to be under the maximum allowed. Larry Smith stated without a variance, yes. Beverly Griebel stated a person can't cover more than 25 percent of the property. Larry Smith stated that would be difficult to do.

Bill Oliver asked how long is temporary. Keith O'Toole stated he did believe that is relevant. Larry Smith stated he doesn't know of anything in their code that defines permanent or temporary. He stated their code defines a structure as something placed upon the ground. He stated he looks

at that as being an accessory structure regardless of it being temporary or permanent.

John Castellani asked wouldn't this be based on its use like a detached garage, and wouldn't it then come under the total area footage of the garage. Larry Smith stated he could probably twist it that way, yes. Larry Smith stated if it is a garage structure, he will have to have a concrete floor or an asphalt floor.

Larry Smith asked if he is going to store a vehicle in there for four months a year, what will he do with the structure during the summer. Mr. Donnelly stated he wants to leave it there. Larry Smith asked what will he do with it. Mr. Donnelly stated nothing; he would just leave it there. Larry Smith stated so they would be using it for four months a year to store a vehicle under it. Dan Melville stated the applicant could take it down in the spring and put it back up in the fall. Mr. Donnelly stated he could, but it would be a pain.

Bill Oliver stated there are temporary golf ranges that get taken down every season even though it is very inconvenient and an expensive thing to take down. Larry Smith stated the reason they did that is because they would have had to sprinkler the building like he made Wegmans sprinkler their tent. He stated there is a sprinkler system in that Wegmans bubble. He stated that is the only way they can leave it up all year round. Bill Oliver stated he was speaking about the golf course in Henrietta.

John Castellani stated first of all, a garage is permanent use, and second of all, it just doesn't seem like a storage shed that he is used to dealing with. He stated if it were a garage, he doesn't know that he would need a variance. John Castellani asked are they granting or entertaining the granting of a variance that they don't need. Larry Smith stated he interprets this as an accessory structure.

Dan Melville stated he himself would say it was an accessory structure. John Castellani stated there is no question it looks like it. Larry Smith stated so being an accessory structure, he has been brought in requesting a variance as an accessory structure.

Beverly Griebel stated if it were a garage or accessory structure, it is still a side lot variance. Dan Melville stated if it was a garage, he wouldn't need a square footage variance. Larry Smith stated that depends how many square feet he has of garage now.

Larry Smith stated he called this company and asked to speak to their marketing person. He stated they never got back to him. He stated it is really ridiculous that they include a statement that no property tax or building permit is required for their portable garages. He stated that is not true. Beverly Griebel stated at least in Chili. Larry Smith stated at least in New York State that is not true. Beverly Griebel asked where are they located. Mr. Donnelly stated Connecticut. Larry Smith stated they do have some nice buildings. Beverly Griebel stated that is a rather broad statement if they're putting it that in their advertising literature.

Beverly Griebel asked how did this happen to come before this Board. Larry Smith stated he got a complaint from the neighbors.

Gerry Hendrickson asked how much room do they have after they have the car in there. Mr. Donnelly stated about two foot on each side, and maybe if he put it up flush, he would have two foot at the rear or front, depending how far it is put in. He stated he can walk around it. John Castellani stated when he was out there, it was in there. He stated there is not that much room. Beverly Griebel stated when she went, it was zipped shut. Gerry Hendrickson stated it was closed when he was there. Beverly Griebel asked what is left at the top Mr. Donnelly stated space, air, that is it. Beverly Griebel stated is it oversized. Mr. Donnelly stated it oversized. He stated it just fits. He stated the height of the truck just fits under the door and the rest of it is dead space.

Bill Oliver stated they are saying 6 foot from the property line. He asked have any of the neighbors complained about the distance from that area. Bill Oliver stated he sees the ten foot wide easement for drainage purposes. He stated it is right on the edge. He stated he is within the

drainage area where he is.

Beverly Griebel asked if Mr. Barry was present in the audience. There was no response. Beverly Griebel stated she received a letter from Tim Barry of 19 Sunderland Trail, writing to express opposition to the variance that has been requested for a storage shed. The letter indicated their concerns over decreased property values due to the shed and the industrial park feel it gives the neighborhood. The letter included an advertisement for the shed. The letter will be on file with the Building Department.

ANYONE IN FAVOR OR OPPOSED: No one.

Ron Popowich asked the applicant if his son was paying \$150 through the winter, a season, to store this truck. Mr. Donnelly stated that is correct. Ron Popowich stated this is quite an investment. Ron Popowich stated he wondered on the financial end why he would buy it when it would be cheaper to store it somewhere, if it only costs him \$150 a season to store the truck. Mr. Donnelly stated that is a month for garage rent. Ron Popowich commented his son got taken on storage rent then.

Mr. Donnelly stated his son had the truck and two cars in a three-car garage, but he was just throwing money away.

Ron Popowich asked why couldn't this have been pushed back next to the other storage shed. He stated he realizes they want access to the street, but he thought maybe what he is hearing from the letter is a complaint in regards to the way it sticks out. Mr. Donnelly stated he doesn't agree with the way the letter describes it. He stated when he comes down the street, he does not see it until he gets by his house. He stated it is setting back. He stated he did not know how far back it is, but it is beyond the front of the house. He stated it is probably 4 foot from the front of the house.

Mr. Donnelly stated there is a big white birch tree that he doesn't want to cut down. Mr. Donnelly stated that was his original thought. Ron Popowich stated the other shed back can't be seen. Mr. Donnelly stated, in fact, he wanted to move that shed over and put this where that shed is, but it just got to be too much.

Dan Melville stated it was mentioned they are just storing one vehicle in that structure. He stated the applicant said his son had a couple other vehicles. Mr. Donnelly stated he doesn't have them any more. Dan Melville asked if it was costing \$150 a month for three vehicles he was storing. Mr. Donnelly stated that's correct. Dan Melville asked the applicant does he know how much it would cost for one vehicle to store now. Mr. Donnelly stated he does not. He stated there are different prices like everything. Dan Melville asked the applicant if he has really looked into that at this point. Mr. Donnelly stated he has not; he has a garage. He stated he doesn't need to look into that. Dan Melville stated that answers his question. Mr. Donnelly stated that is his son's truck. Ron Popowich asked the applicant if his son lives at home. Mr. Donnelly stated both his sons live at home.

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 except Dan Melville.

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

1. Applicant failed to explore alternatives for storage.
2. Structure gives commercial character to the otherwise residential character of Sunderland Trail neighborhood.
3. Structure harms aesthetic views of nearby property at 19 Sunderland Trail.
6. Application of Salvatore Gorino, owner; 51 Cassandra Circle, Churchville, New York 14428 for variance to allow existing 12' x 8' storage shed to be 6" from garage (8' req.) at property

located at 51 Cassandra Circle in R-1-20 zone.

Salvatore Gorino was present to represent at application. Mr. Gorino stated he has some pictures that he took. He showed them to the Board. Beverly Griebel stated she went part way back but there was a big dog next door.

Mr. Gorino stated he just wanted it on record that is not his intention nor would it ever be to attach the garage to the house. Beverly Griebel asked how long has this been up. Mr. Gorino stated they started construction probably middle of August. He stated it is not finished. He stated the front still needs to be done. Beverly Griebel asked the applicant if he checked with the Town. Mr. Gorino stated he only checked on a building permit. He stated they told him if it was under 100 or 99 square feet, he wouldn't need to. He stated he didn't pursue any more after that. He stated he wasn't aware until he got the stop work order. Beverly Griebel asked the applicant if he discussed the placement of it with the Building Department. Mr. Gorino stated no, he just told them he was building a shed, 96 square feet.

John Castellani asked is this something that they get into with the garage against the garage. Larry Smith stated he is going to have a maintenance problem between those two structures. Mr. Gorino stated actually it is only 3 inches, it is not 6. Larry Smith stated that is even worse. Mr. Gorino stated he sided the back of the garage and the shed. Larry Smith stated he would have attached it to the back of the garage if he was doing it. He stated but as far as codes or anything, no, because it is not on the lot line, that is the situation they are talking about.

Larry Smith commented the applicant could have trees growing in that 3 inches. He stated he will be surprised what can grow up in a couple of inches Beverly Griebel stated he can't cut weeds or anything in the 3 inches. Mr. Gorino stated he put black mirafy down and stones. He stated he finished the front of the garage with a workbench and shelves, so he doesn't want to cut a door through there.

Ron Popowich asked how did this get brought in. Larry Smith stated he was not sure. Mr. Gorino stated he told his neighbor to get his pool inspected, and when they were inspecting his pool, they noticed it. Beverly Griebel asked the applicant why didn't he put it further out. She stated they have kind of an empty backyard. Mr. Gorino stated the way the houses are backed up, they back up to 490, and there is all brush back there, so it was more aesthetically pleasing with the neighbors if it was up against the house instead of out. He stated there is a walkway behind the houses, so at that point they felt it was more aesthetically appealing to have a salt box rather than out in back.

Beverly Griebel stated they have a flat patio. She stated they have the swing set out by the back property line. Mr. Gorino stated that's correct. Beverly Griebel stated the rest is pretty empty. Mr. Gorino stated that is correct. He stated they plant wild flowers along the back and eventually they will have a walkway. Beverly Griebel stated normally, 8 feet is required, and they normally don't grant approval under 4 feet. Larry Smith stated no, that is on the property line. He stated this is an internal situation. He stated no property lines are involved.

Bill Oliver asked who came up with this 8 foot rule. Larry Smith stated the Town Board writes the laws. He stated he just enforces them.

Beverly Griebel stated if it were on the property line, they cannot approve under 4 feet. Larry Smith stated that is State Code. He stated the Board can approve anything they want, but he won't give a permit if it is under 4 feet. Beverly Griebel stated that is for something on the property line. Larry Smith stated the Board could tell the applicant to put it on the property line, the applicant comes in for permit and he says no.

Beverly Griebel asked what about in the position where this is, if someone were applying, what would be done. Larry Smith stated this is a local code. He stated they have a right to grant variances on the 8 foot that is in the code. Bill Oliver asked if they are saying he could be two inches away. Larry Smith stated that's right.

Dan Melville stated this thing could be attached real easily and it wouldn't need a variance. Beverly Griebel stated if it were attached, there wouldn't be the problem. Larry Smith stated that is right. He stated their code says accessory structures have to be 8 foot away from the main structure on the parcel. He stated this is not. He stated that is the only issue here.

Beverly Griebel asked if the applicant came in for this and the Board granted him 6 inches, would he get a building permit. Larry Smith stated he would. Larry Smith stated it is not a building issue. Beverly Griebel stated so in order to leave it where it is, they would have to grant him that permission. Larry Smith stated exactly, or he has to move it. He stated and he still doesn't need a permit, because it is under 100 square feet. He stated it is not the issue of the building; it is the issue of the location.

John Castellani asked who measured the 6 inches. John Castellani stated the applicant is saying it is 3 inches. Larry Smith asked who put down 6 inches on the application. Larry Smith suggested they grant him a 2-inch variance and then they can be sure of the whole situation. John Castellani stated he doesn't want somebody to go out and measure it and say it is 3 and somebody has to come back and spend the same amount of money.

Beverly Griebel stated their problem is the maintenance of the back of the shed. Beverly Griebel stated they have vinyl siding that would need maintenance. She stated maybe in 20, 25 years they will have to paint it. Mr. Gorino stated he would just power wash it. Larry Smith stated the only problem with vinyl on both the garage and the shed is he is going to get weeds and stuff eventually growing through the cloth and rocks and small trees and whatever. Beverly Griebel stated maybe that could be zapped with an all purpose, kill everything type spray. Beverly Griebel asked the applicant if this is granted, did he feel he would be able to maintain behind there and kill any weeds. Mr. Gorino stated that is pretty much a guarantee.

Beverly Griebel stated that is a concern. She stated if it is on the side lot line, they always allow room so people can paint or do whatever they have to do, cut the grass. She stated with gravel, he could have weeds. Mr. Gorino stated the neighbors that signed documents in favor are the two on either side and two across the street that have a view of it. He stated they're well aware of it.

Ron Popowich asked if this has a wood floor in it. Mr. Gorino stated it is a pressure treated floor over 6 x 6s. Ron Popowich asked if the only door faces out towards the north, the expressway there. Mr. Gorino stated that is correct.

Beverly Griebel asked what is stored in there. Mr. Gorino stated the kids' stuff. He stated they needed to take back the garage. Beverly Griebel asked if there are any flammables in there. Mr. Gorino stated he stores the gas in the garage now on a high shelf.

ANYONE IN FAVOR OR OPPOSED:

Randy Shaffer - 48 Cassandra Circle

He stated he lives across the street. She stated during the construction of this, they actually built it probably 8 or 10 foot from the house and then pushed it over. He stated it looks better where it is now, a lot better.

Kevin Whelan - 49 Cassandra Circle

He stated he has no objections to the shed where it currently is. Beverly Griebel asked if he is the closest neighbor to it. Mr. Whelan stated that is right. He stated he is on the west side.

Mary Song - 55 Cassandra

She stated the applicant did a wonderful job. She stated she is happy right where it is. She stated she wouldn't want it placed anywhere else.

Mark Crispino - 50 Cassandra Circle

He stated he lives directly across the street from the applicant. He stated he drives by the house and can't even see it. He stated he needs to go into the side yard to see it. He stated it is probably the best location for the shed.

Beverly Griebel stated the Board did receive a letter from Mr. Gorino indicating he does not have any plans at any time in the future to connect his shed to his garage or any other part of his permanent residence, and the letter was dated December 5th. The letter will be on file with the Building Department.

Beverly Griebel stated there was a letter faxed in today from Robert Culligan of 53 Cassandra. Mr. Gorino stated that is the next door neighbor on the other side. Beverly Griebel read the letter that indicated support for the application. The letter will be on file with the Building Department.

Beverly Griebel stated the Board was in receipt of a letter from the owners of 49 Cassandra who already spoke. She stated the Board was in receipt of letters from 55, 45 and 50 Cassandra, as well as Randy and Karen Shaffer, who spoke. All the letters submitted to the Board will be on file in the Building Department.

Larry Smith stated Part 716 of the State Building Code, Prevention of Exterior Fire Spread, Part 716.22 says distance separation shall not be required between buildings on the same premises when either building is one story in height and has an area of not more than 100 square feet. He stated they can touch if they want to under 100 square feet.

Gerry Hendrickson asked how is the structure attached to the ground. Mr. Gorino stated it's not. He stated it is 6 x 6 pressure treated deck on top, and the structure is up by sheer weight and is not attached. Gerry Hendrickson asked if it can be pulled away. Mr. Gorino stated that's correct.

Larry Smith asked the applicant would he like to remove that statement that he will never attach it to the garage. Mr. Gorino stated he would not. Larry Smith asked why not. Mr. Gorino stated he guessed they could. He stated he actually thought it was an issue of being attached to the house. Mr. Gorino stated he would take the whole letter back if that is not an issue. Larry Smith stated it is already included as part of the file.

Mr. Whelan asked if it wasn't an issue with the shed, why did they put a stop work order on it. Larry Smith stated the code says they have to be 8 feet away from a structure. Larry Smith stated they could tell it wasn't 8 feet, so it had to be brought before the Board. Beverly Griebel stated what he is asking for is permission to have less than 8 feet, and if they grant that permission, then he can continue. Beverly Griebel stated right now he doesn't comply with the Town code.

Larry Smith stated it did not even require a permit because it was under 100 square feet. He stated even if it doesn't require a permit, he still has to abide by the setback requirements.

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, as amended, by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. No impact on neighboring properties.
2. Aesthetically pleasing.
7. Application of Sandra Testa, owner; 75 Chestnut Drive, Rochester, New York 14624 for renewal of conditional use permit to allow a beauty shop in home at property located at 75 Chestnut Drive in R-1-20 zone.

Sandra Testa was present to represent the application. She stated nothing has changed. Larry Smith stated there have been no problems with this.

Beverly Griebel asked the applicant how long has she been doing this at her home. Ms. Testa stated since 1992. Larry Smith stated it was approved in 1992 with one renewal. Ms. Testa

stated they have had no trouble and just want to continue the same as it has been. Larry Smith stated except she would like five years this time. Ms. Testa stated she would like five years this time.

Beverly Griebel asked the applicant do they have any problem with parking because their driveway is narrow at the end of the street. Mr. Testa, also present to represent the application, stated the driveway is a double driveway now and goes up alongside the house. He stated they put an addition on in March. Beverly Griebel asked if the whole length of it is the same width. Mr. Testa stated that's correct.

Gerry Hendrickson stated when he was there, there was equipment there. Mr. Testa stated he volunteers his time with the Gates-Chili School District, so they were washing off the tractor that he used at the Walt Disney School. Mr. Testa stated Saturday and Sunday they sided the rest of his house, so that stuff was there, too.

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 conditions:

1. Granted for a period of five years.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Customers by appointment.
5. No outside employees.
6. Hours of operation as per application (3 hours on Mondays, Tuesdays and Wednesdays).
7. Applicant to maintain required state and local licenses.

The following finding of fact was cited:

1. Customary Home Occupation.

8. Application of Faber Construction, 3240 Chili Avenue, Rochester, New York 14624, property owner: Blueberry Hill Assoc.; for variance to allow three previously approved freestanding signs to be 5' from front lot line (20' req.), one previously approved sign to be 18' from front lot line (20' req.), variance to erect a fifth freestanding sign to be 2'6" x 8', and to be 18' from front lot line (20' req.), all locations as per plans submitted at property located at 117 & 115 Old Chili Scottsville Road in R.M. & FPO zone.

Alan Plantone was present to represent the application. Mr. Plantone stated he was present on behalf of Faber Construction in connection with Blueberry Hill Associates for the request of a variance to have signage for the Blueberry Hill apartments.

Mr. Plantone stated upon completion of Phase 1, the desire and need for entrance signs was raised by the owners and actually the tenants. He stated after careful review of what was being utilized at high end apartment projects locally, east side and actually nationally, they decided to go with a gold leaf accent for the signs. He stated all the signs would be identical, if they can do all five. He stated in the past they were granted 104 or 106 square feet of signage. He stated if they can

do the five, they'll still be underneath that, even if they're granted the fifth sign.

Mr. Plantone stated as far as the location of it, being on a corner, they have some difficulties with where they can place the sign. He stated on the Beaver Road entrance, there is an RG&E easement which causes them to encroach a couple of feet.

Mr. Plantone stated the big difficulty they have at the Old Scottsville Chili Road entrance is a situation where Rochester Telephone has a concrete pad easement. Beverly Griebel asked is that the green box. Mr. Plantone stated it is the green box that actually sits on a large concrete pad. He stated there are large metal poles. He stated unfortunately it looks a little industrial. He stated they worked with R.J. Schickler for some creative ways to beautify it and still let it provide telephone service for the project. He stated as a result of moving it back and still covering it, the sign would be about 5 feet from the right-of-way, which they staked out. He stated what they were hoping to do was mirror that sign on the other side so that they get a grand entrance.

Mr. Plantone stated at the corner, as he may or may not recall, there was large hill there. He stated it had 20 foot of cut, so the hill that started has now descended drastically. He stated perhaps the sign could have been put on the back, but no one would see the sign. He stated if they were to attempt to locate it on the top, the assembly of the fence is a retaining wall, so they actually need earth behind it. He stated so they had to push forward. He stated it encroached and they brought it back. He stated the sign is out of the right-of-way, although it is closer than the 20 feet as the code calls for.

Mr. Plantone stated they're doing lots of things to promote the project. He stated they are advertised in the Apartment Spotlight. He stated they're really proud of the project. He stated they're going to be advertising it again on cable. He stated they have testimonials of the people living there that talk about how much they enjoy living there.

Mr. Plantone stated last month, although occupancy throughout the area is based on 90 percent and sometimes it is lower, they only had one empty apartment out of 176, which they're really proud of. He stated they wanted to make some nice signs, and in order to position them the way they would like to, they need the variance to do that.

Beverly Griebel asked if the logo signs would be placed right in the center on the flat portion of the sign. Mr. Plantone stated that is correct. He stated they're using a local sign maker that wanted a 10 foot flat spot that would be ideal. Beverly Griebel asked if the stone work will have dirt and landscaping behind it. Mr. Plantone stated it will.

Mr. Plantone stated they would like to light the sign. He stated it would probably be one of those dusk to dawn sensor lights and it would be over the top of the light shining down just on the sign itself.

Beverly Griebel questioned a large pile of material on site. Mr. Plantone stated in digging the basements, they ran into an organic material that is great for growing grass but not good for backfilling up against the basements, under the roadways or under concrete slabs. He stated so they are stock piling that for now, and they have imported an engineered product called ice control sand which is a wonderful product and it backfills really well. He stated they use that for backfill around the buildings. Beverly Griebel asked if the mound of dirt will become topsoil. Mr. Plantone stated it will be depleted as they grade and seed the site.

Bill Oliver asked if maintenance of the sign would remain in their control. Mr. Plantone stated absolutely. Bill Oliver stated he was asking if they are going to keep it because sometimes people sell it off to another person. Mr. Plantone stated they are not going to do that. He stated there is a four-year agreement as part of the financing, and this will remain within the partnership that was created. He stated for what it is worth, they're passing it down for their kids.

Larry Smith stated that property is in two different ownerships. Mr. Plantone stated yes, that's correct. Larry Smith stated the old section, Phase 1 is a different ownership than Phase 2. Mr. Plantone stated there are even two tax ID numbers, but these are all still on Phase 1 and that is all

one owner.

Larry Smith stated there is a property line down the middle of the complex. He stated there a two groups of owners and some of them are the same; some are not. Mr. Plantone stated they're all the same. Larry Smith stated there are a couple extra names on one of them. Mr. Plantone stated he believes what happened was the three brothers owned it, deeded it over to Blueberry Hill Associates, which is still the three brothers, and the same thing happened with Phase 2. He stated when HUD is involved, they want to a stand alone project, because God forbid if they ever had to call it in, they would have a dividing line, so Phase 1 is a total separate project from Phase 2 and they have separate tax I.D. numbers. He stated each is a stand alone project. He stated they all have their own agreements set up. Mr. Plantone stated, however, as far as the signs, these signs are all on Phase 1, which is all one owner.

Gerry Hendrickson questioned how they were talking about lighting them. Larry Smith stated it would be much better having lights on the ground lighting up, because lighting down, they light the road. He stated if the light diffuses too much from the sign, let the tenants complain about them. Bill Oliver stated Gerry Hendrickson is on the Traffic & Safety Committee. He stated he is concerned about things like 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 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. Applicant demonstrated need for signs to locate large apartment complex with frontage on two roads.
2. Signs and retaining walls are an attractive addition.

Note: A sign permit is required.

The meeting ended at 9:50 p.m.