

A meeting of the Chili Zoning Board of Appeals was held on September 23, 2003 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Beverly Griebel.

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

ALSO PRESENT: Daniel Kress, Director of Planning, Zoning & Development;
Keith O'Toole, Assistant Counsel for the Town.

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

BEVERLY GRIEBEL: On signs, I was out on Saturday, the 20th. Number 4 had no sign.

DAN MELVILLE: I didn't see that.

PETER WIDENER: I did not see a sign either.

BEVERLY GRIEBEL: That is two months in a row.

DAN MELVILLE: Number 1, I didn't see a sign all last week, until this week.

BEVERLY GRIEBEL: Let's do it one at a time.

Number 4. Okay. That was tabled because the applicant failed to post a sign per the Town requirements. A letter went out in the mail directing him to obtain new signs at the Building Department and to post and maintain as per Town regulations. I asked them to be present for the public hearing. No signs were posted, so at this point can I have a motion to deny this without prejudice?

DENNIS SCHULMERICH: So moved.

MICHAEL MARTIN: Seconded it.

The Board was all in favor of the motion.

RICHARD PERRY: I was out on the 14th and did not see a sign for Number 3, which again is a carry-over from last month, and especially on a carry-over, if they can't have it out on a timely basis, I don't think it should be heard.

DENNIS SCHULMERICH: Number 3?

RICHARD PERRY: Number 3.

DENNIS SCHULMERICH: I was out on Saturday, I believe, the 20th and there was a sign up.

RICHARD PERRY: Well, it wasn't there on the 14th.

BEVERLY GRIEBEL: I did see it when I went, but last meeting we determined that the signs should be up for the required ten days minimum.

Is that number three?

MS. ROVEDA: I am just arriving. I sorry I missed it.

BEVERLY GRIEBEL: Francine Beck Roveda?

MS. ROVEDA: Yes, I am.

BEVERLY GRIEBEL: I was out on 20th and I saw it, but it was apparently not out the whole time.

DAN MELVILLE: Can't hear it.

MS. ROVEDA: It has been for the second time and the -- it wasn't on Friday, but I put it on Saturday. I don't know what the exact date was. Maybe I should approach.

BEVERLY GRIEBEL: Well, the information that comes with the sign fully instructs the applicant to --

MS. ROVEDA: Yes. I am aware of it. I was out of town, which is why I had to cancel last

time, and -- reschedule it. I apologize.

BEVERLY GRIEBEL: It says, "The sign shall be posted and maintained on the property at least ten days prior to the scheduled public hearing. Failure to meet the above requirements will result in the tabling of the application until the next regular meeting." It doesn't say, "may be tabled." It says, "will result in the tabling." This is the second time. Now, it wasn't -- the sign was not up the last time.

MS. ROVEDA: The sign was not up the first time for one day. The second time it was up for the whole time.

RICHARD PERRY: It was not there on the 14th, on Sunday, and -- when I went out and checked, very thoroughly, every location.

MS. ROVEDA: It was right on the front.

RICHARD PERRY: It wasn't there.

BEVERLY GRIEBEL: Well, I saw it, but other Board members --

DENNIS SCHULMERICH: I was there on the 20th.

MS. ROVEDA: Well, after --

PETER WIDENER: Same, it was late and I saw it.

BEVERLY GRIEBEL: I saw it later.

DAN MELVILLE: I saw it later, but if it was not there the first day --

BEVERLY GRIEBEL: Because the instructions are very clear as to when the sign should be posted.

MS. ROVEDA: Okay.

BEVERLY GRIEBEL: What does the Board want to do?

DENNIS SCHULMERICH: The options are to hear, to deny, table or postpone?

BEVERLY GRIEBEL: Right. Now it has been tabled before for not posting the sign per the requirements.

MS. ROVEDA: I'm sorry if I interrupt. It wasn't postponed because the sign was not up. It was because I called and I was out of town and that is why I rescheduled it.

BEVERLY GRIEBEL: Well --

MICHAEL MARTIN: Last month the sign was up.

BEVERLY GRIEBEL: I have the reason --

DAN MELVILLE: The applicant wasn't here that night either.

MS. ROVEDA: Yes. I did call two days in advance.

BEVERLY GRIEBEL: You failed to appear for the public hearing. Now, I did not get the notification.

Mr. Kress, was that a notification last month that she wanted it postponed, because --

DANIEL KRESS: We received a phone call, I believe it was actually on the day of the meeting, that it wasn't going to be possible for the applicant to be here. There was some question as to whether the applicant's husband might come instead and as it turns out, of course, no one came to the meeting.

DENNIS SCHULMERICH: So there is an option to table it.

BEVERLY GRIEBEL: I guess I didn't get that word. I just have the applicant failed to appear for the meeting. What does the Board want to do?

DENNIS SCHULMERICH: I make a motion to table until next month.

PETER WIDENER: I second the motion.

BEVERLY GRIEBEL: Any discussion on that?

MS. ROVEDA: I'm sorry, can you tell me what the date is going to be? I am going to be out of town again. Does it mean I can't run the business either?

BEVERLY GRIEBEL: I will ask for a decision on that. The October meeting is the 28th.

MS. ROVEDA: 28th. I will be back.

BEVERLY GRIEBEL: October 28th.

PETER WIDENER: But the sign must be posted prior to that.

RICHARD PERRY: Ten days in advance.

BEVERLY GRIEBEL: For the --

DAN MELVILLE: Post it more than ten days.

MS. ROVEDA: Maybe I should just leave it alone.

BEVERLY GRIEBEL: No, because it doesn't have the right date on it. It has to be posted no

later than October 18th.

MS. ROVEDA: Okay.

BEVERLY GRIEBEL: Okay? You either need a new sign or you need to change the date on it.

MS. ROVEDA: Which is what I did this time.

BEVERLY GRIEBEL: I don't know how many times you can change it.

MS. ROVEDA: I think I will have to get a new sign. Maybe I need to get it out before I leave then because I will be gone from the beginning of October to the end.

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

BEVERLY GRIEBEL: Can she continue the business there in the interim?

KEITH O'TOOLE: Yes.

DAN MELVILLE: Number 1, I have not seen the sign for the past week. Did anybody else see it?

RICHARD PERRY: I saw it on the 14th.

DAN MELVILLE: It hasn't been up all last week up until tonight.

DENNIS SCHULMERICH: Wait, it was not there on the 20th.

PETER WIDENER: Or the 21st.

DAN MELVILLE: I go by it every day. You're right, it was up, I think, the first day. But I haven't seen it since.

RICHARD PERRY: Same rule applies.

BEVERLY GRIEBEL: I don't know why it wasn't up.

DAN MELVILLE: I don't know.

DAN MELVILLE: Move to table or move to deny.

MS. MEYERS: I'm here on behalf of CVS. Carrie Meyers. We have had difficulty keeping signs posted at this property. I brought the stake with me. It was posted on the date, but I don't know if it is vandals or weather.

DAN MELVILLE: Did you come in to get more signs?

MS. MEYERS: A local sign company came and got more signs.

DAN MELVILLE: I go by every day.

MS. MEYERS: I brought the stake. The sign was not attached to it. I come from Indiana.

DAN MELVILLE: I haven't seen it for the past ten days.

RICHARD PERRY: The first day the sign was posted. It was just stapled or tacked or nailed to a stick, which isn't going to cut it in this kind of weather.

BEVERLY GRIEBEL: Was somebody at the store maybe assigned to watch that and keep track of it?

MS. MEYERS: I spoke with the supervisor on duty this evening and, quite honestly, they were not aware there was a sign out there.

DAN MELVILLE: I would suggest you have several signs and every time it comes down you go out and put one back up.

DENNIS SCHULMERICH: A different method of posting other than a one by three or four. That will not work.

BEVERLY GRIEBEL: We had 15 applications on the agenda, and most of them were posted and maintained, so some people could keep them going.

What is the pleasure of the Board?

RICHARD PERRY: You have a motion from Dan (Melville) to table it.

DENNIS SCHULMERICH: Might I ask a question? Are you here specifically from Indiana for this specific --

MS. MEYERS: Yes.

DENNIS SCHULMERICH: Unfortunate.

I second the motion.

DAN MELVILLE: It has been for a long period of time I haven't seen it there.

DENNIS SCHULMERICH: I understand. They have wind in Indiana, too.

DAN MELVILLE: I don't know how good an effort --

DENNIS SCHULMERICH: I don't happen to think it was a serious effort when you consider the installation approach.

DAN MELVILLE: I go by there every day. Motion --

DENNIS SCHULMERICH: There is a motion to table it. I will second it.

BEVERLY GRIEBEL: We either hear it, table it or deny it. What is the pleasure of the Board?

DAN MELVILLE: I think we should hear it next month.

RICHARD PERRY: Table it until next month. I would suggest tabling until next month.

DENNIS SCHULMERICH: The motion was to table, right?

DAN MELVILLE: Yes. That is why I made that motion.

DENNIS SCHULMERICH: That is why I seconded it.

The Board all voted yes on the motion to table.

BEVERLY GRIEBEL: Number 11, Thomas Hebrock, the Humphrey Road property, that sign was down on Sunday.

RICHARD PERRY: It was there on the 14th.

DENNIS SCHULMERICH: I tried to put it back up on Saturday, but it was beat from the wind.

MR. HEBROCK: It --

BEVERLY GRIEBEL: You're Mr. Hebrock?

MR. HEBROCK: Yes. I put it up every day. It is windy on the crest of the hill. I had cinder blocks on it. It just keeps blowing off. I have been out there every day trying to get it up.

BEVERLY GRIEBEL: It was at the high point of the hill.

MR. HEBROCK: The regulations say it has to be there. It is the only place I could put it.

DAN MELVILLE: We have to have a better way to fasten it to a piece of plywood.

MR. HEBROCK: I had stapled --

DENNIS SCHULMERICH: Had plywood and staples --

MR. HEBROCK: I kept putting this thing back.

DENNIS SCHULMERICH: This one is unique. The signs were actually there, just folded on the base.

MR. HEBROCK: Someone put a rock on them.

MICHAEL MARTIN: I'm okay with this.

PETER WIDENER: I drive by there every morning and every evening and that sign has always been attempted to be in place. Whether the wind was taking it down --

BEVERLY GRIEBEL: Wind or rain.

The Board indicated they would hear that application.

DENNIS SCHULMERICH: On the 20th, Number 6, Hillcrest Drive, I had the opportunity to talk with the resident. They were on the ground and they were putting it back up, so...

BEVERLY GRIEBEL: I was out late on the 20th, late in the afternoon, and they were up.

DENNIS SCHULMERICH: They were in the process of putting them up.

RICHARD PERRY: I was there on the 14th, and --

DAN MELVILLE: It was on the ground, so it was there. It is when it is missing completely, you know --

BEVERLY GRIEBEL: With no pole.

DENNIS SCHULMERICH: Yes. So I don't have a problem with hearing that one.

Another one I had an issue with is Number 9, Belcastro at Westside Drive and the sign had actually blown away from the storm the day before. And he was going to head back and get a new sign on Monday.

DAN MELVILLE: The storm we never got?

DENNIS SCHULMERICH: That is right. I'm okay with that. I just wanted to be clear the sign was missing for one day.

PETER WIDENER: I saw the signs on that property on both fronts.

RICHARD PERRY: Yes.

BEVERLY GRIEBEL: I guess I turned in the side road and saw it on the side road. Sometimes it is very hard to watch, but -- when cars are in your trunk, it is difficult.

So I guess we're all right with that one.

Any others?

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

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

DECISION: Unanimously tabled by a vote of 6 yes to table until the 10/28/03 meeting for the following reason/finding of fact:

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

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

2. Application of Pride Mark Homes, owner; 2024 W. Henrietta Road, Rochester, New York 14623 for variance to erect proposed apartment units with attached garages to be 25' from front lot line on interior roads (40' req.), variance for detached garages, maintenance building, and clubhouse to be 5' from interior roads (40' req.) at property located at 4416 Buffalo Road in RM zone.

Bob Cantwell was present to represent the application.

BEVERLY GRIEBEL: This went to Monroe County Planning and -- Dan Kress, was this a local matter?

DANIEL KRESS: This was referred back to the Town as a local matter, yes.

BEVERLY GRIEBEL: Thank you.

If people in the audience want to go up to the boards to get a closer look, please feel free. Not everybody going at once, but if you want to do that, please feel free.

MR. CANTWELL: Good evening. My name is Bob Cantwell with BME Associates, here tonight on behalf of Pride Mark Homes to represent the request for the plans as indicated and read in the public notice.

As was stated, the project is located at 4416 Buffalo Road and the project proposal includes development of the 19-acre parcel for a 154-unit apartment project.

The property is currently zoned residential multi-family, and this proposal is consistent with the existing permitted yield and development standards with the exception of the variance that we are here tonight for.

On July 8th, the proposal was presented. The site plan was presented to the Planning Board and a public hearing was held at that time. The requested variance is from Section 115-13(4)(B) of the code, and again, to be consistent with the application, it was for a reduction of the 40-foot required setback from the proposed buildings to the interior private project road.

I have included on the side (indicating) a rendering of the overall site plan which is to the left. North is in the direction to the front of the building. The plan itself has been rotated.

In addition, I have also highlighted a plan below or to the side of that with a heavy red line, and that represents the 40-foot required setback from the edge of the travel lane as indicated on the site plan.

The areas highlighted in pink are the buildings that are affected and portions of buildings that are

affected by the requested variance.

Again, the request is for the variance to several dimensions. The first of which is 15 feet to the outside edge of the travel lane of the interior private road for the non-attached garage apartment buildings. Those are the buildings that do not have incorporated within them garages.

Those are generally the more traditional apartment buildings from the common green area through the middle of the property to the top of the page there.

The second specific request is for 25 feet to the apartment units with attached garages. Those are the buildings on the west side of the site which on the plan is down.

Those are apartment units which, in fact, have single-car garages incorporated within the footprint of each of those structures, and the request for the 25-foot setback is due to the fact that a driveway can certainly accommodate any vehicle parking in that 25 feet as opposed to the 40 feet.

The third specific aspect of the variance request is 5 feet from the travel lane to the freestanding garages. Those are the four buildings, again on the top of the page, as you see it. Highlighted in pink. We have enclosed as part of the site plan proposal freestanding parking garages to support the -- again, the traditional apartment units that do not include garages for each apartment unit.

The next is 5 feet to the maintenance building. The maintenance building again is highlighted. It is in the northeast corner of the property adjacent to the existing Town of Chili storm water management facility.

And then the last is 5 feet from the clubhouse canopy to the travel lane. That is the -- the clubhouse is the -- includes the library clubhouse type of activities as well as the pool behind the structure, and in the front of the building there is a canopy for vehicles to drop off residents and visitors at that point.

The proposed setback will allow for a greater amount of common green space on the site plan itself, and I guess I would like to state that the allowable building coverage is 30 percent on the site plan.

The proposed building coverage is 16 percent, and we have included that within the site plan notes, so we are at approximately half of what is allowable in terms of the overall site plan building coverage.

It will also allow for a reduction of the amount of impervious surface necessary, and again, that is due to reducing the length of the individual driveways to the 25-foot dimension as opposed to the 40 feet. It will also reduce the length of sidewalks to each apartment entrance by allowing the smaller setback and closer to the parking areas.

We have also brought along the building unit elevations. If the Board would like to see them, I would be happy to route them around. They're propped up in front here. Again, there is -- the more traditional apartment unit with individual entrances for all eight units -- they're two-story units, and they each have their own entrance, so there are no common entry ways. All four sides of the structure are intended to have foundation plantings, so they will be very attractive from all four sides.

We have also included a common green landscaped area as the main travel way for the project. That is kind of running right up through the middle of the site, and again, that somewhat separates the more traditional apartment units on the eastern side of the site from the incorporated single-car garage apartment units which is to the west. Our intent from a site planning prospective was to provide something that was fairly attractive for the visitors to the site as they were coming into the project, and we carried that main travel lane, boulevarded entry, if you will, all of the way up the main access of the site itself.

The conformance to the setbacks will, in fact, have a significant effect on the design simply because of the nature of the specific footprints of the units, and again, I would like to point out that the setbacks being requested are essentially an interior project setback. All peripheral setbacks have been adhered to as required in the residential multi-family district standards.

This includes the 40 foot to the side and rear of the property on the west, north and east side as well as 75 feet along Buffalo Road. So granting of this variance will have very little effect, if any, with regard to the nature of what is visible from the surrounding neighborhoods.

I would like to just briefly comment -- I would like to comment on there are five criteria to be reviewed in granting a variance. The first relates to character of the neighborhood relative to the potential for granting of the variance. Um, it is certainly my opinion that since no required surrounding setback variances are being requested, and that we are holding those setbacks to conform to the code, um, that there will be essentially no effect to the character of the neighborhood, the surrounding

neighborhood.

Second is whether the problem could be alleviated by a solution other than a variance. Again, as I stated earlier, not without significant alteration to the plan, as it relates to driveway lengths and the increase in impervious surface area, we just think that it is not necessary to have 40 foot long driveways as opposed to 25 feet when, in addition to the parking, and the garage unit -- or the fact that there is garage space, there is also a parking space in the driveway itself and we have also provided visitor parking throughout the site also.

The third is whether the requested area variance is substantial. The 5-foot setback variance request for the freestanding garages, the maintenance building as well as the -- the -- I believe it is building -- I'm sorry, it is the building on the inside of the curve to the northeast of the site has the most significant requested variance. Generally, the rest of the variances, as you can see on the drawing, are very minor in nature with the building overhangs and whatnot.

The fourth is whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Again, as I stated earlier, I think that the granting of the variance will, in fact, have a positive effect because it will reduce the amount of impervious surface on the site due to shorter driveway lengths and sidewalk lengths, and thus it allows for more common green space on the interior of the -- the green area that is formed as a courtyard, for example.

And then the fifth is whether the alleged difficulty was self-created. Obviously it is a proposed site plan. Everything that is on the drawing could be interpreted as self-created. However, we do, in fact, feel that the nature of the units that are being offered and I think that the Planning Board supported the concept of the fact that this was a housing option that did provide some diversity to the community, and given the fact that the units do incorporate garages, I think that they view that as a real positive in terms of the housing stock to the community.

I think that they also acknowledge the nature of the architecture. We did have the elevations at that time, and they were very pleased with the quality of the architecture as well as the quality of the product and the quality of the development that Pride Mark Homes has brought to the Town of Chili.

So with that, I would be happy to answer any additional questions.

BEVERLY GRIEBEL: Okay. We'll start with questions from the Board. Any questions?

DAN MELVILLE: You said all those setbacks are from interior roads. So in other words, those roadways will not be dedicated to the Town of Chili?

MR. CANTWELL: That is correct. They're all private roads.

DAN MELVILLE: Now, also you mentioned that because you're requiring those setbacks or need those setbacks, it also gives you more green space in the community?

MR. CANTWELL: Because there is less impervious surface.

BEVERLY GRIEBEL: Shorter driveways and --

MR. CANTWELL: Yes. And sidewalks.

RICHARD PERRY: If you were to adhere to the setbacks that are required, what would that do to the number of available dwellings?

MR. CANTWELL: We are within the permitted density of 154 units. I think 155 is actually allowed under the code.

As opposed to losing units -- I have not relayed out a site plan, but the nature of the project itself would change. Essentially the units would be pushed further back away from the road, which means that there is less green space in units that are back to back, so to speak.

RICHARD PERRY: The trade-off would be you would lose green space, but you would still stay within the 30 percent if you had to adhere to it?

MR. CANTWELL: Yes.

PETER WIDENER: I have several questions. I really don't see too many green flags with this. I see a lot of little problems, and I'm trying to decide myself if the Planning Board has approved this -- and I can't get a definite answer on this yet.

One concern I have is the private road situation. Simply because in our community we have had other buildings of this nature when the roads were not built to our specifications, and when the housing development didn't want to plow the snow or pick the trash up any more, our vehicles for the Town could not go in there and do it because the roads were not built to specs. That is one question I

have on this.

And I think I will pass for the moment on the other questions until I get some answers from my Planning Board.

MR. CANTWELL: Would you like me to respond to the first question?

PETER WIDENER: Could you?

MR. CANTWELL: Pride Mark Homes is going to own this project. These are luxury rental apartment units. So if these roads are not plowed, they won't have tenants that would obviously tolerate that. So it is not like they're going to build this project and they're long gone. So I mean that is the answer, best answer I can give you. Inherently it is to, you know, maintain the property just like maintaining the lawns. They would contract out. Not only for the snowplowing, but also, you know, the landscape maintenance, things of that nature.

PETER WIDENER: I guess I focus -- would these roads be built to the Town specifications? Because a little crystal ball that I look into sometimes says things happen in the future that we have no control over and Pride Mark may be gone and we have a housing development there that we can't take care of.

DAN MELVILLE: That's a little different than townhomes. That is owned by somebody. That is private.

PETER WIDENER: I'm getting answers now. But I think on the other points I have, I will pass for the moment.

MR. CANTWELL: As far as the design of the pavement, it would be designed just like any other commercial site that is driven by Town standards. You know, the pavement base will be the sort of materials that are typically encountered. The Town Engineer will certainly review the pavement section as part of his -- as a matter of fact, he has already reviewed the site plan and we didn't get any comments from him with regard to the pavement section and the depth, so...

PETER WIDENER: Did you get any comments from him concerning the runoff of the water from this?

MR. CANTWELL: We are actually still trying to meet with not only D.O.T., but the adjacent property owner to the east that owns the plaza to have some dialogue about drainage improvements. We were tabled by the Planning Board pending that meeting again with not only that owner, but D.O.T. and the Town, and we have been endeavoring to put that meeting together, and that is the reason that we have not appeared, in addition to the variance request that we have not appeared in front of the Planning Board since that time -- that July meeting.

PETER WIDENER: I just bring that to your attention because there is a pond in effect south of Buffalo Road now. If we have nice run-off, it could be bigger.

MR. CANTWELL: As part of the site plan process, we have proposed enlarging the existing Town detention area as well as providing additional detention south of the Town's existing detention area onto our site behind the plaza, so those are all positive improvements relative to the flow that goes to the eastern side of the site.

PETER WIDENER: Thank you. I will pass on my other questions right now.

DENNIS SCHULMERICH: Could you talk a little bit about -- I think I heard the answer already, but the population density issue, with a tenant trading off green space for density, is that true, or would you reduce the number of units?

MR. CANTWELL: I can't speak for my client, who is not here, but I think the -- I can speculate that the answer is it is going to be the units would not be reduced. It would be -- you know, the dimension between the units -- again, that is viewed as a -- as not a preferable option to them.

DENNIS SCHULMERICH: Sure. But from your perspective, if you were instructed to redesign in such a way as to be able to retain the same population density with the area you have, that is something that could be doable from your perspective?

MR. CANTWELL: I think given the coverage that we are proposing and it being so far below what is required, I feel very confident that that could be done, yes.

But again, it is not a preferable --

DENNIS SCHULMERICH: I understand. I'm just trying to get a degree of freedom that you have.

The second question is around the parking scenario. I see the distances from 40 to 25 and down

to 5 in some cases. One of the questions I have -- I was having a hard time -- I pay a lot of attention to the diagrams and I'm having a hard time visualizing what might happen from a safety perspective. If you had people trying to back out of those parking spaces and you reduce the distance from the building to the road from 45 to 25 feet from a health and safety perspective, do we have a situation here where cars backing up would have a difficult time seeing oncoming traffic?

MR. CANTWELL: My opinion on that is no, because you have got almost around the entire inside, for example, of the traditional apartments, I will call it, which is the eastern half of the project, you have got parking spaces that are essentially at the intersections with a planting strip for some street trees, but, you know, I don't think the challenge is -- you know, is going to be the structure itself. It will be any vehicles, just like any other parking lot and the visibility there.

DENNIS SCHULMERICH: I was just trying to think of the situation where you have cars parked adjacent where you pull in, and you start backing out, the degree of visibility you have to have -- I didn't know if it was considered from a safety perspective.

This is being referred back to the Town in terms of SEQR?

BEVERLY GRIEBEL: We would have SEQR on this portion of it, the setbacks.

DENNIS SCHULMERICH: Okay.

BEVERLY GRIEBEL: The Planning Board would do the other on that whole site plan.

DENNIS SCHULMERICH: Got you.

BEVERLY GRIEBEL: Because that is what they're involved with.

DENNIS SCHULMERICH: Regarding the five-part test that you walked through, I appreciate your helping us with that. Regarding the character of the neighborhood, I appreciate your perspective that from the outside the character of the neighborhood wouldn't be changed because you're not requesting variances. I guess I would consider the interior of the project part of the neighborhood, as well. And I guess from my perspective I would say that is having an impact on the character of the neighborhood from a perspective that while retaining green space in certain parts, you have actually condensed the living conditions in other parts. So I would be interested in your perspective on that.

MR. CANTWELL: Again, what we were trying to do is maximize the green space interior. There is a common area around the -- again, the more traditional units on the east side, so by -- by the nature of the site plan as shown, if, in fact, we are pushing the units further inside, it will just reduce that common green space which we see as a passive area for people, you know, sitting area, things of that nature.

You know, as it relates to the units on the west side of the property, again, our sense was that by having the three little courtyards, if you will, that go to the west as narrow as possible, it has less of an effect on the adjoining property owners to the west and it provides more green space and less building mass, if you will, in terms of that access.

DENNIS SCHULMERICH: Are you familiar with the Hidden Valley project in Gates?

MR. CANTWELL: No.

DENNIS SCHULMERICH: When I look at this diagram, I have a similar sense as to what happened with setbacks. I was wondering if you were involved in that.

The second condition could be alleviated by another approach. I think you pretty clearly indicated, yes, it could be. Not without hardship from the perspective of your client, but it could, in fact, be alleviated through another approach.

Is the requested variance substantial? I might agree that the 40-foot setback to 25 is a debatable one. Certainly down to 5, I think by your own words is a significant one.

Environmental impact, I think Pete (Widener) mentioning the fire and safety and the ambulance, the fire, the garbage, health and safety, I guess is a question in my mind that I have not reconciled yet and I would be interested to hear from others on that.

The fifth condition of difficulty self-created, I would say yes, it is. If it was within your purview to design this within the existing zoning code, and you have consciously chosen not to do so for what you consider to be good reasons, from that perspective I would say the difficulty was self-created.

I felt it appropriate since you raised those five and made your case, you received a response back because we will not have an opportunity to do that later on. So that is my perspective.

BEVERLY GRIEBEL: I just want to make a comment. I live out at Mayflower in North Chili in the town homes. I didn't measure the driveway, but it holds one car in depth with a few more feet, and

probably somewhere between 20 and 25 feet. So there are many of the homes there that are built like that. Some of the different style patio homes have a longer driveway where you can fit two cars front to back.

RICHARD PERRY: If these are luxury apartments, the folks more than likely will have two vehicles, and typical of most people who have a garage and live there for a while, the garage is going to get filled up and probably not used by the vehicle, so you have got two vehicles out in the driveway. Now, 25 feet is not that much longer than a big boat or pickup -- boat, vehicle or pickup truck. You could put two of mine in there, but that is a little different.

BEVERLY GRIEBEL: The Mini.

RICHARD PERRY: How do you figure that is going to work out as far as space? Because I imagine these driveways won't be more than one car wide, are they?

MR. CANTWELL: No. They're 10 to 12 feet in width. I would also say that 40 foot is not long enough for two cars to park either. That is what the required setback is. You know, these potential tenants of these units, I mean if they have three cars, then they're looking at the wrong unit if they don't have that ability.

As I indicated, we're also proposing the freestanding garages. Those could be used by -- they're not intended on being used for the people that have garages incorporated in the units, but it is also a matter of first-come-first-serve, if there was a need for three vehicles. I don't think that that is likely given the nature of the pro forma, if you will, of the market and the builder at this point.

RICHARD PERRY: You say you have 154 units?

MR. CANTWELL: That's correct.

RICHARD PERRY: These are intended to be for empty-nesters? People with children?

MR. CANTWELL: They're not specifically marketed toward any kind of restriction. You know, there is --

RICHARD PERRY: The largest are two-bedrooms?

MR. CANTWELL: I think that there is a third bedroom that may be an option for the units to the west, and then actually we have two units. The one unit directly at the end of the main access as well as the first unit -- or the second unit on the right as you come in the project are actually three-bedroom.

RICHARD PERRY: And --

MR. CANTWELL: Those are not the garage.

RICHARD PERRY: 154 units, how many parking spaces and/or garages do you figure that this totals up to?

MR. CANTWELL: The required parking is 268, and the total provided is 270. That is -- the required parking is based on one and three-quarters per unit.

DENNIS SCHULMERICH: So you can park your car there (indicating).
(Laughter.)

BEVERLY GRIEBEL: He has a very small car. It is a Mini. One and three quarter per unit.
Okay.

RICHARD PERRY: In this day and age that somehow does not seem like nearly enough to me, especially if you have a child with a car --

MR. CANTWELL: We're not asking for a variance on the parking number.

RICHARD PERRY: I understand, but what do you do with the access if everybody decides they're going to have, you know, two or three vehicles?

BEVERLY GRIEBEL: I think the problem is if people rent there, they have to understand what the parking situation is, how many spaces they would have.

RICHARD PERRY: How many people selling these units will go to the extent, "By the way, if you have three vehicles, you probably don't want to live here"?

DAN MELVILLE: Well, they will have to. If they can't accommodate the parking --

RICHARD PERRY: We'll see. I don't have any other questions.

MICHAEL MARTIN: Are you familiar with Blueberry Hill Apartments?

MR. CANTWELL: Only from the TV.

MICHAEL MARTIN: They have no garages, just straight parking spaces. I was just wondering if you are familiar with that. I'm not sure there is much difference from their parking spaces and what you're asking for as far as the distance from the road.

DAN MELVILLE: Traditional apartment complexes don't have a lot of parking. It is very limited.

MICHAEL MARTIN: As far as the distance from the private road.

BEVERLY GRIEBEL: It may have been done with some variances. I don't recall.

PETER WIDENER: I would like to direct you back to the occupancy of these buildings. Have you considered vacancy or the rate of not having them occupied? Would there be vacant buildings or do you plan to have them all occupied?

MR. CANTWELL: I'm sure that the goal is to have them all occupied. I think I can safely represent my client's interest with regard to that.

PETER WIDENER: That is 270 parking spaces, with that many vehicles?

MR. CANTWELL: Um --

PETER WIDENER: I'm leading into my next question of ingress and egress. I don't think we have even considered that on this property. To put all those vehicles in and out of that apartment complex --

DAN MELVILLE: Isn't that more a Planning Board function?

PETER WIDENER: It is, but --

DAN MELVILLE: We're hearing setbacks here.

BEVERLY GRIEBEL: We're hearing just setbacks. There are other apartment complexes with only one ingress, egress.

MR. CANTWELL: We have provided an emergency only access point to the north, and that is shown on the site plan.

PETER WIDENER: I guess maybe I'm overly concerned. I stand corrected, Madam Chairwoman. Thank you.

KEITH O'TOOLE: Question for the developer or his engineer: If I'm a neighbor, opposed to this project, explain to me why this variance, if granted, is good for me.

MR. CANTWELL: I guess I would look at it the way I have represented a couple times tonight, is that the length of the driveways represents more impervious surface, and the more impervious surface we have, the more storm water we have to handle in the detention areas.

So I think that is probably, you know, the best way -- that is one response. Again, the other, perhaps, response that I might make is particularly along the western property line, if, in fact, we conform to the 40-foot -- we're required to conform to the 40-foot setbacks, not only are the driveways longer, but it is tightening up the green space because it is pushing the units together.

DAN MELVILLE: So would that push the project more to the exterior?

MR. CANTWELL: No, no. Because we're -- the units that are shown do, in fact, conform to the required setback, to the periphery of the site, which is --

DAN MELVILLE: But if you were required to conform to the setbacks on the interior roads, now it means you have to push everything back, right?

MR. CANTWELL: Away from the private drives.

DAN MELVILLE: That means you will be going closer to the exterior or perimeter of the property?

MR. CANTWELL: Perhaps with some of the units, but not the units that are closer to the exterior property lines right now. Those are at that 40-foot dimension.

BEVERLY GRIEBEL: You're not asking for a variance on the peripheral?

MR. CANTWELL: That's correct.

DAN MELVILLE: Just interior?

KEITH O'TOOLE: What you're saying, some neighbors, if this variance is denied, then the garages would actually be pushed closer to their properties; is that correct? Is that what you're saying?

MR. CANTWELL: The garages -- well, let me answer that two ways. Not necessarily the garages. For example, to the west, the garages might hold a parallel relationship to the boundary line, but the other potential is that -- and again, we have not done any reworking of the site plan. We have spent a considerable amount of time and effort to develop what we feel is very sensitive as it relates to green space, to the peripheral, but if, for example, there is no -- along the western property line, for example, there is no required setback for a private road or a driveway. So there could be theoretically a private road running right along the west side of the property line and the

units could be flopped 180 degrees so that units are actually facing the property to the west. That was not something that, you know, we were considering, but that may actually allow for the conformance to that setback. We have not done a site plan with regard to that, but that would certainly be less preferable, I would think, to the property owners.

KEITH O'TOOLE: So your argument is that, if the variance is denied, things could get worse for the neighbors?

MR. CANTWELL: It is a possibility.

KEITH O'TOOLE: Thank you.

DANIEL KRESS: Just one. I just wondered if any thought was given on the part of the applicant to the possibility of using some of the extra distance or space gained by the variance not for interior green space, but to increase the distance either on the north or on the west buffers? Since I have got an awful lot of calls from people on Slate in particular asking how far the things will be from the backs of their backyards.

MR. CANTWELL: The question again, I'm sorry?

DANIEL KRESS: Right now you have setbacks along your north and to the west that conform to the minimum setbacks required by the zoning ordinance, so that is an entirely legal arrangement. My question was: Has any thought been given to using the extra space gained by this variance, assuming it is approved, not for interior green space, but to increase the setbacks on the north and the west?

MR. CANTWELL: What it does is essentially does the same thing, interior -- again, to the eastern side of the property is where it -- I think it has the most effect, but it -- I just don't -- I don't think -- we're holding the required setback off the north property line. You have the unit footprint, and then we're holding an appropriate dimension, a practical dimension from that building face to the sidewalk and then the parking and the travel lane and the parking and then on the other side, the other facilities. So, you know, it is squeezing the entire core of the project. So, you know, we started with the -- as a priority the exterior boundary -- required setbacks.

Again, for this Board's interest, we did meet with the Conservation Board and went over the landscape plan with them and they had some comments about requesting some additional plant materials, and we have agreed to provide those plant materials both to the north and to the west. And we have not resubmitted that plan just because we have some other issues that we need to address before we appear in front of the Board again.

MICHAEL MARTIN: I know it is not relevant to the setback, but just out of curiosity, could you describe some of the border proposals along the north and west?

MR. CANTWELL: As far as plant materials?

MICHAEL MARTIN: Yes.

MR. CANTWELL: Combination of Evergreen and shade trees. I think the -- again, I'm going by memory now. It has been a couple months. I think the Conservation Board's preference was to supplement what is there with more Evergreen types of vegetation.

MICHAEL MARTIN: Creating a natural fence?

MR. CANTWELL: Exactly, yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STU CHAIT, 21 Slate Drive

BEVERLY GRIEBEL: Are you in favor of this?

MR. CHAIT: No. I'm sorry. I misheard you.

I reside at 21 Slate Drive, North Chili. I am one of many here tonight representing the North Chili Neighborhood Association. For reference purposes, I am also the principal of Chait Studios, an architectural practice in operation since 1989, and am also the architect of record for Landsman Development - Mayzon Corp., one of the largest multi-family residential developers and management companies in the metropolitan Rochester area. I mention this only because I have appeared in front of several planning and zoning boards in the area on their behalf and know the planning and zoning requirements for multi-family developments.

The variances being asked for tonight are in question because they're the direct result of the planning and layout of this project. Mr. Cantwell has alluded to, as well as others, as a self-created

hardship. There is no question that this is, and it is as a direct result of the number of buildings being located on the site. The proposed density per acre is below the maximum required, but that does not automatically qualify the project for a variance. There are other layouts with fewer buildings that would fit everything on the site without a variance. Slate Drive, when it was developed, was and to this day is still zoned multi-family, although it was built as single-family homes.

The applicant, Pride Mark Homes, is a single-family homebuilder who admittedly in their Planning Board application, does not own or manage such a project. This does not need to be the first of its kind in Town of Chili. Yes, they're allowed by code to build multi-family on the property but they're requesting a variance to be able to do it in a situation they have created. One solution to all of this would be to build single-family homes, such as Jim Howarth and Mr. Perry discussed some 18 years ago. Pride Mark obviously has the expertise to do so. Why build multi-family? If the need is to build a multi-family project, do it within the guidelines and codes set by the Town. To grant a variance such as this is allowing development for financial gain without concern for the existing neighborhoods that surround it. That is not a sufficient reason for a variance.

I do have a few questions I would like to ask either the Board or the applicant.

First, are the location of trash rooms, trash areas or dumpsters to be located adjacent to either the Hubbard or Slate Drive properties? The site plan submitted does not indicate their location nor setbacks or enclosures.

Secondly, will these buildings be sprinkled? Section 903.2.7 of the Building Code of New York State specifically states that all Group R structures are to be installed with automatic sprinklers. The reason I bring this up is I wonder for the disregard for Section 503 of the Fire Code of New York State, which specifically calls for access roads for fire fighting apparatus to the perimeter of all building and facilities. These buildings are located within 41 feet of the property lines and access roads are defined as 20 foot minimum, and being built in a manner to support emergency vehicles in inclement weather, it leaves 21 foot left for landscaping and buffering, little more than the depth of a parking spot. I have discussed this with Dick Thompson from the Department of State who confirmed this interpretation. State variances to reduce the 20 foot dimension would not be appropriate and would be near impossible to obtain.

The Planning Board and their comments prior to tabling this application made note of the lack of landscaping and buffering. Mr. Kress has alluded to that. In addition is the fact that with neighboring different zoning classifications, single-family properties are generally given greater buffer zones. The Planning Board has also mentioned the real possibility of awarding both preliminary and final site plan approval at their next hearing which for a project of this size and magnitude is unheard of.

In addition, as I understand from the Town, the required New York State D.O.T. traffic study has not yet been received as of today. There's a number of studies that are impacting this project that I find it hard to believe that a variance to be granted without knowing the further impacts on the property and possible site redesign. The reality of the situation is that the applicant cannot get their site plan approvals without this variance, but there are simple planning standards that need to be applied to see if they affect the layout of the proposed site. They all need to be taken into account before awarding a variance.

If this project remains multi-family, a proper buffer and increased setbacks between Cambridge and existing neighborhoods is the prudent action to take for all concerned, but it will necessitate a revised site plan. Otherwise, I suggest that this project be re-conceived as the single-family tract that Mr. Howarth and Perry envisioned.

For these reasons, I ask that this variance either be tabled or denied. Thank you.

RICK RODGER, 20 Slate Drive

MR. RODGER: My concerns for the Board, first of all, I think I heard that the matter of the environmental issues and so on and so forth permitting the like have been referred from the County back to the Town of Chili, so you will deal with the issues that I am going to address such as studies for the feasibility of this project.

One of my concerns is while this area was zoned multi-family, it was not a long time ago, as was the infrastructure built a long time ago. I'm wondering if we're doing comprehensive environmental assessments of this area, whether those studies are being done by the appropriate parties, whether -- as

Stu (Chait) mentioned, the D.O.T. study is being done -- studies by the Health Department to make sure our existing infrastructure can handle all of the increased sanitary issues and so on and so forth. Monroe County Pure Waters, to make sure a large complex like this is not going to adversely affect water pressure and quality in the area.

I guess again my major concern now is while it may be multi-family, I want to make sure that this -- all of the proper studies are being done to make sure this is, in fact, safe, that it is being looked at by the appropriate parties, whether that is including the New York State Department of Environmental Conservation.

To me, I'm not sure that we can grant any variances in zoning or anything else before we're absolutely sure this project is feasible and will work. I lived in a townhouse complex for about six years and one of the things that happened is those roads were very narrow in the winter. And I'm thinking as you're discussing the parking, you have a one and three-quarters cars and whatsoever. I know I have a Ford F150 pickup about 16 foot long, so that is pretty well going to gobble one driveway up. But more than that, what will you do with people that have more cars? They will be parking on the lawn and that's a grave concern to me.

As far as also the issue of Keith Terrace, that being used for emergency egress, I don't believe that road should ever be opened for anything but that, and I am concerned that that might happen one of these days. I think it would create a traffic situation in that neighborhood that the roads are not prepared to handle and the neighbors aren't, as well. Thank you very much.

RALPH SIMOLO, 16 Keith Terrace

MR. SIMOLO: The last issue this gentleman just raised is a serious concern I have, as well. The streets that are adjacent to this property are designed for residential use. There are no sidewalks or streetlights. There are no sides to the road. It is just the pavement. And every day there are people with -- mothers with baby carriages, there are children on bicycles, roller blades, people walking and so forth. The only place that they have is this street pavement itself. I'm very concerned once the people, the tenants of this project determine how difficult it is going to be for them to exit the property on Buffalo Road, being so close to the signal light there -- that is already generating a lot of backup in both directions -- this is going to further aggravate the situation. They're going to be demanding another egress from their property. And the streets surrounding the property are not built for that. I'm wondering if the Town is prepared in that event -- first of all, the question is, can the developer on his own change from an emergency exit to general entrance and so forth, or is that something that the Town would have to approve? And what absolute guarantee do we people who live there have that this is true? And furthermore, is the Town ready then to upgrade the nature of these roads in order to accommodate the traffic that would result if access is given through the rear end of the property? Thank you very much.

STEVE ROOKER, 38 Omega Drive

MR. ROOKER: I just happen to remember reading newspaper articles about people dying shoveling their driveways because they die of heart attacks, so from a health and safety issue, and also the closer you are to the road, the closer you are to emergency service. So I wonder if maybe -- you mentioned health and safety. I think it would be safer to be closer to the road than further away. I don't know if that is a big concern.

Also my concern is that this property actually belongs to Pride Mark rather than the community. And usually if you leave business people alone, they will do what is best for the community because it benefits them. I don't know if that is the case here, but it is something to consider. Thank you for your time.

DOMINIC MORANO, 30 Slate Drive

MR. MORANO: I live right where they want to put this egress road. I'm on the curve kiddy-corner to the water tower. I built the house in 1985. When I built the house, I was under the impression that it was going to be a neighborhood like we have now.

My concern is now if you put these apartment complexes in here, what is it going to do to our taxes, our school taxes and how will we benefit by our taxes being raised by the amount of people that

will be living in these apartments? That is all I have to say.

DAN SCALLY, 40 Keith Terrace

MR. SCALLY: I'm really two houses -- S-c-a-l-l-y, and I live at -- two houses away from where the proposed access road to the project will be. I also have concern over that. My concern is that if this was opened to be a main road, the traffic congestion it would cause, not to mention the noise and the danger that could be there. I ask that, you know -- if this is approved, that there is a commitment on the part of the builder that this never become a back entrance to the complex.

BEVERLY GRIEBEL: That issue would become a Planning Board issue.

MR. SCALLY: Okay.

BEVERLY GRIEBEL: Not for this Board. That would be Planning Board.

MR. SCALLY: But I also see this project as not adding any value to the neighborhood whatsoever. As a matter of fact, I think it will devalue some of the properties in the neighborhood. That is all I have to say.

MICHAEL DOUGHTY, 17 Slate Drive

MR. DOUGHTY: In listening tonight, I want to echo a few of the concerns and bring up some I'm not sure have been raised. I'm concerned about the drainage. Variance calls for less impervious surface. We do see a lot of water collecting in our backyards and I wonder where that is going to go and how much more that is going to be added as a result of that project.

Also, I'm concerned about school buses. We mentioned emergency equipment, snow removal. How will school buses be able to get through?

And I really hope that the Board takes into consideration that the circumstances were created by the project, and maybe an effort to create more green space might be to reduce the number of units. So thank you.

JOHN BEERS, 40 Hubbard Drive

MR. BEERS: My question is, Mr. Cantwell, sir --

BEVERLY GRIEBEL: Please direct questions to the Chair.

MR. BEERS: It sort of involves --

BEVERLY GRIEBEL: Direct questions to me.

MR. BEERS: All right. I believe in the last meeting I attended on July 7th they said that the units would go between 900 and \$1,200 per month for rental unit, and my question is, if Pride Mark is not financially successful in obtaining these rental amounts, what is going to happen if they lower it and it is not -- the apartments are already built and it is not a financial success for Pride Mark, what is going to happen after that?

BEVERLY GRIEBEL: Well, I don't know that anyone can answer that.

MR. BEERS: Well, it is something the Board should think about.

DAN MELVILLE: That is not for us --

MR. BEERS: Well, you should. Because this is underlying the value of the property of the neighborhood. That's all I got to say.

CLIFFORD FOOTE, 4422 Buffalo Road

MR. FOOTE: You talk about green space, but I see in the middle you have two roads run right besides the other. If you eliminate one of the roads, you could have more green space and extend --

BEVERLY GRIEBEL: Well, the roads through the middle go one way in and the other way out.

MR. FOOTE: If you had more space around the property, then the buses and the emergency vehicles could go through it without having to have that. And it seems as though they really -- they haven't really given you any good reason for the variance.

BEVERLY GRIEBEL: Thank you.

JIM SAULDER, 19 Slate Drive

MR. SAULDER: The problem we have right now is there is supposed to be a pond at the end of Slate Drive. Number 5 Slate Drive, they have water in their backyard continuously. They have mice,

they have rats. They have all sorts of problems. Now, they want to put in another pond in that place plus at the other end. We'll have nothing but mosquitoes and everything around, and we have the plaza there where a lot of this is probably being generated. I am just wondering if it is granted if we'll have more problems.

BEVERLY GRIEBEL: I don't know. I think that sounds like a Planning Board issue with the drainage.

BERNICE WILCOX, Stuart Road

MRS. WILCOX: With the developers, it is always about money and I would like to have some idea how much the developers would save by not having to put additional pipe to these units like sewers and water and extend the driveways. With sewer pipe costing \$36 a foot, I think that is their main reason for trying to put this project forth, and I am certainly opposed to the density of this project and I am certainly tired of the taxpayers picking up the tab for developers that create problems in this Town.

BEVERLY GRIEBEL: Do you want to respond to any of the questions that were raised?

MR. CANTWELL: The only thing that I would respond to is that the traffic study was in effect sent over to D.O.T., and so that it is on their pile of projects to be reviewed. So that has been done. Unfortunately they had a fire at the D.O.T. offices, and everything has been delayed. That happens to be the last agency that we get comments from on every project at this point due to that. So I guess it is not a wonder that the answer was that it hasn't been submitted, but it has been submitted.

DENNIS SCHULMERICH: Any anticipated time on return of that?

MR. CANTWELL: Months.

DAN MELVILLE: Just trying to track those people down is a nightmare.

DENNIS SCHULMERICH: That is true.

MICHAEL MARTIN: Where is the intended garbage collection?

MR. CANTWELL: Each of the freestanding garages has a trash room at the end of it, refuse removal I guess is the appropriate term. So those would be used, so there are no dumpsters on site. So it would be used for the apartment units.

RICHARD PERRY: Those will be the only ones for the entire complex?

MR. CANTWELL: Yes. There would be totes, the regular individual totes for the garage -- the garage oriented apartment units on the west side of the property. So on garbage day, they would bring the totes out, just like at your homes.

BEVERLY GRIEBEL: They would bring their own garbage cans and totes out?

MR. CANTWELL: Absolutely, because they have garages.

BEVERLY GRIEBEL: Then the other apartments would use the end unit on the road?

MR. CANTWELL: Yes. There are four of those rooms. One at each end of each of the garages.

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

Michael Martin made a motion to approve the application with the following condition, and Dan Melville seconded the motion. The motion was approved by a vote of 4 yes to 2 no (Richard Perry, Peter Widener).

DECISION: Approved by a vote of 4 yes to 2 no (Richard Perry, Peter Widener) with no conditions, and the following finding of fact was cited:

1. Applicant showed benefits of creating enhanced green space and improved drainage.
3. Application of Francine Beck Roveda, owner; 416 Fisher Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a cosmetics counseling business at property located at 416 Fisher Road in R-1-12 zone.

DECISION: Unanimously tabled by a vote of 6 yes to table until the 10/28/03 meeting for the following reason/finding of fact:

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

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

4. Application of Jeffrey Duncan & John Tuminaro, 2159 Westside Drive, Rochester, New York 14624; property owner: F. Duncan; for conditional use permit to allow a computer repair business in home at property located at 2159 Westside Drive in R-1-15 zone.

DECISION: Unanimously denied without prejudice for the following reasons/findings of fact:

1. Applicant failed to post the public hearing sign per Town requirements.
2. The same occurred for the August 26, 2003 meeting.
5. Application of Nathan Stefl, owner; 520 Paul Road, Rochester, New York 14624 for variance to erect a porch to be 48' from front lot line (75' req.) at property located at 520 Paul Road in R-1-15 zone.

Nathan Stefl was present to represent the application.

MR. STEFL: Good evening. Sorry. I have print envy.
(Laughter.)

BEVERLY GRIEBEL: If anyone wants to go up there and look at it, that is fine. This is going to be a curved porch?

MR. STEFL: Yes. Corner is 12 foot radius with a conical roof. Right now you can see the black outline is the existing house. The red outline is the old porch 5 foot by 5 foot, and --

BEVERLY GRIEBEL: I missed this dotted line. Okay.

MR. STEFL: The blue outline is the new proposed front porch. The main problem is the road setback, 75 feet. The house is at 61 feet.

BEVERLY GRIEBEL: It predates --

MR. STEFL: Yes. The house was there probably before the road was. Including the roof line of the new porch, it would now be at 48 feet.

RICHARD PERRY: That is to the overhang?

MR. STEFL: Yes.

BEVERLY GRIEBEL: That is a big house.

MR. STEFL: Yes, it is.

BEVERLY GRIEBEL: It goes very deep.

MR. STEFL: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

RAMONA ALICIE, 518 Paul Road

MS. ALICIE: We're in tandem. Mr. Sarfaty has had a stroke and doesn't speak. S-a-r-f-a-t-y, 518 Paul Road. Ramona Alicie, A-l-i-c-i-e, 518 Paul Road.

I would just like to speak on Nathan (Stefl)'s behalf. We feel his plan is a good one and that it will do a lot to improve the property as it stands now, which is the original old farm house that was there many moons ago and we're all in favor of him doing this project.

BEVERLY GRIEBEL: Thank you.

BARBARA GIRVIN, 526 Paul Road

MS. GIRVIN: Barbara Girvin, and I live to the west of Nathan (Stefl) at 526 Paul Road, and they spoke exactly what I was going to say. He is really doing a great job improving the house and keeping it with the continuity of the neighborhood.

DENNIS SCHULMERICH: Do you enjoy coming to Zoning Board meetings?

MR. GIRVIN: I love it.

RICHARD PERRY: We gave you a ten-year pass and you're back in a month.

DAN MELVILLE: Let's reduce it now.

(Laughter.)

BEVERLY GRIEBEL: This did go to Airport Review and came back as a local matter from Monroe County Planning.

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

Dan Melville made a motion to approve the application with no conditions, and Michael Martin seconded the motion. All Board members were in favor of the motion.

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

1. Pre-existing, non-conforming situation.
2. Will enhance the appearance of the house.

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

6. Application of David Irons, owner; 11 Hillcrest Drive, Rochester, New York 14624 for conditional use permit to allow a firewood business in home at property located at 11 Hillcrest Drive in R-1-12 zone.

David Irons was present to represent the application.

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

MR. IRONS: Hello.

BEVERLY GRIEBEL: Have you been doing this business there for a while?

MR. IRONS: If you want to call it that, yes. I'm collecting wood for myself and my brother-in-law to burn to cut down on our RG&E bills.

BEVERLY GRIEBEL: Do you sell to other people?

MR. IRONS: Not normally, no.

BEVERLY GRIEBEL: Not normally?

MR. IRONS: Not normally, no. A friend of mine lives in Darien Lake. He called me up and asked if I had any wood. I told him to pay for my tolls and my gas, and I brought it out to him.

BEVERLY GRIEBEL: You have quite a bit of wood there.

DAN MELVILLE: How much wood do you cut in a year?

MR. IRONS: On average, I usually keep 20 face cord unseasoned. Right now I have 14 face cord that has been sitting, seasoning. Obviously it has to season for a year to dry sap up. I have 11 face cord half which is going to my brother-in-law's probably starting next week.

DAN MELVILLE: Do you use a chain saw there?

MR. IRONS: No. On average we don't usually use a chain saw at the house. Log

splitter is usually one maybe once a month, maybe.

DAN MELVILLE: How much noise is the log splitter?

MR. IRONS: Fairly quiet. I rented one. That one was quite loud, but the one we have now is a newer model that is more quiet. We don't use ear protection for it like we used to have to. My nephew, who is five, he is very attuned to loud noises and he stands right next to it without wearing ear protection and doesn't complain about it, so I will say it is not that loud.

DAN MELVILLE: Does having wood piled there draw any kind of rats or mice?

MR. IRONS: My mother has two cats and --

DAN MELVILLE: That takes care of it.

MR. IRONS: Yes. They bring their trophies into the breezeway on a regular basis, I would have to say. As far as bugs and whatnot, I haven't noticed any increase or anything like that.

RICHARD PERRY: Where do you envision this business going?

MR. IRONS: Pardon?

RICHARD PERRY: Where do you envision this business going? You know -- Dave (Irons), are you going to be selling?

MR. IRONS: Just enough wood for my brother-in-law and I to burn each year.

RICHARD PERRY: Just that?

MR. IRONS: Yes.

RICHARD PERRY: Do you have a d/b/a for this business? Have you filed for a business permit for the business?

MR. IRONS: No, sir.

RICHARD PERRY: And maximum, you feel that would be 20 face cord and that is it?

MR. IRONS: Give or take, yes.

DAN MELVILLE: You're not really selling the wood, are you?

MR. IRONS: No, sir, no.

DAN MELVILLE: Then would you have to have a tax account?

MR. IRONS: Yes. I understand that. We are not selling the wood at all. Although the code inspector did tell me several of my neighbors will swear I have ten vehicles coming and going. I would like -- I would like to know who it is because if they're coming and going, I don't know anything about it. Pile hasn't increased or decreased as far as I know.

MICHAEL MARTIN: Where do you obtain the wood from?

MR. IRONS: Friends from work. They ask me, "Do you want to cut a tree down?" So I started -- friend of mine at work, he had three trees in a row. He wanted to take one out. I said, "Sure. I could use the firewood." So I went and cut it down. Another friend of mine from work, as well, same thing. Wife wanted a tree down in the backyard that was an eyesore. I went over and took it down.

MICHAEL MARTIN: You have no intentions of ever opening up to outside customers to sell wood?

MR. IRONS: No, no.

PETER WIDENER: You're asking for a conditional use?

MR. IRONS: Yes.

PETER WIDENER: That would be used for one year to begin with and can go up to ten years, but what prompted you to come before this Board to ask for this permit?

MR. IRONS: Several of my neighbors, I guess, apparently have called the code inspector and have been complaining about it. You know, I mean it is stacked nice and neatly in the corner. I don't see anything wrong with it. I'm using it to cut down my RG&E bill, like I said.

DAN MELVILLE: I guess I have a question. Is it illegal to cut wood and split wood in your yard?

BEVERLY GRIEBEL: I guess the question I have is how this comes here?

DAN MELVILLE: Why is it here?

BEVERLY GRIEBEL: As a conditional use permit for firewood business.

DAN MELVILLE: It is not a business. He is not selling wood.

DANIEL KRESS: Well, we have had complaints to the contrary.

BEVERLY GRIEBEL: So that is why it generated this application?

DANIEL KRESS: Yes. This was the best way to resolve the issue.

BEVERLY GRIEBEL: Okay. Got you. When you run this splitter, how long a period of time do you run that?

MR. IRONS: Usually a couple hours after work. Sometimes like -- I would say the last time we ran it was probably for three and a half hours, and that was -- I think that was back in July was last time we actually ran it.

BEVERLY GRIEBEL: Can that noise be heard off your property?

MR. IRONS: More than likely, yes.

PETER WIDENER: When you say "we," do you have employees?

MR. IRONS: Just my brother-in-law and I.

MICHAEL MARTIN: Do you pay him?

MR. IRONS: No. He is in it for the wood, just like myself. He has a woodburning stove in his house, as well. So like I said, half of the wood that is there is actually going to be moved down to his house so he can burn it for the winter, as well.

DENNIS SCHULMERICH: This one confuses me. I want to get to a question at some point. Give me a second.

We can deal with this as a Board and --

BEVERLY GRIEBEL: Well, we may have to hear from the neighbors.

DENNIS SCHULMERICH: I know. I want to do that. I just want to make a comment and ask a question. We can hear the input from the applicant and from the community, and I don't know if the community recognizes that if we determine that we think he is simply chopping wood for himself and his brother-in-law and we go ahead and approve a conditional use permit, then -- and, in fact, he is doing it for himself and his brother-in-law, there is nothing preventing him from having a tractor-trailer or trucks coming down the road dropping off wood. I don't think we're fixing anything with a conditional use permit.

RICHARD PERRY: I think I would want to ask Dan (Kress) if there has been any proof submitted to the fact that there is any sale of this commodity going on.

DANIEL KRESS: I have seen nothing in writing other than neighbors that have apparently called in and indicated they would be willing to swear out their positions to that effect.

DAN MELVILLE: I guess we'll see if anybody speaks tonight.

RICHARD PERRY: I guess I agree with you, I don't understand why it is even here.

DENNIS SCHULMERICH: I don't get it. I guess I will reserve any questions.

DAN MELVILLE: Why don't we go to the audience.

BEVERLY GRIEBEL: There is a pile of wood chips back there. What happens to those?

MR. IRONS: I use them like around my trees. The one big tree in my front yard. Obviously you have driven by my house. You see the ring of slate around there. I'm putting it in there so -- when you drive the lawn mower around, it chews up the blades. I have lined my bushes.

BEVERLY GRIEBEL: It is a pretty big pile.

MR. IRONS: Yes. The -- the -- excuse me, birds and squirrels are taking it away as well. The one small tree, I guess it is -- the one in my front yard has -- well, had a pile of wood chips around it. That is gone. So I spread it out as needed.

BEVERLY GRIEBEL: How do the wood chips get there? Is that from the splitting or the sawing or how did it get there? Do you have a chipper?

MR. IRONS: I have a chipper, yes. Some of the stuff came from my house. One of the trees that I cut down, I decided that I could use the chips, so I chipped up some of it and brought it home.

BEVERLY GRIEBEL: You have a chipper there on your property?

MR. IRONS: Yes.

BEVERLY GRIEBEL: Because I didn't see it, but maybe it wasn't in view.

MR. IRONS: The chipper is in my garage.

BEVERLY GRIEBEL: How often do you run that?

MR. IRONS: Very rarely.

BEVERLY GRIEBEL: For what period of time?

MR. IRONS: If I run it at all, probably five, ten minutes, if that.

BEVERLY GRIEBEL: That is pretty noisy, too?

MR. IRONS: Yes. That is extremely noisy.

DENNIS SCHULMERICH: You indicated that you had rented the log splitter at one point. Do you own one now?

MR. IRONS: Yes, I do.

DENNIS SCHULMERICH: That is on the premises?

MR. IRONS: Yes.

BEVERLY GRIEBEL: The two trailers that are there --

An unidentified speaker in the audience said, "Three."

BEVERLY GRIEBEL: -- are they yours?

MR. IRONS: One is mine and one is my brother-in-law's, yes.

BEVERLY GRIEBEL: You use them for hauling wood?

MR. IRONS: Yes. Amongst other things, as well. My brother-in-law wanted to pick up his lawn mower from his mother's house, and we use them for that, as well.

KEITH O'TOOLE: Why doesn't your brother-in-law have a trailer parked at his house?

MR. IRONS: Because of the fact that he really doesn't have any place to store it. The house that is next-door to his is pretty much basically like this far away from his house (indicating), so he doesn't have any place to really store the trailer.

KEITH O'TOOLE: What kind of trailer are we talking about?

MR. IRONS: Class one. It is like a plywood base with small tires and wood sides.

KEITH O'TOOLE: Like a landscaping company?

MR. IRONS: Not that large, no.

KEITH O'TOOLE: Thank you.

BEVERLY GRIEBEL: But it would be the size that you could carry a mower on?

MR. IRONS: Yes, definitely.

BEVERLY GRIEBEL: Not a big one, but it is a flat one?

MR. IRONS: Yes.

KEITH O'TOOLE: Couple comments in terms of the wood chips and such. Every property owner has a right to clear brush and such from their yard, but there is an obligation to dispose of that brush in some lawful manner, which means you can't keep chips and brush in your yard forever. They have to be disposed off and there is a code that prevents that.

In terms of the conditional use issue, our conditional use code requires that a business be conducted inside the dwelling, and unless he is going to start running that splitter in his living room, there is no conditional use permit to be issued here. So he doesn't comply with that. What the Board can find is what he is doing is accessory to the residence, that it is incidental to the use of the residence. I think a factual determination has to be made here as to whether this is just wood being chopped for private use or whether, as perhaps some people in the audience might argue, that is something else going on. Nothing further.

RICHARD PERRY: Is there also an issue about making sure the wood chip pile doesn't reach the height of the house?

KEITH O'TOOLE: I think that can be applied, yes.

BEVERLY GRIEBEL: I do have another question. We're in an R-1-12. Now, I used to be in an R-1-15 which was a third of an acre. R-1-12, the side table or anybody into this, is that more like a quarter acre?

DANIEL KRESS: 12,000 square feet.

BEVERLY GRIEBEL: Is that a quarter acre?

DANIEL KRESS: Approximately.

BEVERLY GRIEBEL: Because the R-1-15 where I used to live was a third of an acre.

DANIEL KRESS: 15,000 would be close to a third of an acre.

BEVERLY GRIEBEL: The R-1-12 is a small lot. It is quite a small lot. To kind of cram all this wood there, and a pile of -- pile of mulch, I don't know.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JUDY TAYLOR, 5 Hillcrest Drive

MS. TAYLOR: I live at 5 Hillcrest Drive, and I have been there for about 30 years now. I want to describe to you my front yard.

If I were to go out to my front yard and look to my left, I would see Chili Avenue. If I go out my front yard and look to my right, I see the Hillcrest Park. The Hillcrest Park is a green space that was developed by the developers, the Benedict family, 50 years ago when the neighborhood was designed and it is a little green oasis that is less than two miles away from Wal-Mart and it is a little, private, quiet place. It is just delightful, so we don't want anyone to know about it. We own it. Our park association owns it and we tend it, and mow it and it is well taken care of. That is my front yard.

My backyard, if I were to go in my backyard and look to my left, I would see the backyard of -- I am at Number 5. So I would see Number 3, Number 1 and then I would see the backyard of Number 27, 27 Chili Avenue, and that buffers us from the traffic and the noise of Chili Avenue. If I look to my right, I see the backyard of Number 7, Number 9 Hillcrest Drive, well-tended yards, and I don't see the backyard of Number 11 because that house actually has been rotated on that property, on that lot and it actually faces Gary Drive, and its driveway is accessed by Gary Drive.

What I do see from my backyard is their side yard, the side from the garage over to the property line, and it is in that side yard where the wood is kept and where the wood is worked on.

There is no buffer between my property and that property and the work area where this is. From my backyard I can see three carts, not two. There is wood that is split and has been crisscrossed and stacked ready for fireplace use. There is one cart parked next to the wood. I have not been on the property, so I have to give you estimations, but judging from that cart, it is a cart that could be hooked onto a ball, you know, on the back of a truck --

RICHARD PERRY: We know what they are. Trailers.

MS. TAYLOR: Judging from that, the split wood that is ready to be burned is approximately 3 to 4 feet deep and about 3 to 4 feet wide and it is about chest high. There is also a pile -- or there has been up until today a pile of tree trunks or tree limbs that have been cut to size and they're ready to be split and made ready for fireplace use.

That pile of tree trunks and limbs has been in a rather large pile on the property until today. It has been moved now into a more enclosed area and it seems from a distance that the area is enclosed with the stakes that you would use for a snow fence. Snow fence stakes. So the lumber -- not lumber. The tree trunks have been kind of tossed in there, and -- and in no order, just tossed in there.

There is also -- against the garage I can see two kind of 4 x 4 boxes. They're about a foot and a half deep. They're up on their sides leaning against the garage. There is a ladder and a couple -- there is a picnic table, as well.

But there is also a pile of debris. I suppose it is wood chips. But I have not been up close to it, so I am not exactly sure, but it is quite a large pile. Enough to fill at least one lawn bag, and I'm -- I'm guessing probably more than that.

We have no buffer as it is right now, so not only do we see that, but we hear any chain saw noise or wood splitting noise from our backyards, and I'm three yards away. I'm the third yard away. Hillcrest Drive is a road that does not -- also, as these other people spoke, it doesn't have any sidewalks. We just have a road to walk down. On Hillcrest Drive we have ten houses long -- that is all we have on Hillcrest Drive that goes between Chili and Gary, very short. We have ten houses. Of those ten houses, one house has in it a new mom and a baby about six months old. We have another house with a teenager. We have another house with an elementary-aged boy. Another house with a senior citizen who uses a walker. Myself, my house, I have to use a cane. We have another house that also has a -- is housed by senior citizens. We're all pedestrians. Our neighborhood is a walking neighborhood. Come any time of the day and you can find somebody walking around our neighborhood or riding a bike around the neighborhood.

I know the wood has to come from somewhere. There are no woods in our backyards to cut it down from. So there has got to be traffic on our little road to bring that wood down to the house. That causes wear and tear and extra traffic on our little road.

We're ready for noise from lawn mowers and blowers and trimmers and even the occasional chain saw and heaven knows we heard a lot of that during the Ice Storm so we know what that sounds like, but we're ready for normal neighborhood noise. I think that we have an ordinary sensitivity to noise, but the regular use of the equipment that is being used on that property is -- I feel, unnatural and it is -- it is disruptive to our peace.

And let me tell you what happened last week. The other night, middle of the night, I was not sleeping. I got up and walked into the family room and I have a sliding-glass door and something moved and caught my attention. I looked out and there at my back door practically knocking to come in was an opossum. I have never seen an opossum in my yard before. He wandered about. He wasn't interested in me at all. He did want to come in. He was close to the back door. He wandered around and I didn't think much about it until a day or so later and I thought what lived in wood stacks. I looked up some of that information. Snakes and opossums and raccoons and various other critters live in wood stacks. This is a very large wood stack that is three properties away from my own and makes me a little bit nervous.

So I ask will this affect the quality of my life in my neighborhood and I think it will. Will this change the character of my neighborhood, and I think it will. Will this improve my neighborhood, I don't think it will. And is it reasonable for me and my husband and my neighbors to want to live in a peaceful neighborhood and want to have a neighborhood whose character, as we have known it over the past 50 years, some of them, is maintained. And I would ask that you vote no on this proposal. Thank you very much.

LLOYD MERRILL, 9 Hillcrest Drive

MR. MERRILL: Next door to 11. 53 years ago my wife and I moved into this house, and so for 53 years it has been a very pleasant, well-taken-care of neighborhood. All the houses, the yards and everything have been good. That was until a year ago this past summer when Dave Irons first moved in and they started their firewood business at that time. There were piles, large piles of unsplit wood which they split and made another pile. Made two piles, some split, some unsplit. The noise of the splitter was -- they had a power splitter. The noise of the splitter was always a problem, unpleasant, and not very pleasant to live next to.

The yard was a real, real mess until I guess enough people talked to them, and convinced them that they ought to do something about it. They did stack all of the split wood so there is a lot -- the yard is much neater than it was a year ago.

The only other problem was, in making it that way, all of the scraps that were not usable as firewood or for anything else, they had a little woodburning stove they set up in the backyard and burned that wood all summer long so that most -- many nights during the summer we couldn't have a -- have our bedroom windows open because of the smell of smoke coming in. This is very bothersome.

I guess I can't add much more other than agreeing with what Judy said, agreeing with all of it. But it is definitely not a place for a firewood business. The firewood business ought to be out in the country someplace away from us.

BARBARA QUARTLEY, 20 Gary Drive

MS. QUARTLEY: My lot line is right next to Mr. Irons' lot line. I have just one thing to say. He said he has firewood for he and his brother. He has enough firewood to supply the neighborhood. It is piled up high. It is right on -- right against -- I mean it is a stone's throw from my garage. On the lot line, there are trees that were there before he came, bushes and trees like that. But it is piled up all along.

So many people have said to me it will bring rodents and different things around to it. Plus the fact, I mean, it isn't too pleasant when I look over and you can see all this piled up there.

And he refers to his brother who also has a lot of wood in his yard where he says that they're going to take some of this, so I don't know how much firewood these people are going to use, but it doesn't really look too nice. I have been there for 45 years and we have never had anything like that in our neighborhood before. Thank you.

GERALDINE BURGER, 11 Gene Drive

MR. BURGER: It is parallel to Dallas, but it is across the park. And -- I'm sorry. Gary. Gary Drive. It is across from Gary Drive, which is the side part of the residence of Mr. Irons, and I can see the side lawn that abuts our small road, and I have been able to observe from my living room window all last summer the pickup trucks and the little trailers and cars and trailers coming and going. I have seen wood delivered. I have seen them cut it. I have seen it delivered and just left in scattered piles all around. I have seen the sawdust piled high. I have seen another -- well, many, but another pile of wood with these tree trunk pieces around the bottom that look like tires, and on the top, an upside-down little trailer, and we looked at that all last year.

It got to the point where it became a very untenable situation for all of us. Embarrassing if anyone came to see us. We had to look at it all of the time if we walked or drove by. Now, I do want to say that I met Mr. Irons. I introduced myself. I had a very nice conversation with him. He is a very personable young man, but I told him to his face, that that side lawn was an absolute dump, and that is what everyone else has said also.

It has been very difficult to see this happen in our beautiful little community, and it has been very upsetting to everyone.

Now, we have no animosity toward young Mr. Irons or the two adults that live in the house, but we have -- but abhor the fact he is using it as it says in here -- he is petitioning -- this was in Gates Chili News petitioning for an in-house business. If all the wood he had there now were put in that house, they wouldn't be able to live in it. And it is right there on the lawn all the time. With all these little carts also.

Now, we have no animosity toward these new neighbors who came in. It is just the situation that they have created and spoiled our style of living.

Now, he did say that he was going to spend more time trying to get back to the home to get it straightened up, and I will give him credit, he did a pretty good job getting rid of all of this mess that we have looked at for a whole year. Then all of a sudden, this little individual rusty oven is out in the yard and it is diligently trying to burn these shavings and wood chips or whatever, and the gray smoke coming out. The gray smoke comes out. If it is windy, it goes everywhere.

One day I walked and there was a pall of it right over their home because there was no wind to blow it away. I was thinking maybe it will encase the whole thing and it will all go away, but I did not get my wish.

Now, I understand that a freestanding stove is legal. So there was nothing that we could do about that.

Now the tranquility of our little community that we are so proud of, um, is a residential area and it is not a place for a business, which is what he and his brother-in-law had last year. As I naively asked one day when they were bringing more wood in, why do you need more wood when you will never get to burn all of this?

And the young man said, "What we don't use, we sell."

Thank you for listening.

COURTNEY FOOTE, 21 Gary Drive

MS. FOOTE: I just have a petition signed by 50 people, the residents of the Dallas, Earl, Gary, Gene and Hillcrest area and we're just opposed to having a commercial business in our neighborhood due to the traffic, noise and the pollution and also what it may do to our property values.

Beverly Griebel read the petition.

BEVERLY GRIEBEL: There are two pages of names, and as she said, they're in the surrounding streets there. Gary, Hillcrest, Gene, Dallas Drive.

DALLAS BENEDICT, 8 Hillcrest Drive

MR. BENEDICT: I just wanted to say we can't really say much more than what has already been said. It is really a mess as far as we're concerned and I just don't understand how a person or people can come in a community like ours and do what they're doing in their backyard and not feel a little bit ashamed. I mean it just doesn't make sense. Thank you.

MARIA WILLIAMS, 6 Earl Drive

MS. WILLIAMS: As was previously noted, our community is really mixed. We have people who have been in our tract for over 50 years. We have young people just moving in with young families. We have, over the last year, probably four or five homes that have gone up for sale for different reasons. Mostly because the people have gone into nursing homes or had to move into adult homes, senior homes.

The work he is doing -- we have nothing against him personally, but the situation and the condition that he has put on his property and would allow his property to get to, is not doing anyone any good to try to sell property in our area. It is hurting the people that have been there for 50 years and are trying to get something out of their home for what little they have left, and it is certainly not doing us any good who are in our -- approaching that age or the young people that are moving in. It is not doing anyone any good.

I worry about the roads, as was mentioned. I worry about the rodents, especially with the rabid scare we have had in Monroe County. We have already had deer in our front yard. We have had fox in the area. We have raccoons in the area and possums. It is going to give them more places to stay and I don't think anybody needs it. Thank you.

BEVERLY GRIEBEL: For the record, there are about 50 names between these two pages and that we'll pass down to become part of the permanent record.

Mr. Irons, how long have you lived there?

MR. IRONS: This February, two years.

BEVERLY GRIEBEL: You have been doing this wood there on the property since you moved?

MR. IRONS: Last year we started. Last summer.

BEVERLY GRIEBEL: So it was just a few months after you moved in?

MR. IRONS: Probably about five or six, yeah.

PAUL FAIR,

MR. FAIR: With respect to the five item list as to whether a conditional use variance should be approved or not, the last one. The last item, is this a self-created problem and I think in this case it certainly is. And as someone mentioned earlier, a self-created problem in itself is not a reason to grant a variance of this type.

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

Dennis Schulmerich made a motion to deny the application and Dan Melville seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously denied by a vote of 6 no for the following reason/finding of fact having been cited:

1. Business occurs outside of the dwelling and therefore is not a customary home occupation.
7. Application of Steven Rooker, owner; 38 Omega Drive, Rochester, New York 14624 for variance to erect an 8' x 13' addition to shed to be a total of 208 sq. ft. (180 sq. ft. allowed) at property located at 38 Omega Drive in R-1-15 zone.

Steven Rooker was present to represent the application.

MR. ROOKER: I'm Steve Rooker, 38 Omega Drive. I have some -- maybe these are better maps if you would like them. I made a bunch of them.

DENNIS SCHULMERICH: That would be helpful.

BEVERLY GRIEBEL: We got some diagrams of the shed. Your application indicates that a small shed is to be removed; is that correct?

MR. ROOKER: Yes. There is a small shed that is kind of moveable. It is lightweight. I think it is 8 by 7. I thought it was 6 by 7, but when we measured it, it is a little bigger than that. The first page shows where the shed will be, and the part that is marked E is existing. The A is the addition.

The next page shows the completed side of the shed there and the other page shows the existing part, the third page. I guess the reason I put those two there was so that it will be a funny looking shed if I don't continue it. Being it is a gambrel roof, it would be hard to truncate it and still have it look good. I didn't realize there was 180 square foot maximum when I designed it. I started it on a weekend, so I couldn't call the Town. I couldn't ask. The fourth page shows there are some glass windows that face more or less toward the south. Those are for solar flexion of heat. And they will heat the house.

BEVERLY GRIEBEL: They will heat the house?

MR. ROOKER: Yes. I don't know if that is -- they will heat the house. I don't know if that is relevant.

PETER WIDENER: The shed or the house?

MR. ROOKER: They will heat the house. You can do it with air or water, but my house is -- I think it is like 25 feet away, so I will have to run the water pipe rather than the big air duct. That wouldn't be practical.

BEVERLY GRIEBEL: Now, what do you intend to put in the shed?

MR. ROOKER: Well, I have a lot of equipment stored in the garage. Some of it is the solar part of it, and some of it relates to a business that I own. But if I put that stuff in the shed, I will have room to park another vehicle in the garage which will make the place look better.

BEVERLY GRIEBEL: What kind of business do you own? Do you do that out of the house?

MR. ROOKER: I sell and service x-ray equipment. I don't do that at the house. I can't do that. I do it at hospitals. Today I was at the Wilson Medical Center.

BEVERLY GRIEBEL: But you have that in the garage?

MR. ROOKER: Yes. There is a little bit of the equipment in there.

DAN MELVILLE: Do you have a variance for that?

MR. ROOKER: You don't need a variance, as far as I know, to stock anything. Only if you have a business where people are going to go there you need a variance, but you can have an office or stock in your home. I don't know. You probably know more than I do.

BEVERLY GRIEBEL: You're essentially running a business out of your home?

MR. ROOKER: Yes.

DAN MELVILLE: You need a variance.

BEVERLY GRIEBEL: But the business should be something you do in your home, but you don't?

MR. ROOKER: I do it on site. You can't -- x-ray equipment is large, so you can't bring it to the end place. You have to go there to service it.

DAN MELVILLE: But technically you have an office in your room?

MR. ROOKER: I have an office in my home.

BEVERLY GRIEBEL: And what equipment do you have in your garage?

MR. ROOKER: There are a couple x-ray tables in there.

BEVERLY GRIEBEL: Well, that is not the issue you're here for tonight, but you opened another can of worms.

MR. ROOKER: I don't think that is relevant tonight.

BEVERLY GRIEBEL: Not relevant to this Board, but it is relevant to Mr. Kress in the Building Department.

MR. ROOKER: Okay.

DENNIS SCHULMERICH: It is relevant from the perspective if we're using the space in the garage no longer available because of x-ray tables and we need a shed enlarged to support that, it is relevant from that respect.

BEVERLY GRIEBEL: What is that green thing that is in that half of the shed?

MR. ROOKER: The green?

BEVERLY GRIEBEL: I could see it in there.

MR. ROOKER: There is a refrigerator in there that doesn't work that I will throw away. I bought it from the Rotary Club.

DAN MELVILLE: You can't throw it out at the curb.

MR. ROOKER: I know you can't. It is hard to get rid of.

BEVERLY GRIEBEL: I was just wondering what you're doing in the shed with the green thing. I couldn't get close enough to look to see what it is because there is so much stuff in the backyard.

MR. ROOKER: Yes. That is wood for the shed. I built it out of used lumber. That pile is there to build the rest of the shed.

BEVERLY GRIEBEL: It looks like there is enough in the yard to build half a house.

MR. ROOKER: It looks like there is more than what is there. When you use lumber, you end up using a lot. You throw it away or burn it or whatever.

BEVERLY GRIEBEL: Well, I think --

DAN MELVILLE: Is that shed already started, the addition?

MR. ROOKER: No. The addition is not.

BEVERLY GRIEBEL: The shed is half done?

MR. ROOKER: No. The shelf is half done, yes. So the part that is there doesn't require a variance. In fact, it is a long ways under that, but I didn't realize when I designed it that there was 180 square foot, so now I have this gambrel roof there and there is no way I can finish it and have it look nice.

BEVERLY GRIEBEL: You have half a roof?

MR. ROOKER: Yes.

BEVERLY GRIEBEL: I don't know about the used lumber being a safety issue. I will leave it to the side table. Is that a safety issue with the strength or stability of the lumber?

DAN MELVILLE: Used lumber?

BEVERLY GRIEBEL: Yes. Some of it is pretty used back there.

KEITH O'TOOLE: I think the building code has a provision that materials be fit for normal usage.

DANIEL KRESS: I think we're in a position to be a little bit more flexible with a storage shed that will not be used for occupied, habitable space, but only as a little because the building code does address that.

BEVERLY GRIEBEL: It has to be stable enough not to tumble down. Some of that board looks in pretty poor condition. I'm not a builder, but it didn't look good to my eye when I saw it in the backyard. Strange pieces and all that, but anyway.

So you want to move stuff from the garage back there?

MR. ROOKER: Yes. I will have more room in the garage to park two vehicles in there instead of one.

BEVERLY GRIEBEL: You want to move the extra tables back there?

MR. ROOKER: Yes. That is my intent.

DAN MELVILLE: What do you do with them?

MR. ROOKER: One of them will probably never be reinstalled. It is for parts. The other one is usable. There aren't too many x-ray engineers in the community, just a few, so anything we can do, whatever we do to help is good. It is valuable to the community.

BEVERLY GRIEBEL: So you need a larger shed so that you can put something inside that may not be legal for you to do in your house?

MR. ROOKER: I didn't realize there was a question.

RICHARD PERRY: I guess how long have you had these two x-ray tables?

MR. ROOKER: One of them, about a year. The other one, two years maybe.

RICHARD PERRY: And the intent is to scavenge one for parts?

MR. ROOKER: Yes, for parts.

RICHARD PERRY: And sell the other one?

MR. ROOKER: The other could be sold.

RICHARD PERRY: You know, how old is this x-ray table?

MR. ROOKER: One of them -- the one that could be sold is probably 20 years old. They last forever. They're built like a tank.

BEVERLY GRIEBEL: That doesn't satisfy the need for additional storage, to store something that you shouldn't be having at your house anyway, to run the business there. So that is a real question.

MR. ROOKER: Well, and also, you know, if I am not supposed to be storing those things there, then I will have to move them somewhere else. I didn't realize that. But, you know, I could use the storage anyway. I have a lot of equipment that is related to the solar collection of energy, and that is in the garage also. If I could put either one in there -- either way, it would give me more room.

RICHARD PERRY: What other supplies, equipment, chemicals do you have stored at the house?

MR. ROOKER: Just office equipment. You know, there is a copy machine that I copy these with, and a computer, and you know, office equipment.

BEVERLY GRIEBEL: Are you self-employed with that business?

MR. ROOKER: Yes.

BEVERLY GRIEBEL: Well, that is definitely something that you're going to need to take up with the Building Department.

The shed, what size door do you have on there?

MR. ROOKER: It is 8 feet wide. It doesn't need to be that wide, but it is more convenient.

BEVERLY GRIEBEL: Will you put vehicles in there?

MR. ROOKER: No.

DAN MELVILLE: Do you need an 8-foot door?

MR. ROOKER: You could more easily drive a garden tractor in there. I think it is a common width for a door.

PETER WIDENER: Any utilities to the shed?

MR. ROOKER: The solar pipe will be there.

PETER WIDENER: That is not there now?

MR. ROOKER: Yes. If I need a variance for that, I will take it up with the Town at the time.

PETER WIDENER: Do you plan to have electric or water to the shed?

MR. ROOKER: No.

BEVERLY GRIEBEL: Will this be a two-story shed?

MR. ROOKER: There is a storage area above. You can't stand in there, but it is like the attic space.

BEVERLY GRIEBEL: It is like one and a half stories?

MR. ROOKER: Yeah. It is within the 12 feet that they allow, that the Town allows. I'm not asking for a variance for a change in the height.

BEVERLY GRIEBEL: And the additional part on the top is for what reason?

MR. ROOKER: For storage also.

BEVERLY GRIEBEL: Storage of what?

MR. ROOKER: Well, I have some long pieces of steel that I can put up in there and lumber and such. And the solar collectors, the solar heater things that you put down on the baseboard -- baseboard heaters is essentially what they are, hot water heaters, some of them are 12 feet long.

BEVERLY GRIEBEL: So that is why you're asking for 8 by 13 foot?

MR. ROOKER: Right. Well, actually it will be 16 by 13 is the -- the 8 by 13 I wouldn't need a variance for. That's the size it is right now.

DAN MELVILLE: But it all gets added together.

MR. ROOKER: Yeah. You know, I am asking for a total of 208 square feet and the maximum is 180, so I'm asking for an extra 28 square feet. I wouldn't ask probably if I had realized that there was 180 square foot. I went down to the library and looked at everything and I went downtown and asked them, and they told me that for two sheds you're not supposed to go over 180 square feet. I didn't want to do that, so I didn't realize there was a problem going over -- that is about the size -- the whole thing would fit inside a master bedroom.

BEVERLY GRIEBEL: Well, we don't make up the zoning regulations.

MR. ROOKER: I know.

BEVERLY GRIEBEL: I want to read a letter in here that was sent to this Board by Dan Kress, Director of Planning, Zoning and Development. "Complaints received regarding" your property. "The September agenda includes an application for a storage shed to be located at 38 Omega Drive. As the

Board sometimes asks whether there is any history of complaints about a address, the following may be of interest: The shed is already partially constructed without benefit of a building permit. Pursuant to a complaint, this office first contacted the owner back in June of '03 to request that he either remove the shed or apply for a variance.

The property has a history of multiple complaints received in 1995, '96, '97, '98, 2002 and 2003. Most of these relate to junk vehicles.

Finally, this office has been contacted recently by 19 different neighbors complaining about the appearance and lack of upkeep of the property, and requesting that the Board take this into account. Issues that have been raised include: building storage shed without permit, working on vehicles in driveway, high grass, piles of lumber and construction debris, late-night violations of the noise ordinance, lack of regular trash pickup and a dead tree in the front yard.

The neighbors have expressed their concerns about the lack of maintenance of the property and indicated that 'normally we would attend such a ZBA meeting but people are concerned with retaliation from said person mentioned above whether verbal or physical.'

As a general rule, this office would not support requests for variances granted after the fact, unless it is clear there has been a case of genuine ignorance or misunderstanding. We would ask the Board to take this and the above concerns raised by the neighbors into account."

MR. ROOKER: Wow. I haven't heard those complaints. Just a couple of them.

BEVERLY GRIEBEL: These are two pictures. They're pretty similar. Did everybody get out to see them, the shed? It was taken, I think, from the back side.

DENNIS SCHULMERICH: How long has that shed been in existence?

MR. ROOKER: I started it maybe three months ago, I think.

DENNIS SCHULMERICH: Recently?

MR. ROOKER: Yes. For a shed 100 square feet you don't need a permit. So that is what I checked on before I started it.

BEVERLY GRIEBEL: I will show you what I am passing. This is just a picture of the shed from the completed side.

MR. ROOKER: Yes. That is it. It looks like it was taken probably today.

BEVERLY GRIEBEL: So that side is painted?

MR. ROOKER: Yes. I can't paint the side that is not completed yet.

DENNIS SCHULMERICH: Did I hear you say under 100 square feet you don't require a building permit?

MR. ROOKER: Yes, that's correct. Then somebody had made a complaint that it was too close to the property line, but it is not. It is well over.

PETER WIDENER: What is well over?

MR. ROOKER: There is an 8-foot setback required. Um, we measured it at 10 and I just measured it again today and it looks more like 12. But these are tape maps. There is a telephone pole back there, and so that is the property marker. I think it looks like it is less when the neighbor mows over on my side a little bit.

BEVERLY GRIEBEL: Okay. I guess we're into asking questions.

DENNIS SCHULMERICH: Just double checking my math. If this addition is 8 by 13 and the total is 208 square foot, that would suggest the first one built was 104 square foot which would be have above the square footage of the building.

MR. ROOKER: That is the outside measure. I didn't know if they look inside or outside. What put it over was the siding and the molding.

DENNIS SCHULMERICH: Still over.

MR. ROOKER: Yes. I know. I agree. I don't know, you know -- well --

DENNIS SCHULMERICH: I understand.

MR. ROOKER: I'm better off not to say anything right now. I'm not going to argue with you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

BEVERLY GRIEBEL: I guess that was all enclosed in the letter. Well, with no more questions, then we will move on.

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

Michael Martin made a motion to deny the application, and Dan Melville seconded the motion. The motion to deny was passed by a vote of 3 yes to 3 no (Peter Widener, Dennis Schulmerich, Beverly Griebel).

DECISION: Denied by a vote of 3 yes to 3 no (Peter Widener, Dennis Schulmerich, Beverly Griebel) with the following finding of fact having been cited:

1. Intended use of the shed for commercial storage is not permitted in this zone.

8. Application of Pearl Dezen, owner; 575 Stottle Road, Scottsville, New York 14546 for variance to erect an 8' x 10' deck to be 85' from front lot line (100' req.) at property located at 575 Stottle Road in A.C. zone.

Mr. Dezen was present to represent the application.

BEVERLY GRIEBEL: This came back from Monroe County Planning as a local matter.

MR. DEZEN: We want to take out the concrete slab that is there and put in an 8 by 10 deck and rearranging the steps, which means we'll come out across the sidewalk. That will bring us 85 feet from the lot line.

BEVERLY GRIEBEL: 100 feet required, and --

DENNIS SCHULMERICH: House is at 93.

BEVERLY GRIEBEL: It is 93. So the house is already -- it is preexisting, right.

DENNIS SCHULMERICH: You're very well protected by the Monroe County Sheriffs. I was sitting out Saturday looking at the sign and 30 seconds later there was a sheriff's car there.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Dan Melville made a motion to approve the application with no conditions, and Dennis Schulmerich seconded the motion. All Board members were in favor of the motion.

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

1. Pre-existing, non-conforming situation.
2. Will enhance the appearance of the front of the house.

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

9. Application of Joseph Belcastro, owner; 2043 Westside Drive, Rochester, New York 14624 for variance to erect a 20' x 24' detached garage to be 3' from side lot line (60' req. abutting a street) at property located at 2043 Westside Drive in R-1-15 zone.

Joseph Belcastro was present to represent the application.

BEVERLY GRIEBEL: This went to Monroe County Planning and came back as a local matter. You have a corner lot problem?

MR. BELCASTRO: Yes, ma'am.

BEVERLY GRIEBEL: Now, the house currently is 29.9 and 29.6 feet.

MR. BELCASTRO: From the property line, yes.

BEVERLY GRIEBEL: But it is still a considerable distance to Baylor Circle. Because you're requesting a 3-foot variance, it is still not right on top of the road.

MR. BELCASTRO: No. It is about 20 feet. 23 feet from Baylor Circle.

BEVERLY GRIEBEL: It is obvious you want to have the garage at the end of the asphalt driveway?

MR. BELCASTRO: At the end of the deck, ma'am.

BEVERLY GRIEBEL: There is a driveway that goes there.

MR. BELCASTRO: There will be approximately 8 to 10 feet of concrete skirting added when the slab is poured to connect the driveway and the slab.

BEVERLY GRIEBEL: So you can drive straight through to that.

MR. BELCASTRO: Yes, ma'am.

DAN MELVILLE: The reason for the garage, storage, put your car in it?

MR. BELCASTRO: Yes, sir.

DAN MELVILLE: Not running a business?

MR. BELCASTRO: No, sir.

DAN MELVILLE: Concrete floor in it?

MR. BELCASTRO: Yes, sir.

PETER WIDENER: Utilities in there?

MR. BELCASTRO: Yes, sir.

DENNIS SCHULMERICH: We had a good discussion. I'm fine.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Dennis Schulmerich made a motion to approve the application with no conditions, and Michael Martin seconded the motion. All Board members were in favor of the motion.

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

1. Pre-existing, non-conforming and corner lot problem.
2. Garage needs to be placed at an extension of the existing driveway.

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

10. Application of The Links at Black Creek, 420 Ballantyne Road, Rochester, New York 14623, property owner: Ballantyne Development, LLC; for variance to amend application granted on 7/24/01 for a 7 1/2' x 5'4" double-faced freestanding sign, variance to allow 3 additional flags at property located at 420 Ballantyne Road in PRD, FPO, FW zone.

Mike Clawson was present to represent the application.

BEVERLY GRIEBEL: This went to Monroe County Planning and came back as a local matter. On the initial approval it was for a 4 x 6 foot double-faced sign. What has happened that you

need a larger sign?

MR. CLAWSON: I don't think it was the sign that got larger, but the display of the lettering that got larger. That is my understanding of it.

BEVERLY GRIEBEL: Well --

MR. CLAWSON: Well, as we sort of developed the sign, it -- and drew it up artistically, it took up more space with the lettering.

DAN MELVILLE: The actual sign itself has not gotten larger?

MR. CLAWSON: I don't believe so.

DAN MELVILLE: I don't think the lettering makes any difference.

MR. CLAWSON: That is my understanding of it. The overall space that lettering took up.

RICHARD PERRY: The issue is the addition of the three flagpoles.

BEVERLY GRIEBEL: It was a larger sign. It was a 4 x 6 we approved in '01, and you want to amend it now to have it 7 1/2 by 5 feet 4 inches, so it has gotten bigger, and my initial question was what has happened that you're asking for a larger sign? Why wasn't the 4 x 6 adequate?

MR. CLAWSON: That sign was just -- I mean they had a different idea about the way the sign should look back then and over time we developed the sign artistically and it took on a different shape.

DAN MELVILLE: I'm just interested to know on that last sign, did it look like this?

MR. CLAWSON: Very similar two-sided sign with the letters that could be interchanged.

DAN MELVILLE: As far as the base, it looks like you have a brick base under this.

MR. CLAWSON: Yes. It was very similar. It was similar to the sign -- there is a high school sign, I think it is Rush, and it was -- we kind of modeled it after that sign. It wasn't our intention to make it larger. It just sort of happened as we developed it artistically to make it look nice.

BEVERLY GRIEBEL: Is this sign already built?

MR. CLAWSON: Yes.

BEVERLY GRIEBEL: You're already putting the footer in for it?

MR. CLAWSON: The footer was going in.

DENNIS SCHULMERICH: Visionary.

BEVERLY GRIEBEL: That is very visionary. That is assuming an approval. That's a chance somebody took.

MR. CLAWSON: Well, we had visions for that other sign which would have taken up the same footprint, I believe.

BEVERLY GRIEBEL: I was wondering what happened to the sign, because --

MR. CLAWSON: We never built that sign. It sort of just got pushed aside, and --

DAN MELVILLE: So this sign will take up the same footprint, but probably be a little higher?

MR. CLAWSON: I believe so, yes.

BEVERLY GRIEBEL: Well --

RICHARD PERRY: Guess I have to ask. Which is correct? The listing on the agenda, unless I can't read properly -- it says the application granted on 7/24/01 was for a sign 7 1/2 by 5 foot 4. It doesn't ask for anything more.

MR. CLAWSON: That is the new dimensions.

BEVERLY GRIEBEL: It was 4 x 6. The prior one was a 4 x 6 approval.

RICHARD PERRY: When was that approved?

MR. CLAWSON: 7/24/01.

RICHARD PERRY: This thing was misprinted on there.

BEVERLY GRIEBEL: They probably needed some comments on there. For a variance to amend the application granted on 7/24/01, they should have had, or -- for 7 1/2, 5 foot 4 inch double-faced sign. We didn't put the dimensions in the application itself.

DENNIS SCHULMERICH: I would suggest also there is another issue, and that is the granting of July 30th -- indicated with the following conditions, that the application was granted and street numbers be put on both sides of the sign and if you take a look at the picture that is attached to the last page, there are no street numbers unless they will be added later.

MR. CLAWSON: We can put those on easily, yes. That would be no problem.

BEVERLY GRIEBEL: But you don't know really why they want a bigger one?

MR. CLAWSON: Like I say, it was just developed over time with -- just artistically trying to

make the sign.

BEVERLY GRIEBEL: That is like with a golf ball.

MR. CLAWSON: It was taller by trying to put the golf ball, so the letters would fit in there properly and look nice. I think it just made it look a little taller. The size of that cut out where the letters can be interchanged, it has always been the same size.

BEVERLY GRIEBEL: The flags, you're requesting the 30-foot flagpole with a 5 by 8 American flag; a 30-foot flagpole with a 5 x 8 Black Creek flag; and a 25-foot pole with a 4 x 6 PGA of America flag.

My understanding is for flag etiquette the American flag should be higher.

MR. CLAWSON: I thought it could be of equal height.

BEVERLY GRIEBEL: Well, the flag etiquette that I have that came from Tom Reynolds said that the American flag should always be higher.

MR. CLAWSON: The highest one?

BEVERLY GRIEBEL: Correct.

MR. CLAWSON: I thought they could be of equal. What if the American flag was the largest flag and we shrunk the size of the other one.

BEVERLY GRIEBEL: It says higher. In flag etiquette. I don't think there is any Chili rule, but

--

MR. CLAWSON: I understand that.

BEVERLY GRIEBEL: But if you have two at 25 foot and the American at 30 foot, I guess that would be your issue.

MR. CLAWSON: We want to, you know, take -- do proper flag etiquette. We want to do it properly.

BEVERLY GRIEBEL: You won't want to upset the American Legion people.

PETER WIDENER: What is the Black Creek flag?

MR. CLAWSON: Just our logo on a flag.

DENNIS SCHULMERICH: Page 5 of the application has a picture on it, a preproduction printed art that speaks to the sign and then a pretty substantial base associated with it. Is that the very same sign that, in fact, has been manufactured?

MR. CLAWSON: Yes.

DENNIS SCHULMERICH: So I need some help here. Probably from the side table. It looks like we're applying for a sign that is 7 1/2 foot by 5 foot, 4 inches and if I look at the preproduction artwork, the overall dimensions of the sign are 12 foot high by 10 foot 11 1/4 inches. When I consider the base.

MR. CLAWSON: I understand. As I -- my first statement was I thought -- I was told that it was the lettering, the size of the space of the lettering.

DENNIS SCHULMERICH: So is my interpretation correct?

MR. CLAWSON: Yes. Those are the actual dimensions.

DENNIS SCHULMERICH: So my question to the side table is: Do we need to amend the dimensions of the sign to the 12 foot by 10 foot 11 1/4 inches, or is it the actual dimensions of the sign then placed on the brick base? What are we really trying to --

DANIEL KRESS: We're not counting the brick base.

DENNIS SCHULMERICH: They could have a --

DANIEL KRESS: Calculation of the sign area is specific. We have to draw a rectangle around it and it gives you something slightly in excess of 35 foot. Given our freestanding sign rule permits 32, means they need a variance.

DENNIS SCHULMERICH: So the Links at Black Creek, the golf ball, the green roof, does that factor into your calculation?

DANIEL KRESS: Absolutely.

DENNIS SCHULMERICH: Everything but the base?

DANIEL KRESS: Yes.

DENNIS SCHULMERICH: So based on your calculation, what has been applied for and what he is showing here minus the base is accurate?

DANIEL KRESS: Yes.

BEVERLY GRIEBEL: You have 35 square foot. That's for one face.

DANIEL KRESS: Five and a fraction times 700 and a small fraction slightly in excess of 32 feet.

BEVERLY GRIEBEL: One face or two?

DANIEL KRESS: That is single.

BEVERLY GRIEBEL: So we're at 70 square feet, and 32 is the allowance total?

DANIEL KRESS: That's correct.

BEVERLY GRIEBEL: Got you. That is why it is here.

DENNIS SCHULMERICH: One question I have is the Links at Black Creek had the foresight, either prompted or of their own volition of the need for a variance on July 24th 2001, and if they had that vision, why would they then --

MR. CLAWSON: That original sign permit was granted then.

DENNIS SCHULMERICH: Right.

DAN MELVILLE: Was it Willowbrook at the time?

MR. CLAWSON: Yes.

DENNIS SCHULMERICH: You know where I am going?

BEVERLY GRIEBEL: Any freestanding sign had to have approval from the Board, but we had new sign regulations that came in earlier this year that the Building Department can approve some, but this is oversized; is that correct?

DANIEL KRESS: If the total area of the sign, all faces was under 32 area feet, you're talking just a straight permit as opposed to a variance.

MR. CLAWSON: The original sign was two-sided, as well.

DENNIS SCHULMERICH: I will try to get my question out. There was an understanding the variance was required. Variance was applied for. It was approved. And help me understand where I am wrong, but it seems whoever went off and designed the sign completely ignored the fact there was a variance there.

MR. CLAWSON: There was a permit granted then?

BEVERLY GRIEBEL: There was a variance from this Board.

DENNIS SCHULMERICH: There was a variance.

MR. CLAWSON: But it was granted, and I think that my partners thought that that was sufficient for this sign. And then found out later that it was not.

BEVERLY GRIEBEL: Because they went out and had it built and then measured it and found out that doesn't fit the other permit.

MR. CLAWSON: I think that is how it happened. I don't know. But they found out that it wasn't, you know -- it doesn't go with that prior variance.

DENNIS SCHULMERICH: Were these different owners at that point in time or the same owners?

MR. CLAWSON: Pretty much the same. The structure has changed slightly, but pretty much the same.

BEVERLY GRIEBEL: The name has changed?

MR. CLAWSON: The name has changed.

BEVERLY GRIEBEL: The name changed and you built a bigger sign and somebody said "oops"?

MR. CLAWSON: It was brought to my partner's attention that it didn't go with this permit. So we had to go for the variance.

DENNIS SCHULMERICH: Is the sign builder also a house builder?

BEVERLY GRIEBEL: So you have the cement footing. You have the cement footings in and the sign is all ready to truck over.

MR. CLAWSON: No, we don't have it yet.

BEVERLY GRIEBEL: But it is built? It is made?

MR. CLAWSON: Yes.

BEVERLY GRIEBEL: Okay.

DENNIS SCHULMERICH: I'm confused why someone would go through the trouble to get the variance, and then ignore it.

MR. CLAWSON: I don't think it was ignored. I thought it was brought to our --

BEVERLY GRIEBEL: But why didn't they decide this in 2001?

MR. CLAWSON: They never designed it at that time other than having a picture from the school.

DAN MELVILLE: There was a name change, too, in between that?

MICHAEL MARTIN: Was the original intention, going back to 2001, for the variance to be the four lines of interchangeable letter space?

MR. CLAWSON: Yes. It was five then, but I think the rectangle was the same size.

MICHAEL MARTIN: That would fit in the variance that was granted in 2001.

MR. CLAWSON: Yes.

MICHAEL MARTIN: Then since that time it has been deemed to be more -- to be better to have the golf ball logo with the name of the golf course.

MR. CLAWSON: Yes. We went through the development with the artist and builder of the sign and it took on a different shape.

MICHAEL MARTIN: The additional space of adding the golf ball?

MR. CLAWSON: Probably more there than anywhere else, above the reading board.

DENNIS SCHULMERICH: There was an interpretation later on the square footage associated with the sign you were putting up would not be additional.

MR. CLAWSON: Right.

DENNIS SCHULMERICH: That helps.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BERNICE WILCOX, Stuart Road

MRS. WILCOX: I would like to know where this sign is going to be located.

BEVERLY GRIEBEL: It is where they are putting some foundation materials already. They have dug in and put some brick work there.

MR. CLAWSON: It is centered on the building.

BEVERLY GRIEBEL: It is hard to describe where it is. It is kind of in front of the building actually, but near the road.

MRS. WILCOX: What is the appearance of the sign?

Mr. Clawson showed Mrs. Wilcox a picture of the sign.

MRS. WILCOX: I'm concerned about this property. I have been for a very long time. I think if you think of a quarter acre disaster in this Town with wood on it, and compare it to several hundred acres of the mess on Ballantyne Road, I think we really have a problem in this Town.

BEVERLY GRIEBEL: Yes. I think this is just for the driving range.

MRS. WILCOX: I understand that.

BEVERLY GRIEBEL: But it is obviously adjacent to the prospective home site area.

MRS. WILCOX: I don't see the necessity for anything at this time because it is obvious that that project is not nearly completed.

BEVERLY GRIEBEL: Well --

DAN MELVILLE: They already have a variance to have a sign.

MRS. WILCOX: Well --

DAN MELVILLE: They're just asking for a little more.

MRS. WILCOX: Don't they have a sign presently then?

BEVERLY GRIEBEL: This is a freestanding sign.

MRS. WILCOX: He said he wanted flags on the property.

BEVERLY GRIEBEL: Right. He wants to put those -- I don't know if it indicates where they're going to be.

MR. CLAWSON: They're just around the back end of the sign, in a semi-circle fashion.

BEVERLY GRIEBEL: In that same area.

MRS. WILCOX: Will the sign be electrified?

PETER WIDENER: It is illuminated. It says it right on the application.

RICHARD PERRY: Yes.

DENNIS SCHULMERICH: It is in --

PETER WIDENER: Sign with illuminated reader boards.

MRS. WILCOX: Do you have any idea -- because you're asking for this, you must have some idea when this will be -- this project will be completed, and you will need to have signage.

BEVERLY GRIEBEL: Well, this request is for -- is this for the driving range or the whole project?

MR. CLAWSON: Driving range and the pro shop and the practice facility.

BEVERLY GRIEBEL: What is presently there.

MR. CLAWSON: The present business, yes.

BEVERLY GRIEBEL: It is not for the homes and the golf course. That is a separate project, is it?

MR. CLAWSON: Well, I suppose it would be separate, but right now we have an ongoing business and that is what this is for, to bring attention to the ongoing business.

DENNIS SCHULMERICH: There is no way to know a year down the road they want to change the nature of the sign.

BEVERLY GRIEBEL: They will have moveable letters that can be put in.

DENNIS SCHULMERICH: Yes. They could advertise anything they want to, right?

BEVERLY GRIEBEL: Right. Right now it is just for the driving range and the pro shop.

MRS. WILCOX: That is already being used?

BEVERLY GRIEBEL: Yes. That has been open for a long time. There is some renovation going on.

RICHARD PERRY: The sign is not yet on site that is being used, if that is your question.

MRS. WILCOX: Well, if the sign is up, are they going to use the clubhouse? They say they have been using it.

MR. CLAWSON: It is an ongoing business.

BEVERLY GRIEBEL: The driving range and the pro shop have been there for a few years. I don't know how many, but they have been there.

MRS. WILCOX: How much area does this encompass?

BEVERLY GRIEBEL: I don't know. It has been there for quite a while, Bea (Wilcox).

MRS. WILCOX: Well, I certainly think that that area needs a great improvement.

BEVERLY GRIEBEL: There is presently some renovation work going on, but they have a driving range and a pro shop that are open now as far as I know. I assume they are.

MR. CLAWSON: Absolutely.

MRS. WILCOX: Nobody seems to know very much about the project.

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

Dan Melville made a motion to approve the application with the following condition, and Michael Martin 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. Street numbers to be on each sign face.

The following findings of fact were cited:

1. Signage needed to identify a business on a busy road.
2. Flag poles installed to proper flag etiquette: American Flag highest.

Note: A sign permit is required prior to the sign being erected.

11. Application of Thomas Hebrock, owner; 300-8 Still Moon Crescent, Rochester, New York 14624 for variance to erect a two-story garage to be a total of 2,016 sq. ft. (900 sq. ft. allowed), variance for ridgeline of garage to be above ridgeline of proposed future dwelling at property located at 437 Humphrey Road in A.C. zone.

Thomas Hebrock was present to represent the application.

BEVERLY GRIEBEL: This is on -- I need a magnifier.

MR. HEBROCK: I currently own 84 acres there.

BEVERLY GRIEBEL: So this is a large property.

MR. HEBROCK: I'm going to subdivide -- so ultimately I will keep 30 acres, where that is.

But currently I own 84 there.

BEVERLY GRIEBEL: So this is on 30 acres.

You say it will be higher than the ridge line of the house. Do you have any pictures of the house?

MR. HEBROCK: No. I talked to Dan (Kress) about this. We discussed future plans or I discussed future plans for building a house on this property, and at some point when I was reading the -- you know, all of the laws and everything, it said something about you can't have the garage above the house. I said what if down the road I don't build a two-story house and just build a single-story house, and he said let's build with all of that in the same motion. So that the only reason -- the intent, a year from now is to build a house, probably higher than the garage. I was just covering it in case.

BEVERLY GRIEBEL: I have a problem giving approval on this personally without knowing what kind of house is going to be there.

MR. HEBROCK: I'm not all together certain I will even build a house. I'm planning to, but -- so I don't have a design in mind, if you're asking.

BEVERLY GRIEBEL: If you might not put a house there, I don't know that we can approve a garage until we know what is going on.

MR. HEBROCK: When I started this, I wanted to build a barn, and when I was asked what I was -- I currently -- I live at 560 Scottsville Chili Road. I occupy the property on the -- I currently have four barns there. This is all adjoining property. I'm selling that house with all of the barns, so I have a lot of stuff, as guys do, and I need to put it in the barn. I proposed to build a barn and when they said, "What are you going to put in the barn," I said, "I want to store my tractor, my boat" and as soon as I said "boat," the barn became a garage by definition. So I am really looking at it as a barn, but technical it is a garage. So I mean that was kind of my thinking, I'm putting a barn up. Eventually, when I build the house, I probably will -- and Dan (Melville) and I talked about it -- I will have to get a variance -- if I put an attached garage on the house because this technically is considered a garage. Are you with me? So really I am looking at it as a barn, but you're calling it a garage.

BEVERLY GRIEBEL: Because you will put vehicles in it, you need a cement floor, correct?

MR. HEBROCK: Correct.

BEVERLY GRIEBEL: Then it becomes a garage.

MR. HEBROCK: Yes. Any non-agricultural equipment in there, it becomes a garage by definition.

BEVERLY GRIEBEL: And a garage is accessory to a house. A garage is not a stand-alone item. That is what my thinking is at this moment.

MR. HEBROCK: Okay. I understand the -- you know, the semantics of garage versus barn. I could just put my tractor in there if it would make everybody happy. I have another barn I could put my car in. But I was trying to comply with the legality of it.

BEVERLY GRIEBEL: Yes. I understand it. I already said I have a problem approving this without knowing what the house is going to be like.

DENNIS SCHULMERICH: I guess I am okay. I'm still a little confused about the order of doing things here. I have seen the property and I know what the intention is.

MR. HEBROCK: May I ask, is there anything saying I can't just build a barn? I mean that is not against the law, correct? I just want to build a barn. You know, I own four of them already.

BEVERLY GRIEBEL: Can he just build a barn? Depends.

PETER WIDENER: On a 20-acre parcel he should be able to.

KEITH O'TOOLE: Without anything else? I don't think so, because I believe we look at that as an accessory structure. It has to be accessory to something.

BEVERLY GRIEBEL: Either barn or garage is --

MR. HEBROCK: Again, it is all adjoining 84 acres. It is accessory to what I currently have. I'm not trying to look for a loophole. I'm eventually splitting this and will build a house there. You want to know what the house will look like. I don't know. The reason I built the barn or want to build the barn in the gambrel style is to match the architecture -- I thought I was doing the right thing -- matching the existing farm lands.

PETER WIDENER: There is no subdivision over there now, so 560 Chili Scottsville Road is where you're living and the barns are there, and this land is connected to that?

MR. HEBROCK: Yes. I own four separate lots that encompass 84 acres that are separate for tax -- I bought them a year apart when I acquired all of the land.

PETER WIDENER: There is a type of subdivision there if you own separate lots.

DAN MELVILLE: It is not a legal subdivision.

MR. HEBROCK: Yes. Just four 20-acre agricultural lots.

PETER WIDENER: Not approved building lots?

MR. HEBROCK: No.

BEVERLY GRIEBEL: This says your address is 300-8 Still Moon Crescent?

MR. HEBROCK: Correct.

BEVERLY GRIEBEL: Yet you live at Chili Scottsville --

MR. HEBROCK: I need to air my dirty laundry. I'm getting a divorce. I will be broke by the time I get done being divorced so I can only afford the barn right now. How much more do you want to hear? I would be happy to air my dirty laundry. I may not be able to keep a car by the time I get the barn, so work with me here.

PETER WIDENER: No. You were asked how many acres are you selling with the farm.

MR. HEBROCK: There is land for sale. Call me. That is why I am doing things backwards. Seriously. I need a place to put some stuff until I can afford to build a house.

BEVERLY GRIEBEL: I understand. That then brings a question as to will it be higher and what is it going to look like when we just have a little plot map with a little square on it that says garage.

MR. HEBROCK: Well, it --

BEVERLY GRIEBEL: I can understand what you're trying to do.

MR. HEBROCK: Sure.

BEVERLY GRIEBEL: But getting to that point of doing what you want to do, I'm not sure.

DENNIS SCHULMERICH: What is the intention for the full second story?

MR. HEBROCK: Just wood, you know, storage, workshop kind of thing. I have always had a workshop, tools.

DENNIS SCHULMERICH: No intention to start a business there?

MR. HEBROCK: No, absolutely not.

RICHARD PERRY: You said that a barn, not a garage, but a barn could not be put there by itself?

KEITH O'TOOLE: No. The distinction is not barn versus garage. Accessory structure, storage structure. Normally the house would have to come first, which usually is not an issue these days because most houses have attached garages.

DAN MELVILLE: Don't we have a garage on Paul Road that houses just cars?

KEITH O'TOOLE: I don't know the providence of that garage, so I can't speak to that.

BEVERLY GRIEBEL: Oh, I know. On King Road.

DAN MELVILLE: DiLorenzo.

KEITH O'TOOLE: I do recall there was a subdivision a while back that was created out of one large parcel and one of the building lots when it was done had a barn on it.

DAN MELVILLE: He put up an full garage there to store all his vehicles, several years before he went to jail.

MR. HEBROCK: If I lived in the garage, would it make things better? That was a joke. That

was a joke.

RICHARD PERRY: Minimum size house you can build.

DAN MELVILLE: Put an outhouse on there.

RICHARD PERRY: You're saying that cannot be done or can be done by exception, variance granted?

KEITH O'TOOLE: This Board has the power to grant the variance to that rule, yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Michael Martin made a motion to approve the application with no conditions, and Peter Widener 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. Oversize garage is needed to store items presently in a barn which is for sale.

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

12. Application of Philip Pecora, owner; 12 DaVinci Drive, Rochester, New York 14624 for variance to allow total square footage of proposed attached and detached garages to be 4,950 sq. ft. (900 sq. ft. allowed) at property located at 611 Chili Scottsville Road in A.C. zone.

Philip Pecora was present to represent the application.

BEVERLY GRIEBEL: This went to Monroe County Planning and came back as a local matter. Now, you explained on your application you have a lot of vehicles you want to store.

MR. PECORA: Yes. I'm in the process of building a house there. It is approximately 7.85 acres, and I would like to put a motor home -- and the equipment to maintain the property.

BEVERLY GRIEBEL: Instead of a shed, you will use this building to store riding lawn mower, tractor, motor home, boat, lawn furniture, et cetera and you have three children living with you who need garage space. You have a lot of vehicles.

MR. PECORA: If you have kids, you're going to have cars.

PETER WIDENER: How many acres do you have?

MR. PECORA: 7.85.

BEVERLY GRIEBEL: Now, the garage is going to be quite a bit bigger than the house.

MR. PECORA: The garage will be 1200 square feet.

BEVERLY GRIEBEL: We have 4,950 square feet.

MR. PECORA: I have to have a variance for the garage that goes to the house and I want a detached building put up also 50 by 75.

MICHAEL MARTIN: That is all considered a garage. The detached building and the attached.

BEVERLY GRIEBEL: You add all of the total garage space.

MR. PECORA: I'm sorry. I have a sinus infection. I can't hear you. Bear with me.

BEVERLY GRIEBEL: That is a very large garage.

MR. PECORA: It is.

BEVERLY GRIEBEL: The footprint will be larger than the footprint of your house?

MR. PECORA: Yes.

BEVERLY GRIEBEL: By quite an extent.

MR. PECORA: I don't like to leave things outside.

DAN MELVILLE: The building that will be separate from your house, does that have a concrete floor in there?

MR. PECORA: Yes. You don't want to set vehicles on dirt or anything like that. They rust from the bottom up, so you really need the concrete.

DAN MELVILLE: How about siding?

MR. PECORA: It will be metal siding.

DAN MELVILLE: So it will not match the house or anything.

MR. PECORA: Well, probably the color will be the closest thing. It will be a neutral color. I don't want anything that is ugly up there.

RICHARD PERRY: It looks like this detached garage building would hold approximately 12 to 14 vehicles.

MR. PECORA: I want to hold a motor home and a boat and equipment to maintain the property. Yes. It is a big garage. I'm building my dream house on this parcel of land. So I want to -- I don't want to come back and say I want it bigger later. I want to do it big right from the start. It is cheaper that way.

BEVERLY GRIEBEL: Is it a large motor home?

MR. PECORA: Yes. It has an air-conditioning unit up on top. It is 10 feet. I need a 12-foot door, and if I put a 12-foot door, I need 14-foot high ceiling for the roll-up.

RICHARD PERRY: Will there be any attic storage in the building?

MR. PECORA: Mechanic?

RICHARD PERRY: Attic storage.

MR. PECORA: No.

RICHARD PERRY: No attic at all?

MR. PECORA: No. In fact, the pitch I believe on there is 1/12. So it could be...

RICHARD PERRY: Kind of small print. I can't hardly see how far back from the house that is going to be.

MR. PECORA: I have a better one if that one did not come up.

DENNIS SCHULMERICH: Based on the contour map that was attached to the application, it looks to be 15 foot elevation from where the house is to where the barn would be. I was up at the property. There is a gradient there, so the barn, the floor of the barn will be roughly 15 foot higher than the floor of the house based on the elevation of the property?

MR. PECORA: No.

DENNIS SCHULMERICH: Then your diagram is not correct.

MR. PECORA: Could you show me the map you're looking at?

DENNIS SCHULMERICH: I'm just interpreting this.

Dennis Schulmerich explained what he was looking at on the map.

DENNIS SCHULMERICH: When I was on the property Saturday, there is a considerable elevation change from where I would imagine the barn to be --

MR. PECORA: The barn would actually be lower than the house.

PETER WIDENER: Much lower. You wouldn't even see the barn from the road.

DENNIS SCHULMERICH: Oh, okay.

MR. PECORA: This is the house (indicating). The barn would be here (indicating).

DENNIS SCHULMERICH: So you have the property graded to back here (indicating) and it drops down.

MR. PECORA: Yes. I had the water shed brought to the back of the property.

DENNIS SCHULMERICH: I was interpreting you were putting the barn at the peak, but you're actually putting it over.

MR. PECORA: No. This is where it was originally (indicating), but this is the finished grade around the barn.

DENNIS SCHULMERICH: Got you.

RICHARD PERRY: It does look like 130 feet back from the garage.

MR. PECORA: From the house to the barn, yes.

RICHARD PERRY: Will you run a driveway back there?

MR. PECORA: No. It would be kind of expensive. I will just put stones there.

RICHARD PERRY: Stone?

MR. PECORA: From the house and barn. I'm not going to pave that.

RICHARD PERRY: Heat and electricity?

MR. PECORA: I will have electricity there. If you want to go at night, you need lights for safety concern.

RICHARD PERRY: No heat?

MR. PECORA: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Michael Martin made a motion to approve the application with no conditions, and Dennis Schulmerich 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. Oversize garage needed to store family vehicles and lawn care equipment needed for a large parcel.

Note: Building permits are required prior to construction of these garages.

13. Application of Lawrence Johnston, owner; 154 King Road, Churchville, New York 14428 for variance to erect a 21' x 8' open porch to be 54' from front lot line (75' req.) at property located at 154 King Road in R-1-15 zone.

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

Lawrence Johnston was present to represent the application.

BEVERLY GRIEBEL: For the record, I will note that 75 feet required is the front setback, and the house is presently 62.2 feet.

DAN MELVILLE: Doesn't conform already?

DENNIS SCHULMERICH: Preexisting.

BEVERLY GRIEBEL: You just want to put a porch out in front?

MR. JOHNSTON: Yes. About three-quarters of the way across the front of the house. From the door over to the driveway, pretty much.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Michael Martin made a motion to approve the application with no conditions, and Dennis Schulmerich seconded the motion. All Board members were in favor of the motion.

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

1. Pre-existing, non-conforming situation.
2. Porch will improve the appearance of the front of the house.

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

14. Application of Ronald Kenfield, owner; c/o Franklin Widman, Jr., 2873 Manitou Road, Rochester, New York 14624 for variance to erect a deck to be 50' from front lot line (75' req.) at property located at 59 Chestnut Ridge Road in R-1-12 zone.

Frances Widman was present to represent the application.

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

MR. WIDMAN: Good evening. I'm Frank Widman. He is my uncle, Kenfield. He bought it a year ago, a fixer-upper. When we moved in, the front door, the steps heaved. I don't know who visited, but they poured brand new concrete to dress it up so there was a step there. But I don't know for people who didn't visit, I would just like to pass it around. Fundamentally we want to do it because they're heaving, and it is separated from the house a little bit a -- even the home inspector said it should have railings. We tried bulldozing the concrete, but it is crumbling after 40 years. I went to the Building Department and said could I cap -- cap with pressure treated deck, and Mr. Kress and we went over the plans how to do it. The only thing he did say is since it is heaving, I don't want the deck supported on anything there. So we worked out how to do that, but I would have to go -- the concrete is out 8 feet, but it took me out 9 feet to dig the post holes and I was into 2 by 10s, indicating the need to cut it back to 8 foot 6, so you're looking at 10 foot.

The other thing, the problem when you look at that picture, when you step off the step, you step into the garden. I don't know if that step used to be on the side, but that is where we want it. It is abnormal to step down the step and have 10 inches. They were always pulling kids out of the bushes without a railing trying to get candy. We thought build a deck rail all of the way around, fix the steps and fix the whole thing.

RICHARD PERRY: Likewise, this one was nonconforming before. I don't see any real -- I don't have anything.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Michael Martin made a motion to approve the application with no conditions, and Peter Widener 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. The new deck will be replacing old concrete steps.

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

15. Application of James Ecker, owner; 25 Sutters Run, Rochester, New York 14624 for conditional use permit to allow an office in home for a perennial plant facility with outside storage of plants at property located at 25 Sutters Run in R-1-15 zone.

James Ecker was present to represent the application.

BEVERLY GRIEBEL: This is one of our longest nights ever. I did get out to see the backyard, and it is gorgeous.

DENNIS SCHULMERICH: Incredible.

BEVERLY GRIEBEL: Did everybody get out to see it? It is really nice.

You don't have any customers coming to the house?

MR. ECKER: No, ma'am.

BEVERLY GRIEBEL: Because when you sell some of your plants, you take them --

MR. ECKER: I sell them at the public market downtown for six Saturdays in the spring.

DENNIS SCHULMERICH: Only question I have is for the side table. That is, this is a conditional use permit for an in-home office, but there are indications of storage facilities in the backyard. Now, the backyard is completely surrounded by stockade fence. Is there an issue there?

KEITH O'TOOLE: Yes.

DENNIS SCHULMERICH: That was a concise answer. Thank you.

KEITH O'TOOLE: You're welcome.

DENNIS SCHULMERICH: Would you care to pursue that further, Madam Chairwoman?

BEVERLY GRIEBEL: This issue, let's see.

KEITH O'TOOLE: Just as Dennis (Schulmerich) stated, this is an application, an in-home office, and under the code it has to be in the house, in the dwelling. To the extent that any outside storage of materials occurs, more than the most incidental, then it is outside the scope of what is permitted. That is the issue.

BEVERLY GRIEBEL: So incidental would be minimal amount; is that correct?

KEITH O'TOOLE: Very minimal, yes.

BEVERLY GRIEBEL: Very minimal would be?

KEITH O'TOOLE: Well, certainly it is a question of fact. I may practice law at my house. And I may have an in-home office, a phone, fax and a computer, but if I have a stack of files out on a picnic table because I'm working outside one day, I don't think that is a violation. But beyond the most, you know, minimal aspects of it, then that becomes an issue. I think we have a more substantial question here and it is up to the Board to determine if they have crossed the line or not.

PETER WIDENER: Is this your first application?

MR. ECKER: Yes.

PETER WIDENER: I see you have a d/b/a already.

MR. ECKER: Yes. I just want to state these plants I store outside are just there until the 1st of October and then they're moved to another location for the winter. So they're only --

DENNIS SCHULMERICH: I understand.

MR. ECKER: They're only there from say about mid-July until the 1st of October.

BEVERLY GRIEBEL: Then they go to another location.

MR. ECKER: A location in Webster.

DENNIS SCHULMERICH: Someplace warmer.

MR. ECKER: Well, not really. It is my dad's house.

BEVERLY GRIEBEL: If you couldn't store all of the plants there at your property, is there someplace where you could store them then?

MR. ECKER: Yes. The place in Webster.

BEVERLY GRIEBEL: You could store them there?

KEITH O'TOOLE: Madam Chairwoman, Dan (Kress) has pointed out in this particular zone, we have another conditional use permit classification under which agricultural sales occurring within season would be permitted as a conditional use permit. And this would simply fit that classification.

BEVERLY GRIEBEL: Agricultural sales. Okay. In R-1-15?

DANIEL KRESS: What I am looking at if you -- Section 115-12 C is the conditional uses, Number 9.

BEVERLY GRIEBEL: I don't carry a book. It is too heavy.

DAN MELVILLE: You can use mine. I don't have any glasses. I can't read the small print.

DENNIS SCHULMERICH: 115-12-C-9.

BEVERLY GRIEBEL: "Sale of agricultural product subject to the limitations sold only during the local individual harvest season."

DAN MELVILLE: I think that falls in there.

DENNIS SCHULMERICH: R1, yes.

BEVERLY GRIEBEL: There was a man on Westside Drive during the summer who lived in Gates and I saw that he had vegetables out there including watermelons, big ones. Well, they don't grow here, so he was running a produce market, which ceased very quickly. If those are things you grow there and --

RICHARD PERRY: You don't sell any bamboo or exotic Hawaiiin plants?

MR. ECKER: Absolutely not. I have a petition signed here by my neighbors who are okay with what I am doing.

BEVERLY GRIEBEL: We'll enter that into the record.

MR. ECKER: I also have pictures if anybody wants pictures.

DENNIS SCHULMERICH: Gorgeous yard.

BEVERLY GRIEBEL: When was this done?

MR. ECKER: Sunday. Sunday and today.

BEVERLY GRIEBEL: So it is 9/21 and 9/23. Okay. I will -- "We, the undersigned, have no problem with James Ecker growing hosta plants on his property at 25 Sutter's Run." These are all people at Sutter's Run. You have ten of them. So that is your whole surrounding area. We'll enter that into the record.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DON LOOS, 24 Sutter's Run

MR. LOOS: I have some pictures that disagree about some of the statements he made.

BEVERLY GRIEBEL: What number Sutter's Run?

MR. LOOS: 24.

BEVERLY GRIEBEL: Right next-door.

MR. LOOS: I live on a cul-de-sac, and I bought this house because it is supposed to be more private, quieter, and now with the new business moving in next-door, they bring in trucks for potting. They bring in trucks to bring in the dirt so they can pot these plants. The plants have to be brought in and then they have to truck these plants out.

I have a problem with my driveway being blocked. I have a problem with -- if there is no room on their property for this type of operation, their vehicles end up on the cul-de-sac. It is like a parking lot. I'm worried about property depreciation. I'm worried about refuse collection. This should be a commercial business that has commercial collection. Not just take it out and leave it on the curb and let it blow around the neighborhood and then it is not your problem any more. That is what goes on now.

There is no advantage to having this property next to me or in the neighborhood. It is not to anybody's advantage.

BEVERLY GRIEBEL: There is trash that blows about?

MR. LOOS: Yes. When you take it out and leave it down by the curb and don't put it in refuse container, when the wind blows, it goes in other people's yard.

BEVERLY GRIEBEL: What kind of trash?

MR. LOOS: Empty boxes. The plants are shipped in boxes. When you take the plants out, you take them out to the curb.

I have had a tractor-trailer block the end of my driveway. I had other vehicles block the end of my driveway. The driveways are sort of combined, so there is no room.

DENNIS SCHULMERICH: How often do you see deliveries there?

MR. LOOS: Well, I work during the day. Most of the time -- I see -- I have seen deliveries at night, but I have seen -- I have had neighbors tell me that, you know, trucks come down the street, dump off stuff. I mean it has to get there somehow.

DENNIS SCHULMERICH: Any indication there is business occurring in terms of people buying from the house, as well?

MR. LOOS: Oh, yes, I have seen it.

PETER WIDENER: How is the traffic on the weekends if you're working during the week?

MR. LOOS: There is not people coming and going, if that is what you're asking.

PETER WIDENER: Any deliveries on the weekend?

MR. LOOS: Other than UPS or...

RICHARD PERRY: This is a situation where this tractor-trailer comes and parks and stays there all day?

MR. LOOS: No.

RICHARD PERRY: How long would you say it is there?

MR. LOOS: That one was there 15, 20 minutes.

RICHARD PERRY: How often do --

MR. LOOS: I haven't seen one since that occurred.

RICHARD PERRY: So one time for a tractor-trailer?

MR. LOOS: One time is too many.

RICHARD PERRY: Would you say the same about a UPS truck?

MR. LOOS: No. The UPS still has to come. That -- they will still block out for a little bit.

RICHARD PERRY: If someone in your neighborhood was moving in and brought a tractor-trailer in one time, that would be too much?

MR. LOOS: No. I'm just saying on a business type situation that is different.

DENNIS SCHULMERICH: We apparently have a pretty significant contradiction here.

BEVERLY GRIEBEL: If there are no more comments, you can sit down.

DAN MELVILLE: We have a petition with how many signatures?

BEVERLY GRIEBEL: Ten.

I have a couple questions. One of the pictures shows a pile of dirt in the driveway. I have seen that on houses.

MR. ECKER: In the spring and in the fall.

BEVERLY GRIEBEL: How long does the dirt stay there?

MR. ECKER: Probably two to three weeks. That is used for potting of my plants. And, you know, either I get the dirt or I have it delivered.

BEVERLY GRIEBEL: And another picture has a lot of pots on the driveway.

MR. ECKER: Yes.

BEVERLY GRIEBEL: How long does that happen?

MR. ECKER: That doesn't happen any more.

BEVERLY GRIEBEL: Okay.

MR. ECKER: When they're brought home in the spring from my father's house, they go right in the backyard.

BEVERLY GRIEBEL: So these pictures are something that doesn't occur any more out in the driveway?

MR. ECKER: That's correct.

BEVERLY GRIEBEL: The pots conglomeration of pots which I guess cannot be seen from the street -- they can only be seen from your backyard?

MR. ECKER: Yes.

BEVERLY GRIEBEL: How high is your fence?

MR. ECKER: It is a 6-foot stockade.

BEVERLY GRIEBEL: So you can't really see it unless you're on a ladder on the other side.

MR. ECKER: Or somebody trespassed on my property to take the picture.

BEVERLY GRIEBEL: Pots don't happen. Dirt is occasional, like what an ordinary homeowner would have to do a little yard work around there.

Now, the truck, do you use this truck any more?

MR. ECKER: It is not even my truck.

BEVERLY GRIEBEL: Okay. When you have the deliveries, is it just a matter of a short period of time where the truck might be there.

MR. ECKER: There was one instance where I had -- that a tractor-trailer truck delivered me some pots. He obviously couldn't get around the corner well because it is a cul-de-sac. That was three years ago. I have not had a tractor-trailer delivery since then.

BEVERLY GRIEBEL: Not since then.

MR. ECKER: No.

BEVERLY GRIEBEL: So you're trying to remedy some of these things that seem to be a problem.

MR. ECKER: Yes.

DENNIS SCHULMERICH: There was a Polaroid shot in there that shows advertising for purchasing of plants at your address. That was quite a while ago, too. That is not happening?

MR. ECKER: That doesn't happen any more.

DAN MELVILLE: The one on the telephone pole?

MR. ECKER: Yes. That was a one-day sale.

DENNIS SCHULMERICH: Fire sale on plants prior to frost or something

(Laughter.)

DENNIS SCHULMERICH: The final question I had, one or more of the pictures shows cars parked in middle of the cul-de-sac. Is that something that routinely happens from people working with you?

MR. ECKER: No.

DENNIS SCHULMERICH: Pardon? You don't know.

MR. ECKER: People park in the cul-de-sac. People have parties and people park there.

DENNIS SCHULMERICH: They weren't necessarily associated with you?

MR. ECKER: If I could see the picture, I would be able to identify them.

BEVERLY GRIEBEL: Yes. Those three are my vehicles. This is actually my father's truck. Like I say, that doesn't happen often.

BEVERLY GRIEBEL: It could happen with a big Sunday dinner?

MR. ECKER: Those two are mine and I'm not sure who that one is (indicating).

RICHARD PERRY: You are the only one that ever has people parking in the cul-de-sac?

MR. ECKER: No. There are other, you know -- people have parties and people park in the cul-de-sac. There is not a lot of street parking there. I mean, it is a cul-de-sac.

RICHARD PERRY: I know. I live on a cul-de-sac.

BEVERLY GRIEBEL: You don't have a full front yard because the driveways do get close together.

MR. ECKER: Right.

BEVERLY GRIEBEL: Where do people park? They can't park way out in front of somebody else's house.

MR. ECKER: Two times a year -- I belong to a lot of garden clubs, local garden clubs and we do have tours, and when I do one next year, I will tell these people they can't park in the cul-de-sac. So...

BEVERLY GRIEBEL: That will take care of that problem.

MR. ECKER: Yes.

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

Michael Martin made a motion to approve the application with the following conditions, and Peter Widener 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.

The following finding of fact was cited:

1. The home office is a customary home occupation.

The meeting ended at 11:39 p.m.