

CHILI ZONING BOARD OF APPEALS  
February 23, 2016

A meeting of the Chili Zoning Board was held on February 23, 2016 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Vice Chairperson James Wiesner.

PRESENT: Fred Trott, James Valerio and Vice Chairperson James Wiesner.

ALSO PRESENT: Eric Stowe, Assistant Town Counsel; Paul Wanzenried, Building Department Manager.

Vice Chairperson James Wiesner declared this to be a legally constituted meeting of the Chili Zoning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

JAMES WIESNER: Starting out with the signs. The first two applications, Hillside Children's Center and the Application 2, Mr. and Ms. John Falk, didn't need to have any sort of postings because they were at previous -- they were here previously, but Applications 3 and 4 did need to have signs. I did see them.

Everybody else saw them?

The Board indicated they saw the notification signs.

PUBLIC HEARINGS:

1. Application of Hillside Children's Center, owner; c/o Christine Reedhead, 410 Atlantic Avenue, Rochester, New York 14609 for variance to allow all existing signs on property to remain per campus signage masterplan submitted at property located at 2075 Scottsville Road in PID & FPO zone.

JAMES WIESNER: This application we had you -- you were here last week -- actually, I was the one that raised questions, and I know the Building Department has been out there and worked with you as far as what signs you have and what is legitimate and what you truly have.

MS. REEDHEAD: Yes.

JAMES WIESNER: That has all been done?

MS. REEDHEAD: Yes.

JAMES WIESNER: I have that list here with one modification. Paul (Wanzenried) said that you -- the two wall-mounted signs that you -- have you taken down?

MS. REEDHEAD: Yes.

JAMES WIESNER: That has been removed from the -- from the sign inventory. Actually, I will pass that over to the Board. This is the mark-ups I got from Paul (Wanzenried) as well as the picture showing those two have been removed.

FRED TROTT: You said two?

JAMES WIESNER: Yes. I believe they're the wooden signs.

MR. HILL: Yes. They were handmade. We tried to take them down. They weren't in very good condition so we just decided not to put them back up.

JAMES WIESNER: Okay. So I think that's the only real change to what has been submitted.

Is there any questions?

FRED TROTT: Just reaffirm, they're all -- other than the entrance sign, they're all within your facility?

MR. HILL: Correct. They're just various signs throughout the campus.

FRED TROTT: They're all variance -- I see small, "No smoking" signs -- it sounds like a lot when you look -- it is 22 signs, but some are very small and some are, you know, well needed. You know, where not to smoke and stuff like that.

MR. HILL: Yeah.

JAMES VALERIO: I drove through and it looks good, just like the list says.

PAUL WANZENRIED: All sign permits need to be procured through the Building Department. Just make that a condition.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Valerio seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

The Public Hearing portion of this application was closed at this time.

JAMES WIESNER: I appreciate the fact that the Building Department went out there and

worked with Hillside Children's Center --

MR. HILL: Yes, thank you very much.

JAMES WIESNER: -- to get this all cleaned up.

James Wiesner made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and James Valerio seconded the motion. The Board all voted yes on the motion.

JAMES WIESNER: At this point the only conditions for approval, before we go ahead to adopt the application is the sign permit required as Paul (Wanzenried) had requested.

James Valerio made a motion to approve the application with the following condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 3 yes with the following condition:

1. Sign permit must be obtained from the Building Department.

The following finding of fact was cited:

1. Signs are existing, required for campus identification, and have no impact on the surrounding neighborhood.
2. Application of Mr./Mrs. John Falk, owner; 24 White Birch Circle, Rochester, New York 14624 for variance to erect an in-ground swimming pool to be 4' from dwelling (15' req.) at property located at 24 White Birch Circle in R-1-12 zone.

Mr. and Ms. John Falk were present to represent the application.

JAMES WIESNER: This application is also one that was from the last meeting that got tabled. There was a question at that point about a State -- possibly a State setback.

PAUL WANZENRIED: Yes. After further review, there is nothing in the State Building Code, so we tabled them for -- just to make sure we were clear.

MR. FALK: We also talked to our -- the pool company and the -- the erector of the pool and they, too, have never heard of anything. As well as our own research.

JAMES WIESNER: Okay. So I think we kind of stopped it after you gave your presentation on what you were requesting and then we tabled it. At this point is there anything more you would like to add?

MS. FALK: Just we looked at it again. We walked out when we had nice weather, re-paced everything and we looked for any other options and really felt to preserve the little green space that would be left and the play area for the kids, this is really the only option where we can put it.

FRED TROTT: You answered my question by just going out there and making sure this is ultimately where you wanted it.

JAMES VALERIO: How far is it from the house? Not the screened-in porch.

MR. FALK: 22 feet from the foundation of the house. Again, the patio is just basically a slab on grade -- inside the -- the block foundation. I can't see any -- where there would be any problem if there was water leakage. It still gets groundwater now.

JAMES VALERIO: Did you explore the possibility of building a smaller pool?

MS. FALK: The -- the smaller part is the width part and that's the -- there really -- the length is not the issue. It is the width that is the issue. And to go within the 10 feet would be like a 4 foot wide pool or something. You know what I mean? In order to stay with the variance, it would be...

MR. FALK: We have also met with other homeowners that have in-ground pools and looked at many different styles and sizes and stuff like that. We talked to a couple of them. The biggest thing they always said, "We wish we had gone bigger."

Because when it is all in-ground, it is just smaller than it looks.

MS. FALK: We talked to someone who had the original size we were thinking of, which was 16 feet, the 2 feet smaller. It was a neighbor we didn't know. We just went over and asked to talk to them to look at it. She said when they get their family members in there, they get five or six kids, and it just feels full. Well, we have 14 nieces and nephews as well as all the neighborhood kids. We thought if we put the money into it, we want to do it right the first time.

ERIC STOWE: No comments other than we had not held the Public Hearing so we will need to do that for this application.

JAMES WIESNER: How close to --

PAUL WANZENRIED: How close to the shed -- that shed in the picture is yours?

MS. FALK: Yes. From the corner of the pool --

PAUL WANZENRIED: From the corner of the shed.

MS. FALK: From the corner of the pool to the corner of the shed is like 7 or 8 feet.

Again, it's not a square pool like we have the corners in there. It is called a Roman edge, so it is kind -- you have a 2 foot taper on the side, so close to 7 or 8 feet depending exactly where we put

the pool.

PAUL WANZENRIED: Wasn't shown, but I assume the shallow end is towards the sun porch?

MR. FALK: No. That would actually be the deep end.

Your concern?

PAUL WANZENRIED: There is such a thing as -- called an angle of repose and it has to do with foundations and how they bear into the dirt below, and my concern is the excavation and how close that is. If it was the shallow end, you're only going down probably as deep or maybe as deep as the foundation of your sunroom. If it's the deep end, it's a different story. So there is an over-dig.

MR. FALK: I think they said they only need 3 feet.

MS. FALK: The type of pool it is, we compared the two different pool styles and the type of pool this particular company builds such that they reduce their over-dig. I don't -- I don't know all of the details.

PAUL WANZENRIED: What kind of pool is it? Dolomite, fiberglass?

MR. FALK: It is --

MS. FALK: It is structured polymer walls.

PAUL WANZENRIED: Okay.

MR. FALK: With -- with the four -- with the shallow end versus the deep end, the -- they dig 4 feet down, the length of the pool and then from the -- at the deep end they actually start tapering it away from the house, if you will, into the shallow end of the pool. I don't know if that helps. So basically you get a 4 foot depth for the whole length of the pool, and then --

PAUL WANZENRIED: I guess my only concern and this is primarily a building question, is if you get too close to that foundation of the sun porch and you risk undermining it, okay? So -- but we can work those details out.

JAMES WIESNER: That 4 foot measures to -- does it measure to the actual pool or the concrete apron?

MR. FALK: It would be 4 feet to the edge of the pool, minimum.

MS. FALK: We did look when we were pacing it all out. We thought we could potentially go 5 feet. We talked about our porch, going that additional foot, just in case there was some --

MR. FALK: Right. Now --

PAUL WANZENRIED: I like that idea. 5 feet.

MR. FALK: This is not an exact picture here, but the corner near the shed, if we go like beyond 5 feet off the house, then there is possible risk of, you know -- you got the 3 feet concrete going down here. Any closer to the shed we were concerned about like pulling out our tractor out of the shed and, you know, dipping in the pool.

JAMES VALERIO: If you would -- if you brought it away -- what is away from the sun porch? There is a tree there, correct? Or no?

MR. FALK: This back corner here (indicating)?

JAMES VALERIO: Other side.

MR. FALK: Oh --

JAMES VALERIO: Why can't it come more this way?

MR. FALK: We also have a -- we also have a -- I don't want to say a built-in playground, but it is one of those ones that -- not moveable. We also have a tree here that is bigger than it looks in this picture. And we're also -- if we -- if we did go the 10 or 15 feet -- I don't know what the code is, is it 10 or 15?

MS. FALK: 15.

MR. FALK: If we did stay within the variance of the 15 feet, we're pushing that pool almost to the edge of the property line over there.

PAUL WANZENRIED: Correct.

MR. FALK: Plus it would be on -- past the edge of the house. We don't want the pool there.

PAUL WANZENRIED: I just wanted to make sure you thought of those things. If the variance is granted, we can work out final placement of the pool within the parameters of the variance. You're asking for 4 feet, but if it is moved to 5, it is not any closer than 4.

MR. FALK: We wouldn't go any closer than 4. That is just the minimum.

PAUL WANZENRIED: Mr. Chairman, I also ask that the building permit be obtained prior to construction.

JAMES WIESNER: Building permit or pool permit?

PAUL WANZENRIED: Well, pool permit.

MR. FALK: I believe the company takes care of that, too.

PAUL WANZENRIED: Okay. I just need it on record as a condition.

MR. FALK: Sure.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Valerio seconded the motion.

JAMES WIESNER: We --

ERIC STOWE: Mr. Chairman, there was a motion. We just need a vote on the motion. There was a motion to close the Public Hearing but no vote on the motion.

JAMES WIESNER: We --

ERIC STOWE: So motion, second, now we need a vote on the motion to close.

All Board members were in favor of the motion to close the Public Hearing.

The Public Hearing portion of this application was closed at this time.

JAMES WIESNER: I can see the pros and cons of it for sure. They don't have a very large backyard.

On the other side, they are approaching pretty close on the patio itself.

FRED TROTT: We asked them to really look at it. There is not a lot of space there either.

James Wiesner made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Fred Trott seconded the motion. The Board all voted yes on the motion.

JAMES WIESNER: Right now with the application I have one condition of approval, that is building permit to be obtained.

Fred Trott made a motion to approve the application with the following condition, and James Valerio seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 3 yes with the following condition:

1. Building permit must be obtained from the Building Department.

The following finding of fact was cited:

1. Applicant has limited options for pool placement due to small backyard with existing trees and shed.
3. Application of Lorenzo Marsocci, owner; 240 Fisher Road, Rochester, New York 14624 for variance to convert existing building to a two-family dwelling with unit 1 to be 629 sq. ft. (850 sq. ft. req. for one bedroom), and unit 2 to be 434 sq. ft. (850 sq. ft. req. for one bedroom) at property located at 12 Chestnut Ridge Road in R-1-12 zone.

Lorenzo Napolitano and Lorenzo Marsocci were present to represent application.

MR. NAPOLITANO: Good evening. Lorenzo Napolitano. I represent Lorenzo Marsocci.

It is important to note here, I think we're not asking for a change in use of the property. We're just asking for a variance for less square footage per unit. It is already residential. We're just seeking to make it into a two-family dwelling.

Chestnut Ridge Road over there is pretty residential. We're not seeking to change the character of the neighborhood at all. We're trying to keep it residential. It's only two units that would be just two one-bedroom apartments, so I don't think there would be any adverse impact to the neighborhood.

There is ample parking that can accommodate the tenants there. I think there is up to eight parking spots. I have been there. It's a pretty large parking area up front.

Without a variance, it would cause economic hardship to my client. The -- the -- it's already structured as sort of two units. It was a hair salon and sort of like a separate like apartment. So if the variance is granted, I don't think you would have to do any construction in there. Maybe some cosmetic, you know, painting or whatnot. But if -- if my client had to put it as a single-family dwelling, then you're talking about knocking walls down, changing things around. You know, removing gas meters, water meters, things like that.

So -- so for all that, that is why we are seeking the variance and -- and even if you were to try to just give up and sell the place, again, it is still an economic hardship because he has to either still spend the money to bring it into code to convert to it single-family dwelling or sell it for significantly less than market value because he has to tell the potential buyer that it is only going to be used for a single-family. That being said, the client would rather keep the property. He has owned it for years. He would like to -- he lives in the area, so he would like to just keep the property and just rent it out as two separate units.

JAMES WIESNER: Currently zoned R-1-12 which is essentially residential for a house.

MR. NAPOLITANO: Right.

JAMES WIESNER: There were businesses in there previously. I'm wondering how they got away with that, if there was anything previously that was --

ERIC STOWE: I thought we discussed there was a variance on the property to allow for the commercial use prior.

MR. NAPOLITANO: I believe so. I think the variance was -- was probably decades old. So there was a hair salon that operated there under that variance. We have gone to the Planning

Board and now this is the next step. So basically, it is -- he is just trying to use the property back in the character what it is, is a residential area. I know pretty close by there are some kind of multi-family units. I don't know if they're condos or apartments.

So again, this is kind of keeping in character with that -- with the neighborhood over there.

JAMES WIESNER: So you have already been before the Planning Board?

MR. NAPOLITANO: Correct.

JAMES WIESNER: You have gotten preliminary approval?

MR. NAPOLITANO: We did. The application was sort of pending approval of the Zoning Board. You had to go to one first.

JAMES WIESNER: So you still have to go back for final approval? I --

MR. NAPOLITANO: I'm not sure if that was final approval and just one of the conditions was approval of the Zoning Board.

ERIC STOWE: If I remember right, I believe it was a Special Use Permit for a two-family in that zone and not any site plan, so I don't believe there was a final approval necessary. It was just that the Special Use Permit was conditioned on this Board granting a variance.

JAMES WIESNER: Okay.

MR. NAPOLITANO: Mr. Stowe has a much better memory than I do. He always has.

JAMES WIESNER: And then as far as financial hardship, did you bring any evidence with you as far as what that hardship would be?

MR. NAPOLITANO: He hasn't gotten estimates yet from contractors to see what it would take to convert that to a single-family dwelling. You can see there are separate kitchens. They're kind of walled off. So no, he hasn't gotten any estimates or anything like that because that is not really his plan. He is hoping he can use it as is. But I mean if it's something that was necessary, I -- he certainly could get some contractors out there to look at the property. But I mean I have seen it myself. It will take, you know, ripping things out. No one wants to rent an apartment with two kitchens. It will take some work, knocking out some walls, removing at least one kitchen, maybe -- maybe reconfiguring an entrance. It is going to take some work. I don't have hard, in fact, dollars for you.

JAMES WIESNER: Well, let's see if there is any questions from the Board.

FRED TROTT: So I have a couple of questions. Does he presently live there?

MR. NAPOLITANO: No.

FRED TROTT: He has no plans to live there?

MR. NAPOLITANO: No.

FRED TROTT: Just to rent out the property?

MR. NAPOLITANO: Correct.

FRED TROTT: My second question was, it was a hair salon up until this point?

MR. NAPOLITANO: Up until a few years ago. The hair salon business sort of dried up, and then it closed. And...

FRED TROTT: The way it is laid out here, you are saying when you first started that, he didn't have to make any changes, so how long has it been like this kitchen, the living room?

MR. NAPOLITANO: I think for years. It --

FRED TROTT: The people were living in there?

MR. NAPOLITANO: The hair salon operated, it was literally operated -- it looks like an apartment they operated out of. They had the living room sort of as the waiting area and the bedroom was where the hair salon was done. The kitchen was just off the side, just there as a break room or whatnot. Customers would go in there. It is strange to think about, but it was just a small little hair salon. If you can envision a hair salon out of a one-bedroom apartment, that's essentially what it was. So it sounds like you would have to have work to convert a salon into an apartment, but really, you don't, because they just sort of kept the salon as the configuration of a one-bedroom apartment and just made it work. So if you can imagine the living room had a few chairs for a waiting area and then the actual salon part where one person would work was the bedroom and then there was a bathroom and then the -- the kitchen.

FRED TROTT: So you would have to put doors in and stuff like that, right? You're saying there were doors there? I'm trying to envision --

MR. NAPOLITANO: Like a bedroom door. I think there may already be a bedroom door. But to convert it to -- if you can only use it as single-family, he has to take basically two separate apartments and kind of merge them into just making one -- one unit.

FRED TROTT: You have both basements with access -- both -- I'm sorry. Both apartments would have access to the basement or just one?

MR. NAPOLITANO: This is my client, Lorenzo Marsocci. Just the larger apartment has access to the -- to the basement area. I think it's a small basement area. Part of it may even be just a crawl space.

FRED TROTT: It seems really small. I have nothing further.

JAMES VALERIO: Are there already two furnaces, two meters, two of everything?

MR. NAPOLITANO: I believe there is. It is kind of -- they're all two separate -- right now, they're essentially just two separate free-standing units.

JAMES VALERIO: So what was -- was the other apartment rented for residential while the other side was a hair studio?

MR. NAPOLITANO: I think it may have been at some point. I think right now it is just empty, but it may have been at some point.

JAMES VALERIO: So they have both been empty for a couple years?

MR. NAPOLITANO: How long have the units been empty?

MR. MARSOCCI: Probably a year.  
MR. NAPOLITANO: They have been empty probably about a year.  
PAUL WANZENRIED: How many -- how many stations did the salon have?  
MR. NAPOLITANO: Just one. Right? Just one station?  
MR. MARSOCCI: No. It had three.  
MR. NAPOLITANO: Three stations, I guess.  
PAUL WANZENRIED: Are those stations still there?  
MR. NAPOLITANO: No. They -- there is basically not much in the place right now as far as furniture or anything.  
PAUL WANZENRIED: Do you know what a station is?  
MR. NAPOLITANO: I am assuming you mean just like a chair and whatnot?  
PAUL WANZENRIED: The sink that goes with it, the plumbing that is associated with it.  
So he is -- so he has taken that out, those stations out, right?  
MR. MARSOCCI: Yes.  
MR. NAPOLITANO: Yes.  
PAUL WANZENRIED: And what you're saying is that this is the existing layout when it was a hair salon and he rented the front part?  
MR. NAPOLITANO: Correct. If you use it as a two-family, the -- the layout would -- would stay the same.  
PAUL WANZENRIED: What is the rent he is going to charge for these two units?  
MR. NAPOLITANO: We don't know. I mean just whatever the market can bear.  
PAUL WANZENRIED: Any idea what the market can bear?  
MR. NAPOLITANO: I mean, that -- the front apartment, we'll call it, um, perhaps 4 or \$500 and a little bit more for the back apartment.  
PAUL WANZENRIED: Um, hang on one minute.  
JAMES WIESNER: You don't have any pictures how this is currently set up inside?  
MR. NAPOLITANO: I don't. I think this -- I mean, the diagram is kind of the best sort of representation of it.  
JAMES WIESNER: So where would the -- the hair salon was in the front or the back?  
MR. NAPOLITANO: It was in the back.  
JAMES WIESNER: What was in the front again?  
MR. NAPOLITANO: Just a -- just an apartment. The kitchen, the small bedroom, small bath and small living room.  
JAMES WIESNER: Someone lived in there actually?  
MR. NAPOLITANO: Um, I -- at one point, yes. It's been empty, like I said, for about a year.  
PAUL WANZENRIED: And you stated that the only access to the basement is through the larger unit?  
MR. NAPOLITANO: Correct.  
PAUL WANZENRIED: So the furnace and everything for the front unit is located in the basement of the second unit?  
MR. NAPOLITANO: Yes.  
PAUL WANZENRIED: What kind of heat is in there? Boiler, forced air?  
MR. MARSOCCI: Boiler baseboard.  
FRED TROTT: Is there any kind of building code for multiple used space as far as being an apartment?  
PAUL WANZENRIED: And a hair salon?  
FRED TROTT: No, being --  
PAUL WANZENRIED: Being a duplex?  
FRED TROTT: Yeah. Because I wonder how thick those walls are.  
PAUL WANZENRIED: Well, when he gets to the Building Department, we'll have to talk about separation between the units and there is a whole other gamut there that has to go on, but that is a discussion he has to have with the Building Department should the variance be granted.  
PAUL WANZENRIED: In your depiction that large room is a bathroom, in the salon area there?  
MR. NAPOLITANO: Yes. There is a bathroom in both units.  
PAUL WANZENRIED: I know there is a bathroom in both units, Mr. Napolitano.  
MR. NAPOLITANO: Here?  
PAUL WANZENRIED: Is that a bathroom or a bedroom?  
MR. NAPOLITANO: It's a bathroom.  
MR. MARSOCCI: It was an old shampoo area where you shampooed the hair. So everything is already there. The toilet is right in the little part.  
JAMES WIESNER: Is there even room for a bathroom in this -- room for a shower there?  
MR. NAPOLITANO: Yes. It's not very large, but yes.  
JAMES WIESNER: Seems hard to meet code with a toilet and a shower in there, but that is another story.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Valerio seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

The Public Hearing portion of this application was closed at this time.

JAMES WIESNER: Anything the Board would like to discuss relative to this application? It certainly challenges the -- the balancing test that we have to use for weighing the variance.

FRED TROTT: He is asking for one to be half the size of what is accepted.

JAMES WIESNER: As well as we don't really have any hard data on financial evidence to -- to prove that point either.

James Wiesner made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and James Valerio seconded the motion. The Board all voted yes on the motion.

JAMES WIESNER: Anything anyone else wants to bring up on the Board?

PAUL WANZENRIED: Mr. Chairman, just that he would need to come before the Building Department.

JAMES WIESNER: I do have that as a condition.

PAUL WANZENRIED: Great. Thank you.

JAMES WIESNER: Building permit.

So that is the only condition of approval that I have.

Fred Trott made a motion to approve the application with the following proposed condition, and James Valerio seconded the motion. The vote on the motion was 2 no to 1 yes (James Valerio.)

DECISION: Denied by a vote of 2 no to 1 yes (James Valerio) with the following finding of fact having been cited:

1. Variance is a self created hardship and is substantial in nature.
4. Application of Chili Plaza Properties, owner; 3240 Chili Avenue Suite B17, Rochester, New York 14624 for variance to erect proposed minor repair motor vehicle service station (Monro Muffler) to be 25' from rear lot line (Paul Road) where 75' is required, variance to erect an 8' high fence around proposed tire and dumpster enclosures (6' high allowed) at property located at 3240 Chili Avenue in GB zone.

George Jarrett and Rob Fitzgerald were present to represent the application.

MR. JARRETT: Good evening. My name is George Jarrett, 11 Jarrett Road, Scottsville, New York.

I represent Monro Muffler Brake. I'm the Director of Development. We are leasing a parcel of land to accommodate the footprint of the building and parking at the shopping center. And we are here to ask for a 75 foot setback reduction to 25, and the reason simply for that is part of a Master Plan for the Township -- their plan is to place the buildings up closer to the highways and place parking behind that. So that is why we're here.

I can address the 8 foot versus the 10 -- I'm sorry, the 6 foot dumpster enclosure. As depicted on your plan, the -- the rectangular box that is actually more surrounded by shrubs there is a sea container. We sell tires, so we like to put our used tires in the sea container. It serves two purposes. It eliminates -- mosquito control because it's a dry environment to store the tires in and they're also secure from malicious acts. People like to roll tires down the road and do things like that.

So -- so the reason for the height variance is because a sea container is 7 feet high. So it would reach above the typical 6 foot high screening environment that is allowed by the Township. So we would like to raise that up to 8.

And then we are working with the Architectural Advisory Committee on the exterior material that would shield those dumpsters from the public. But if you look at the placement of them, they're really not exposed to the public except their rear wall up along Paul Road and it's probably been our intent to continue the building materials to be used on the structure itself so it's an integrated dumpster enclosure with respect to design from the public view.

FRED TROTT: I take it, you're moving out of your existing building?

MR. JARRETT: Yes. Once this facility is constructed hopefully with all of our approvals, we will construct this and then we'll vacate the existing facility and that will be turned back over to the landlord. There is really no grading issues or any other impediments that would preclude us from placing the building where it is in respect to the building setback. It doesn't create any hardships for me as the person constructing the building by placing it closer to Paul Road. So we're very willing to accommodate the municipal desire to change according to the Master Plan in the municipality.

FRED TROTT: How much green space is preexisting there? Or would be lost?

MR. JARRETT: I will let Rob (Fitzgerald) address that.

MR. FITZGERALD: It's -- it is a large site, so it is a small fraction. Rob Fitzgerald, Fitzgerald Engineering. I don't have a number in front of me, but I'm guessing it is like less than 1 percent. We are adding some additional green areas to the parking, as well.

FRED TROTT: Pretty much on the asphalt?

MR. FITZGERALD: This actually does go into the grass area, but overall disturbance, because the property is so large, it is still a small percentage. We are taking away some of the grass area. With that, we are coming back with a sea of foundation plantings around the building as well as some new grass islands. So we are putting back in a nicer green area, if you will, not just mowed grass.

JAMES WIESNER: So what is your current status with the Planning Board at this point?

MR. JARRETT: We have actually not appeared in front of the Planning Board. Well, we have appeared in front of them for an -- as an advisory to start with. So we have not formally appeared in front of them. We appear in front of them on the 8th and it is my understanding at that time they would declare themselves lead agency for SEQR, and if you so desire, would approve us, then we would have to come back to your next meeting to actually be approved legally under the SEQR designation placed by the Planning Board.

JAMES WIESNER: So at this point, we would basically listen to what your application is, but we wouldn't vote on it necessarily tonight. We would probably table it.

MR. JARRETT: I would call this evening a discussion matter in lieu of SEQR -- I'm going to call it an issue, but it is not an issue. That it be placed with the Planning Board as the municipality desires.

JAMES WIESNER: Okay. Any further questions?

FRED TROTT: I'm confused.

JAMES WIESNER: So at this point, we can listen to what their -- they have to say in their application, what they're proposing, but we -- our end result tonight is we would table it because Planning Board will need to take the lead on SEQR. They have the most at stake and most comprehensive review of -- of the whole project. SEQR is best done with them, not us.

ERIC STOWE: If I could add in on the SEQR, the reason it would make the most sense, if this Board declares themselves lead agency as SEQR, that is for the entire project, the construction and the variance. Can't separate the two. The project is the 6600 square foot building that requires two variances. So the Planning Board, with the full engineering drawings, dealing with drainage, traffic, all those issues that would not be considered by this Board -- if this Board declares themselves lead agency and says no environmental impact will occur, the Planning Board cannot review those matters in their approval of the site plan. So making sure it's -- while not a coordinated review under the SEQR determine -- under the definitions, making sure that the two -- the reviews are going on simultaneous and the Planning Board is looking at every issue and then the Zoning Board can focus on the determination with the respect to the granting of the variance.

MR. JARRETT: If I could just interject, part of this getting -- I will call it out of sync is my desire to have all of my approvals prior to going to a Planning Board meeting. I have been doing this for about 35 years and opened about 1200 stores. I have been to Zoning meetings around the country for the last 35 years. I personally do not like getting approvals from Planning Boards, Planning and Zoning commissions that are of a nature where I have to go to another Board or there is -- so -- my desire was to get the Zoning Board approval, the Architectural Review Commission -- I might have misstated their name -- and then go to the Planning Board and seek my approvals with the minimal amount of conditions that they have to place on me for my final approval. Just one of my oddities. I do this a lot. I don't like to have hanging chads, I call them, with respect to different agencies or Boards being conditioned upon a Planning Board final approval.

FRED TROTT: So I guess --

JAMES WIESNER: We're basically hearing them out at this time.

FRED TROTT: Which is fine. I didn't expect that. I thought we would vote on it. But we're throwing it back to the Planning Board.

JAMES WIESNER: We're not in a position to do that with SEQR not having been done.

MR. JARRETT: I don't think legally you can vote on it without having -- without designating yourself SEQR lead agency, which I don't think is what the -- would make sense in this particular approval process for the Monro Muffler Brake. So we would love to hear any feedback that have you on anything that you see that you would like to have reviewed, looked at, so that the next meeting we can come back and try to address those comments or ideas you have.

ERIC STOWE: We could also do a Public Hearing so at least that portion of the application is complete and not -- since a Public Hearing was noticed and published, we could accomplish that task, as well.

MR. JARRETT: That would be awesome.

JAMES WIESNER: So that is sort of where it is going. My question is there seems to be more room there. Why 25 feet and not further into the road to try to minimize your variance?

MR. JARRETT: I think that is a decision up to you based on the Town Master Plan and the Town Master Plan wants all buildings placed as close to the highway as possible. There are no impediments that would even stop us from placing the building closer to the highway than we showed it. So that is really a determination not from me, but from you, the Board, or the municipality. Because I can move the building, I believe, and retain the 75 foot setback. That is not what was requested of us. It was requested we conform with the Master Plan as currently in place and that is to move the highways closer to the main thoroughfares.

JAMES WIESNER: I thought that was along Chili Avenue.

FRED TROTT: Well, I --

JAMES WIESNER: Actually, Fred (Trott) was part of the Master Plan Committee.

FRED TROTT: Throw me under the bus.

I know what you're saying and I kind of agree with you, except for you're more or less putting the back of the building to the front of the road, where I think the concept was that the front of the building would be facing the road. I don't think we were thinking of a Monro Muffler garage. It was more of --

MR. JARRETT: I can tell you typically placing the bays toward a road, residential or, I will call it, you know, housing across the street, there -- we generate noise. Typically that is found to be offensive. We try to mitigate it with lithium ion tools instead of air-driven tools, but we still get the bang, bang, bang against the lug nut. So we are looking -- we're working with the Architectural Advisory Committee on trying to eliminate the quote, "blank wall look" so there is architectural features to that -- as I call it, the mean blank wall. It's a slate that we can work with. And mitigate it. We bought -- we have hundreds of facilities around the country, and we have a bunch of unique designs. I brought those unique designs to the Architectural Board to look at, the Committee.

JAMES WIESNER: So the 25 foot wasn't your choice?

MR. JARRETT: Correct.

JAMES WIESNER: That is what you're saying?

MR. JARRETT: Yes.

JAMES VALERIO: So are you saying that this blank wall would look a lot different than this when the final plan is done?

MR. JARRETT: Yes. Which is why I want to have the Architectural Committee finalize a plan before I go to the Planning Board. So that there is a clear understanding what I'm building and where it is in relationship to the highway. Because it is 25 feet away. It is going to be very visible.

JAMES VALERIO: How close are you to the existing Monro Muffler? The parking lot butts up to each other.

MR. JARRETT: We would almost share the same common area, but I would say it is not any more than 100 feet, 75.

MR. FITZGERALD: This is the proposed new building (indicating). This is the existing building.

JAMES VALERIO: On the Paul Road side of your building, will that be green area?

MR. FITZGERALD: Yes.

JAMES VALERIO: That will be new green area.

MR. JARRETT: Well, it is existing green area that would be undisturbed and possibly regraded but reseeded and landscaped as appropriately as we need to do.

MR. FITZGERALD: It is kind of four moving pieces, the building, the Zoning, Architectural Review Board and Conservation Board. So depending on the look of the building, we're going to supplement foundation plantings where it makes sense to also break up that long brick look. It is kind of three moving pieces we're kind of working on all together and we'll continue to work on them.

MR. JARRETT: I certainly don't want to muddy the water with this comment, but me personally from the perspective of developing, I would rather have the building as close to Chili Avenue as humanly possible. The reason I'm willing to reposition the building to where it is is because we're already in the market. We're not moving a half mile down the road. I'm not moving, you know, across the street. I'm moving within the same parking area, so I don't have to worry about customers not being able to find our new location. This becomes an issue when we relocate stores. It happens when you move a half mile down the road and people can't find you.

So that is one of the reasons why Monro Muffler Brake, namely me, I'm in charge of all of the development, I'm okay with putting the building where it is. And in front -- and also in front of the parking lot that is in front of the Monro and this, there is a boat load of underground utilities, mostly storm water piping that would prohibit most development in that area.

FRED TROTT: You mean moving it closer to the --

MR. JARRETT: Yes. There is storm water pipes. I believe some are 60-inches in diameter that crisscross that parking lot pretty good in front of us. Even if I had my wishes and wanted to put it closer to Chili Avenue, I can't build over a 60-inch reinforced concrete pipe storm water easement.

JAMES VALERIO: Will they have to redo the traffic pattern around the new building?

MR. JARRETT: No, not really. We only -- we only have about 25 paying customers per day at a store, so we really don't have any peak periods like a fast feeder does. We don't really have, you know, a bunch of people coming at once. It is pretty disbursed. The managers try to do scheduling by appointment. We do appointments on the internet. We don't want people waiting for your car. The last thing you want to do is wait for your car to get repaired. You want to get in and you want to get out. It's a painful event for most consumers.

FRED TROTT: I know what he is saying. With the pictures that you're providing, it is hard for us to absorb how much of the parking lot is gone and that is kind of like people drive around the back side, if you're coming in from Paul Road, what that -- there is like that -- that curve --

JAMES VALERIO: Curve in the parking lot.

JAMES WIESNER: What is existing and what is --

MR. FITZGERALD: This will be the final striping plan as shown. So this is the main corridor that goes all of the way to Chili Ave. that exists now and then it wraps around to Paul Road. So we do have nice circulation. Or actually improved circulation.

FRED TROTT: Because they got rid of the -- I can't say the word -- medians --

MR. FITZGERALD: Yes, medians. That kind of -- that went the wrong direction?

FRED TROTT: Yes.

MR. FITZGERALD: We are putting some of those back in. Improvements. Striping plan. We will be putting in back some landscaped -- like where the hatched areas are, where they make sense to kind of direct traffic.

MR. JARRETT: I'm satisfied with the traffic pattern. I can get delivery trucks in there. I don't think consumers will have any issue at all adopting or adapting to our current location from this. I don't think it has any interference with cross traffic at all. That's my opinion.

MR. FITZGERALD: The intent was to -- this is just a continuation right in our parking lot so everything flows, as well as this direction (indicating). So I guess the short answer is yes, we did consider the whole parking layout of the plaza.

JAMES WIESNER: So that corner where you have the building right now is actually some green space in that area at the current time?

MR. FITZGERALD: There is some green space there.

MR. JARRETT: Yes.

JAMES WIESNER: That will take up that?

MR. JARRETT: Correct. As Rob (Fitzgerald) noted, it is less than 1 percent of the total green area of the shopping center, which we are a leased part of. And then we will try to mitigate as much of that loss as possible by placing green islands in the -- in the parking areas.

FRED TROTT: How much of that green area, of that corner, would you be taking? Compared to paving.

JAMES WIESNER: One of the things I don't see on that site plan is -- what is existing already or what --

MR. FITZGERALD: Yes. Two things. You are right. We did submit, I believe it was a 12th sheet site plan package to the Planning Board with grading and lighting and all that. This, you know, we're just showing the setback, so I did not include that. That is certainly something we could bring back at the next meeting to see how that fits in. But we're taking greater than 50 percent of that green -- you know, that small green area, maybe the size of this room, but we're looking at taking at least half that.

JAMES WIESNER: Would you guys be doing this?

JAMES VALERIO: Would you guys be doing -- responsible for doing like landscaping or, you know, trees on that side of the building or even the Paul Road side of it?

MR. FITZGERALD: Certainly. It will be required by the Planning Board and also have to get approved by the Conservation Board. So we'll -- so we'll have all of the species. I can see between the building and the sidewalk, we're kind of showing placeholders with the trees. That shows up on this plan. There is a few nice deciduous trees out on Paul Road. We'll in-fill those, you know, to continue that row of trees.

Then whatever would come up with the final architectural building, I always like to say I'm not looking to shield a building. I like to enhance it with trees. You know, we're not looking at doing a row of pines, by any means, but maybe some nice flowering cherries to accent the building itself. So kind of work those -- you know, Conservation, landscaping and the building, architectural, together.

JAMES WIESNER: So you're saying that the 25 foot setback is -- is driven by comments that you have already gotten from the Planning Board? And it is not a business decision?

MR. FITZGERALD: Correct.

MR. JARRETT: Correct.

MR. FITZGERALD: Our original layout actually had parking along Paul Road and we had the building set back 75 feet. Then we got some initial feedback that this was preferred, so we're trying to accommodate. With that, double edge sword, we're here asking -- seeking a variance.

But it was the thought that this would make it a better project, nicer for the neighbors. Again, plan some overhead doors facing the apartments on the other side of Paul Road. Driving by you're not just seeing overhead doors. You're seeing -- eventually we'll get to a nice architectural new building.

JAMES WIESNER: And then as far as the fence goes, you're saying because you have a sea container that you are putting the tires into, that is driving the 8 foot high fence so you can get it above the sea container?

MR. JARRETT: Yes. Sea container is 7 feet high.

JAMES WIESNER: You use that in all your stores, no other option?

MR. JARRETT: Wherever possible, especially down south. Mosquito control is tantamount there. You don't want tires outside. It's a breeding area for mosquitoes. It's the best environment I found that is structurally sufficient. It's burglar proof. It has a lot going for it, a sea container.

JAMES WIESNER: I think I have seen -- you have one in the back of the building right now.

MR. JARRETT: I -- I don't --- I don't think so.

JAMES WIESNER: You're throwing them in a pile?

MR. JARRETT: Probably in an open dumpster area. All new developments get a sea container. If not, I put in some sort of a roof structure. But again, a sea container is much more durable. As long as I shield it properly.

JAMES WIESNER: I will say, and that is actually on the --

MR. JARRETT: On the office -- the office complex, those are like 3 1/2 story high buildings. You will not --

MR. FITZGERALD: This is an existing tree line.

FRED TROTT: Here. I want to see if this will work. I guess we're just trying to figure out, you're talking this area (indicating)?

MR. FITZGERALD: Yep.

FRED TROTT: And the tree line there would still stay?

MR. FITZGERALD: In our plan here, if you can see, this is the tree line. So a lot of the tree line is on our bordering property. We'll keep as much as we can and then we'll also in-fill. So the tree line does block it, um, you know, traveling this direction on Paul Road. A lot is blocked by the existing trees and we'll in-fill.

MR. JARRETT: Maybe the next meeting we can bring a drawing that shows you where the existing grass and pavement areas end on this drawing and maybe hash it out. And at the time if you choose to move the building closer, forward, I don't think it matters much. We'll just have to go through a little site reengineering.

But I have read the Master Plan. I'm actually a member of the community. Our family has been in Town for over 100 years. Um, this is what is going around -- on around the country. This is the new development mode and in most of the country right now, is to push the buildings as close to the roads as possible and put the parking behind those buildings so you're not looking at a sea of automobiles. And I believe in this particular case, your zoning ordinance or your setback requirements have not caught up to your municipal long-range planning desires. That's my opinion.

FRED TROTT: Yeah. I -- my only concern is the -- that loss of green space. Um, and the look of the -- the part that will be seen from Paul Road. I don't want to make it, you know -- I understand where you're coming from and I agree with you, but I don't want it to look like the back of the building, 25 feet up to -- close to the road.

MR. JARRETT: I really -- no indifference to you, but a 19 foot 6 foot high building, whether 25 feet or 30 feet or frankly 50 feet from the road, um, I don't believe that there is going to be a difference in the perception of that wall back there, and the best way to treat it is architecturally, not by distance from the highway. I think actually having it closer to the road, if you do it right, you can have a very attractive building.

FRED TROTT: Yes. No. I agree with you.

MR. JARRETT: I think it sets the benchmark in the shopping center. By the way, it is not any shopping center, but instead of having painted, you know, precast brick in the back --

JAMES WIESNER: If you turn it 90 degrees, you could possibly minimize the variance and still have a full-sized parking lot.

MR. JARRETT: Um, you possibly -- well, I -- I'm not going to comment until I look at the storm water piping issue, but, again, you would have some noise being generated towards multiple -- multiple family dwellings across the street. High frequency sound is, um, very directional in nature, which is what you get out of air tools versus low frequency sounds which is omnidirectional. Kind of like when you hear somebody with a big base in the car, you here the big boom, boom, boom. You don't hear the cymbals crash.

It would be my preference to protect the local community and the residential homes across the street to place it as is with the bays facing towards Chili Avenue and towards the most noise generated area you have in the community, which is Chili Avenue.

JAMES WIESNER: So all of the way down to the other side of the plaza?

MR. JARRETT: Yes. The noise would reach those people because of the directional nature of high frequency sounds.

JAMES WIESNER: Anything else from the Board to be discussed?

ERIC STOWE: Just if we want to do the Public Hearing.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

James Wiesner made a motion to close the Public Hearing portion of this application and Fred Trott seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

The Public Hearing portion of this application was closed at this time.

JAMES WIESNER: Separate applications or one?

ERIC STOWE: Tabling both variance requests with the consent of the applicant, pending an appearance in front of the Planning Board and SEQR designations, then that's fine with me.

MR. JARRETT: I consent.

JAMES WIESNER: You're set with that?

MR. JARRETT: Absolutely. I'm fine with that.

JAMES WIESNER: Okay. So at this point, I would make a motion that we table this application and then we'll vote on it. Second?

JAMES VALERIO: Second.

DECISION: Tabled by a vote of 3 yes to table with the following reason having been cited:

1. Planning Board will be the lead agency for SEQR and applicant has not

appeared before them to get a determination.

There was discussion amongst the applicant and the Board about what he would bring to the next meeting and what meetings he would be attending in the future.

The Board was unanimously in favor of approving the 1/26/16 Zoning Board meeting minutes.

The meeting ended at 8:19 p.m.