

CHILI ZONING BOARD OF APPEALS
June 23, 2015

A meeting of the Chili Zoning Board was held on June 23, 2015 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 Adam Cummings.

PRESENT: Mark Merry, Ron Richmond, Fred Trott, James Wiesner and Chairperson Adam Cummings.

ALSO PRESENT: Ed Shero, Building & Plumbing Inspector; Eric Stowe, Assistant Town Counsel.

Chairperson Adam Cummings 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.

The Board indicated they had no problems with the application notification signs.

1. Application of Bell Atlantic Mobile of Rochester, LP, 175 Caulkins Road, Rochester, New York 14623, property owner Esbam Properties, LLC, for variance to erect a telecommunications tower to be a total of 149' high (including lightning rod) where 35' is allowed at property located at 63 King Road in LI zone.

Tom Greiner, Terri Burkholder, Brian Murray and Erin Kansy were present to represent the application.

MR. GREINER: My name is Tom Greiner, an attorney with the law firm of Nixon Peabody, located at Clinton Square in Rochester, here tonight on behalf of Verizon Wireless. And just with me, I have Brian Murray from Costich Engineering; Terri Burkholder from Airosmith, who is the site acquisition consultant for Verizon for this project; and next to her, my colleague, Erin Kansy from Nixon. Thanks, Mr. Chair.

Couple things I just wanted to mention at the outset. The new site plans you have, the only changes from the ones we submitted before and the ones for which we received Planning Board approval are two of the conditions of the Planning Board. They wanted to see some type of entry limitation like a gate with side entry barrier. So it shows that in compliance with the Planning Board condition.

Also, because fiber was available to the site here, the Planning Board asked us not only to eliminate microwave dishes from the application, but also to eliminate them from the site plans. So since we were revising them anyway, we thought we would give you up-to-date ones to show compliance for at least two of the Planning Board conditions.

Those are the only changes. There is nothing else. If you looked at it before, nothing else on the site or on the site plan has changed.

ADAM CUMMINGS: Thank you.

MR. GREINER: You're welcome.

So the essence of this application -- I know the Board has seen cell tower applications before. The issue is need and location and the -- sort of the essence of our argument for need is in Exhibit F. That's Peter Franz's report. Peter Franz is an RF engineer who designed the site and is responsible for this region. He would have been here tonight but he had to be in New Jersey to -- I'm not sure if he is actually training people or being trained, but he is in New Jersey and couldn't be here tonight, but his report is pretty comprehensive.

Essentially, the guts of the report is that -- a couple things are happening. Number 1, all of the wireless companies to meet up current demand are moving from what is called 3G technology, which is what we have now, to 4G technology. It is all over the advertisements and the television and so forth.

Essentially what that is, because -- had this -- this started out in the '80s as an analog voice, people could make phone calls and that was about it. And that caught on rapidly, but what has also evolved is the explosion in the need for data, the transmission of data, downloading of data, uploading of data used not by us to just watch the latest YouTube, but also public safety functions. Fire Departments are more and more -- they have databases of floor plans of buildings and so they go to a fire and right on board the fire engine, they have the database and can actually download floor plans, if they exist, of the building they're going to.

Police also have a similar data usage for it.

And again, businesses, consumers. So it ranges from the -- again, just watching a movie to life and death stuff and everybody is doing it.

And that is what's happening here, is that -- I have been working with Verizon Wireless and its predecessors since 1985 deploying the whole network, bringing it to the Town of Chili and in a sense we're building an entire new network to account on using existing towers but also where we need them, new sites. Whether they're new towers, whether new roof tops, whether new co-locations on existing towers, another network is being developed to use different

frequencies.

Again, if you look at Peter (Franz)'s report, he talked about 700 megahertz, 850, 1900, 2100. 1900 would be your PCS that you would be familiar with, Sprint and AT&T. Verizon has traditionally been down at 850 along with what was Cingular and is now AT&T. That was its initial band of frequencies. It has acquired 1900 and 2100 megahertz in order -- in order to increase the band width to provide more height for the transmission and the broadcast.

So with the transition from 3G to 4G, at some point 3G phones won't even work any more. Within the next three, four, five years, they will be gone. And everybody will be a 4G network. It is ten times faster, has a lot more capacity. The 700 -- not to get too technical, but the 700 megahertz is an extremely efficient spectrum. The 850 is very, very efficient. They project the waves, the broadcast further and more efficiently. You get the higher frequencies, shorter wavelength, they tend to curve down and cover less. So that is one thing that is going on or two things really with the data explosion, change of networks.

The other thing that is happening is -- is the signal of 4G. The technology is seen as noise. So if I'm in one site broadcasting, that's fine. But if another site is -- is coming into this area, that's perceived as interference or noise, and so it can actually interfere with the transmission.

So what will happen is more and more people will use more and more data. I'm pointing over to the board -- these propagations are in your packets, the left two at Exhibit F, at the end of Peter (Franz)'s report, but basically, right now, you see the white area. The white area in the top left propagation is the area that is not being served with the kind of signals that support 4G.

The surrounding sites -- there are four sites that surround us. One is at the old Chili Town Hall, called the Chili site, which we did, I think, around 13, 14 years ago.

Another one is to the southwest in Riga, the first tower I ever did here in the mid-'80s. That's in Riga. And that represents that sort of purplish, blue color to the southwest.

To the northwest is a site between Chili and Ogden called Stony Point. Stony Point Road. Then to the northeast is the Coldwater site.

So the area surrounding what we're calling the West Chili site is currently served by those four sites. But if you look, it's not really throwing the correct signal into the area of 490, Union Street, in that whole area in there. So what happens is, these sites power up trying to cover.

You happen to be or I happen to be in that area and I'm trying to make a phone call or more -- maybe more properly using the data, those sites are trying to cover it. So they power up. There is a power relationship between the phone and the tower. It's an amazing technology where the tower sees that phone and says, "Aha, they're trying to reach me. I better power up because they're having trouble."

That power then ends up causing interference as they try to serve it. So basically kind of the one liner is, there is no dominant server in the middle of that white area. The other four sites are struggling to cover it and they can't.

The other thing that is going on is as the capacity -- this is all in Peter (Franz)'s report, but as the capacity weakens, as it gets smaller and smaller, in other words, there are capacity issues, the other sites become less efficient even trying to serve users in their -- in their relatively immediate areas.

So what Verizon will have to do is take those sites and using mechanical down tilt, will have to actually concentrate their signal in a smaller area to create better signal, better capacity, which increases the need for the West Chili site at our proposed location.

So if the Board approves and if Verizon builds this site, or when it builds this site if the Board approves it, that 141 foot center line, at that latitude and longitude will create the coverage in the green area.

Okay? So it basically fills in all of the -- the -- the target area and will offload those other sites, the sectors that are trying to serve this area from those other sites.

And if I can just approach the Board for a minute here -- or this Board, um, what we also did, since we're here for a height variance -- since the height in the ordinance is 35 feet, um, what we did, we ran the same site at the latitude and longitude that it is at at 35 feet and then also at 101 feet and 121 feet so -- to show the Board the areas that would continue to be unserved, if we build a tower at that -- at those center lines.

And Verizon's judgment is with 141 foot center line, that is 145 foot to the top of the pole, um, we'll be a much more efficient site and we'll -- will do the job.

We also looked at a variety of other sites. They're listed in the site selection exhibit at Exhibit E, and we went over a number of sites that FedEx, the Water Authority and the other ones listed on the second, third page of the -- or excuse me, the fourth page of the site selection analysis. It goes over them 1 through 8 and for different reasons, they were eliminated, um, leaving the proposed site is really the candidate, had the land area, prior to the ordinance. It's in the middle. If you have been to the site, it's -- it's a pretty -- surprisingly remote site given it's in Chili, but it's a remote kind of area. And to further demonstrate that, at exhibit --

ADAM CUMMINGS: M, I believe.

MR. GREINER: Yeah, we also put together the simulations to show from different points of the capacity what it would look like flying three balloons. The lowest balloons being the target sites and the two higher balloons just so you could see them -- if you were Costich Engineering riding around in a 360, um, trying to see those balloons, take pictures and where you could see the lowest balloon, that would be the height of the tower to show the visual impact.

I think the Board knows that -- and I will just say it, that other than visual impact, there is really no impacts to these sites. They really don't do anything else other than -- if you can see them and don't like them, you're saying that's ugly. That is an adverse visual impact.

Other than visual impact there is really nothing -- I don't think any other adverse effects of a site like this. And what we tried to demonstrate was that site activity did the job. In placing it at that location, they already had existing roads, surrounded by trees, had the tower and telephone nearby. And then the simulations showed from the subdivisions to the north that it really is pretty -- not invisible, but very limited visibility from the surrounding area.

ADAM CUMMINGS: I would agree. Everybody can take a look at those exhibits. I do have one question in regard to the height. You're at 141 feet now. I know that is not the max of the towers.

Did you also or are you contemplating or is Verizon contemplating to go higher to get the southeast corner you're lacking?

MR. GREINER: Probably not.

ADAM CUMMINGS: Pretty agricultural there.

MR. GREINER: Certainly.

I could take that back to Verizon, but what I'm thinking is it is kind of a new world. When I started doing this, literally I was going into -- not towns in Monroe County, but more outlying towns asking for 400 foot towers because at that time there were so few users, analog, just voice, and so, you know, having a tower to cover a huge area of Route 17, for example, or 390 would be a great thing. I doubt that -- I tell you what, if we increase the height there, it would probably spill a little into the white area a little to the southwest, but it would not hit the -- the -- the very southwestern extreme, that white area there. Just not sure. I could have them run another propagation, a higher height, but --

ADAM CUMMINGS: We're at 149 feet, so that's what we're going to look at.

MR. GREINER: 145 to the top of the tower with a 4 foot lighting rod is 149, so maybe that is enough.

County Planning, just to let you know, they came back with just a -- where the wetlands, where are the stream -- Costich located those hundreds of feet away. So those aren't an issue.

Also, just as a way, just as another trying to comply with the Planning Board's directives, um, they said, "Well, what about the Slater Road -- Drive water tank?"

Would that -- that was a condition. They wanted us to look at it. They approved it and said, "Take a look at that anyway and will that help you?"

If I can just approach the Board for a minute, if you look at this area -- here is our West Chili site.

ADAM CUMMINGS: If you can put it on that, as well, for the public. It goes on the overhead.

MR. GREINER: Sure.

If I give you these, will you make sure Kathy Reed gets these so she can see that we did what the Planning Board wanted us to do?

ADAM CUMMINGS: Yes.

MR. GREINER: What you see there, is right in the -- sort of north of the very middle of the diagram, the propagation, you see the -- what is our West Chili site, it's location. And then if you look to the northwest, that's the Claire Drive water tank. It really -- and we kind of thought this at the Planning Board, it wouldn't do anything and it really doesn't do anything. It's too far to the northwest. It's actually getting close every -- it is actually right almost in what the Stony Point site covers. But the Planning Board asked us to do it and we did. And you can see it, it doesn't come close to covering 490, which we really wanted it to do.

ADAM CUMMINGS: Thank you.

I will report, I did receive on June 9th, the County Planning. You already referred to it about the national wetland inventory maps. And then asking -- not requiring, but asking to put the natural buffer in. It looked like you were avoiding all of them anyway, so you're well away from the federal wetlands.

MR. GREINER: Yep.

ADAM CUMMINGS: Also the DEC stream and the riparian areas around that, it looked like you were avoiding those, as well.

On June 23rd, so today, I did receive another one from County Planning because the Airport Authority did get back to them or has been reviewed and has been granted airport approval.

MR. GREINER: Right.

ADAM CUMMINGS: So that has been submitted, as well.

So with that, questions from the Board.

FRED TROTT: Where is the proposed site as compared to the storage facility?

MR. GREINER: It would be a little bit to the southwest. Actually, I will tell you what, you can see it exactly if you look at -- okay. Look at the third page of Exhibit E. You will see the -- what is called the West Chili search area. It's an aerial map.

ADAM CUMMINGS: The second page?

MR. GREINER: Second or third.

RON RICHMOND: Second.

MR. GREINER: Yes. You're right. Second page. Up in the upper right-hand corner, Mr. Trott, you will see the self-storage building.

ADAM CUMMINGS: Can I interrupt for a minute?

Ron (Richmond), can you put up that on the overhead?

MR. GREINER: Up at the upper right, you see the six self-storage buildings. Our site, you see right to the west of the Number 1. So we're further along the little access road off of

King Road, west of the storage facilities.

FRED TROTT: Are you on the Golden Road site? There is a cell tower there.

MR. GREINER: Not sure where Golden Road is.

FRED TROTT: Approximately a mile east of this site off of 490. I believe you guys are.

I -- I'm just wondering why it wasn't in any of the reports.

MR. GREINER: I would say we're -- we're probably not on that one. I don't remember it. I've done all of these for Verizon, Rochester Tel Mobile, Frontier, the same company.

Is it in Chili?

FRED TROTT: Yes.

MR. GREINER: I don't think so. I really don't. If we were on something a mile south of there -- is it southeast or southwest, would you say?

FRED TROTT: Mile east.

MR. GREINER: East. No. The one to the east, the one that comes into the diagram in the upper left in the east is the one at the old Chili Town Hall. We're on the older of those two towers.

ADAM CUMMINGS: It would be north of that.

FRED TROTT: It would be right here (indicating). Right here (indicating).

MR. GREINER: If that is the Coldwater site, I know it as the Coldwater site. I thought that was three miles away.

There was a pause in the meeting for a passing train whistle.

ADAM CUMMINGS: Does it impact what you analyze --

MR. GREINER: You can see, the Coldwater site and -- between the Coldwater site to the northeast, which as I say is about three miles away and the old Town Hall site to the east, we're covered. So we don't need anything in between this area and east of there.

FRED TROTT: I'm saying it's a mile. It's not even --

MR. GREINER: Right. So what --

FRED TROTT: You're saying three miles. It is not three miles.

MR. GREINER: I don't think we're on that site.

FRED TROTT: My next question is why -- instead of building the site, why don't you --

MR. GREINER: Because we wouldn't get this area of 490 at all.

FRED TROTT: Have you looked at it?

MR. GREINER: I'm sure Peter (Franz) did. I could ask him. But, again --

ADAM CUMMINGS: I would like to reel it back in real quick. We're talking about the height. I know you're trying to get at whether there is a need.

FRED TROTT: We could eliminate the total height of it if they go to that straight.

ADAM CUMMINGS: If they own that structure.

FRED TROTT: They all co-exist. If you look at their site, they're looking to put more people on their site also. That is what they do, they rent out.

ADAM CUMMINGS: True.

FRED TROTT: I'm just asking the need for the site.

MR. GREINER: Look at the other propagations that I have provided. We don't have a problem to the east. If you look at the lower -- even if we were on a site like that, if you look at it, it's really the north and the south and then the southwest where we have the biggest problems.

ADAM CUMMINGS: So if this one is a mile to the east, would it show up on that -- as showing that area that needs support any ways?

MR. GREINER: That's what I'm saying. It is already covered by the Chili tower. What we call --

ADAM CUMMINGS: The Town Hall.

MR. GREINER: The old Town Hall. Right. And again, if we lowered the height, you can see what happens if we lower the height to 35 feet, 101, 121. We're not -- the problem isn't to the east. It's to the south and north, for the most part.

So I see what you're saying, but -- but again, if we were there, it wouldn't be solving the problem. It wouldn't be -- we don't need that -- we don't need any help to the east or as much, in terms of height, which --

FRED TROTT: So are you looking to put the towers, because it is 4G, every couple miles?

MR. GREINER: There will be sites every 4 or 5 miles. They don't necessarily have to be towers. In fact, most of what we're doing nowadays aren't towers. It is when you get into the areas that don't have any tall structures, whether it's a building or the towers where you need them, but I would say probably two-thirds of our sites right now are collocating on buildings and on existing towers.

So I don't think you're going to see like the pin cushion effect here. That -- obviously that tower would be capable of supporting another few providers if they needed it. In other words, to eliminate their need for a tower.

FRED TROTT: Just an odd ball question. Do you know how many sites you have in Chili all together?

MR. GREINER: One by the airport, the Jet Terrace?

RON RICHMOND: Jet View.

MR. GREINER: Jet View. We have the Chili Town Hall, Coldwater, Stony Point. I can't remember whether that's --

FRED TROTT: That's not in Chili.

MR. GREINER: That's right over the line in Ogden. Maybe one other site. I can't think of it right now, but I think we probably have one more site in Chili.

FRED TROTT: Okay.

MR. GREINER: Again, the -- the good thing about the Verizon signal, a lot of it is supported by the 700 megahertz and the 850 megahertz frequencies, and those are -- they're -- they're actually stronger. They're more efficient. They're like the better frequencies. They were the first -- 850 was the first one awarded by the FCC back in the '80s. It was a good spectrum that cable TV -- or not cable TV. UHF was no longer using.

So to grab some good signal, they gave it to the local land line company, entrepreneurial company and that's what they used for years until PCS came along and they started auctioning off higher frequencies. The lower frequencies are actually more efficient.

FRED TROTT: They don't use them?

MR. GREINER: They still use them a lot. But like, for example, what Verizon has and what Cingular, now called AT&T, has, it has those lower frequencies, unlike Sprint and T Mobile which have been relegated to the higher because they came in later.

Sprint, for example -- if you remember back in the '90s -- in fact, I'm sure Chili had a moratorium like everybody else did. Sprint came in and would say, "Hi. We're here. We want to serve you. We need eight towers."

It was because they couldn't throw the signal far enough because they were the upper frequencies. Wasn't as good. Verizon, Cingular were able to make due with fewer sites.

FRED TROTT: I don't have any other questions.

RON RICHMOND: Just so I understand the need for the height of the tower as opposed to what you said about some of the uses being on buildings co-existing, what differentiates where we have to put a taller tower as opposed to being able to use a building?

MR. GREINER: What can it cover. Like, for example, if you had -- let's say my building, Clinton Square in Rochester on Broad Street, or if you had something like -- well, that is actually -- that would almost substitute for this site. If you had a 13, 14-story building, um, in an area that really had no other coverage in the area, that building would -- transported here, we would be right on that.

What happens is if there are -- if there is no real infrastructure that -- that -- that those antennas could use, you build a tower. Or you go on an existing tower. Um, or you go on an existing building.

What drives this is the fact that we're trying to put something in between all of the sites and again, if you look at all of the propagation, all of the different heights, up at 141 center line is where you get a site that actually does the job. If we're at the ordinance height of 35 feet, we're not getting at almost anything. If you look at -- up to 101, 121, we're getting a dab of coverage. More decent dab of coverage but still, we're not getting a site that is actually going to solve the problem.

RON RICHMOND: The answer is if you had a problem that was equal to or almost on par with the proposed height of the tower --

MR. GREINER: Correct.

RON RICHMOND: -- you would be able to use that in lieu of --

MR. GREINER: Correct. The only reason this technology needs towers is just to get the antennas up in the air, unlike, for example -- like an AM tower, AM radio station, the tower is the antenna so they're high. You can't go up to an AM tower and actually touch it because the tower is the antenna.

But for television or FM radio or pagers or State Police or cellular, you're really just using the tower to get the antenna up in the air above the trees, above the clutter, connecting the other sites, hitting the roadways. So the tower function is really just to get the elevation.

If we were on a hill, we could do a shorter tower on the hill in the middle of an area.

RON RICHMOND: What is the life expectancy given the 4G and the tower that is proposed of its effectiveness? How soon will we revisit this?

MR. GREINER: Good question. Analog lasted, you know, 15 years. CMA, the digital, first digital, the 3G has lasted 15 years. Um --

RON RICHMOND: So expectation is somewhere around 15.

MR. GREINER: That is what I would say.

RON RICHMOND: Would Verizon say the same thing?

MR. GREINER: Scientists may say something else. I can tell you this, for example, I remember being in Mendon in 1993 proposing a tower, similar height, and the lady on the Board said, "Well, why should we do this? Next year they will have satellites doing this."

That was 22 years ago. And I -- Motorola tried it -- well, Iridium, tried to actually put satellites up in the air to do this and went bankrupt. They still haven't figured out the -- any kind of satellite technology.

So as far as I know, this is it. The only reason I would say I don't know is because -- or -- that's what I think. 15 years, 15 years, 15 years sounds good to me. Um, you never know.

We -- one of the things we're doing here is looking at removal down the line because if we don't need this tower, we'll take it down because of the security to it.

The only thing I have ever seen them do is lower the height of the antennas. So, for example, Rochester, Pinnacle Hill, the big TV towers, we were on one of those at some point and came off because it was just too high. So more dense usage -- you really don't want the height.

Um, if we are in the city, we -- we wouldn't be proposing 150 or 140 center line. You get

out into the suburbs and you start to increase the height because the population becomes a little less dense. There is more distance in between and less tall structures.

RON RICHMOND: So my last question is, as I look at the proposed coverage at the height that is being requested, I see a couple of -- and it could be print issues, but I see a couple of white spots that are within what is proposed as the green future coverage.

MR. GREINER: Yes.

RON RICHMOND: Are those reflective of that area right there will not reap the benefit of? There is one in the upper right-hand corner.

MR. GREINER: I see it. What typically that would be, if you see like a little white spot in a sea of coverage might be a dip, might be actually a depression.

RON RICHMOND: Elevation change.

MR. GREINER: Yes. Usually lower elevation change.

RON RICHMOND: That's all I have.

FRED TROTT: I have a couple of questions. I don't see anything on the plans here for a generator.

MR. GREINER: There's a generator inside. By the way, I wasn't talking about the site plan because I didn't know --

ADAM CUMMINGS: We're not here for that.

MR. GREINER: But to answer your question, there is a diesel generator inside the equipment shelter and it has a double containment, pretty secure generator. All of Verizon sites -- or 99.9 percent of them have had generators long before the federal government started to require them, and everybody used to use battery back-up. Now they use generators.

FRED TROTT: So if other Sprint, um, ATT come on, they will have to supply their own generators?

MR. GREINER: Correct. I know that -- I will tell you the extent of my knowledge of generators. I know that people can share generators. This one I don't think is designed to do that. Because it is inside the shelter and they would never -- so they will each have their own generator. If there are two users that could share a generator and build it in a way they could do that, they will do that.

FRED TROTT: Now, with the proposing other telecommunication companies to go on here, are they going to be -- obviously they can't go 140 feet. They will have to be 20 feet below or 20 feet high. So --

MR. GREINER: Good question. Well, of course, they wouldn't be able to go higher unless the Board approved some sort of tower extension. They could go lower, and -- and again, just like everything else that has been evolving, the separation has been evolving. When I started doing this, the tail of one antenna had to be 30 feet higher than the tip of the next one down. And now it's a matter of 2 feet. So they actually -- because of filtering and everything, the antennas have gotten better. They can right now be almost tip to tail here.

FRED TROTT: Will this be a monopole?

MR. GREINER: Yes. Unlit.

ADAM CUMMINGS: You're our radio expert.

Before I open it up, I would just like to remind you this is a structure, so you would need a building permit. So you will be visiting our fine established Building Department.

And it's already been noted about the site plan approval for the Planning Board with a multitude of conditions. I won't read through all of them, but there were quite a few. So with that, I will open up the public comment period.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Adam Cummings 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.

MARK MERRY: Does this height prohibit the service of any of the competitors of Verizon? Providing service to those areas, the height of the tower, does it eliminate or prevent other competition from serving those areas?

MR. GREINER: No. Absolutely not. In fact, it would help them if they need coverage in this area, they could go on that tower.

MARK MERRY: If they wanted reciprocity, otherwise it is not limiting to the service pattern, with interference you would create?

MR. GREINER: Not at all. We talked about vertical. Horizontal it is 30 feet. So you wouldn't want two towers 10 feet away from each other with the antennas the same horizontal height, but if they were 30, 40 feet apart, they would be fine.

MARK MERRY: Thank you.

Adam Cummings 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 Wiesner seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: I would like to point out that -- or reiterate that one condition is you must obtain a building permit from the Building Department.
From that I will go onto the Board vote.

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

1. Building permit must be obtained from the Building Department prior to construction commencement.

The following finding of fact was cited:

1. The chosen site location is very secluded with minimal visual impact as shown in the application material and is placed in a suitably zoned parcel within a Limited Industrial zone as opposed to residential. By providing a structure of this height, the service area and benefit to the community is maximized and provides service to areas in the Town that are lacking current technology cellular coverage.
2. Application of Robert Wischmeyer, owner, 53 Names Road, Rochester, New York 14623 for variance to allow the total square footage of garage area, including a new 32' by 32' detached garage to be a total of 1,266 sq. ft. (1,200 sq. ft. allowed), variance to allow the ridgeline of the garage to be higher than the ridgeline of the dwelling at property located at 53 Names Road in RAO-20 and FPO zone.

Robert Wischmeyer was present to represent the application.

ADAM CUMMINGS: Good evening. I'm ready whenever you are ready.

MR. WISCHMEYER: Robert Wischmeyer, 53 Names Road. Applying for the variance. Like to put up a pole structure to be able to store my summer car, my boat and have extra space. The garage that I have existing now is only 100 some odd square feet. And I'm not 100 percent sure, because I'm thinking of the walls I would like -- the ceiling height inside the barn to be 12 foot and the drawings that the company I'm looking to do the barn with, they're figuring on a 4/12 pitch. So I'm figuring roughly about 18, 19 foot total structure. So that's going to be real close to my ridgeline, either, you know, the same height or just a couple feet above it, of the house.

ADAM CUMMINGS: The drawings I have here actually have the interior dimension at 10 feet 4 inches. Oh, never mind. They give you a range. Now I am seeing it. The architect has it 10 feet 4 inches to 12 feet 4 inches, so they give you leeway how you want it designed.

So you're looking for a variance to be -- there is no number on that.

That's one of the comments I would like to make, is I would like to quantify the variance, if it is granted above your ridgeline so that you -- it's not vaguely worded that you could have it 10 feet above the ridgeline.

MR. WISCHMEYER: Oh, God, no.

ADAM CUMMINGS: And then I would like to start real quick on the storage part of it, the -- how you and the Building Department came up with 1,266 square feet.

MR. WISCHMEYER: They tell me that I have to add the square footage from my existing garage under the house, because my -- the garage is part of the --

ADAM CUMMINGS: Correct.

MR. WISCHMEYER: Right underneath the house. Um, and like I said, the garage -- the inside garage is 11 foot -- about 11 foot wide, 21 foot deep. Then you're looking at 1,049 feet for 32 by 32.

FRED TROTT: 1,000 what?

ADAM CUMMINGS: I have 1,024 for 32 by 32. So when I take out that from the 1,266, the number for your garage is 242 square feet.

MR. WISCHMEYER: Okay.

ADAM CUMMINGS: So I'm just trying to get the numbers on the record for everybody. You also have a shed that's quite a bit off the -- you have 22 feet off the side lot line and 32 feet listed off the rear lot line.

How big is that?

MR. WISCHMEYER: That is 8 by 10.

ADAM CUMMINGS: So it is below -- just to note that for the Board, it is below what you need a permit for. Just wanted to make sure that accessory structure was noted there.

Then it goes to the question of the square footage, you're only 66 square feet. I know it's a minor one there.

What's driving you to need a square proposed garage of 32 feet by 32 feet, because if you bring it down to 28 by 32, you're completely compliant, even with your existing garage.

MR. WISCHMEYER: Well, initially I was thinking about a 30 by 40 pole barn, because I do have some tools and equipment that -- that are out at my parents' place out in Riga and I don't know how long they're going to be able to maintain that property. Yes, I could probably go down to it -- to the 28 by 32. But I -- I would like -- I kind -- think in the long run with the 32 by 32, it's going to be easier and more cost effective on the material, because you're being able to

lay -- should be able to lay everything out and -- in even numbers all of the way through.

ADAM CUMMINGS: Because we weigh this out. This variance, just to point it out to you, if you ever sold or leave or 30 years from now, this variance will still be here. So even if you decide not to build this structure and the next person that wants to get it, he is still able to build that structure. That's what we're weighing here. It is not just your personal property that you want to store inside there. We're trying to think of its impact to the neighboring properties.

MR. WISCHMEYER: Well, there are several different -- there -- in that area, there are several different buildings that are the same structure as there. And, you know, we're R -- we're zoned agricultural, rural over there, and the existing garage is just not enough.

ADAM CUMMINGS: From what I remember looking at it, it is just a single bay.

MR. WISCHMEYER: Single bay.

Like my summer car which I have to -- for my insurance reasons, um, my summer car I have to have that in the garage when it's not in use. And that's one of the other reasons why I'm wanting to put something else up.

JAMES WIESNER: I'm just trying to figure out how many acres --

MR. WISCHMEYER: Acre.

JAMES WIESNER: So there are two lots there?

MR. WISCHMEYER: Yes.

ADAM CUMMINGS: From --

JAMES WIESNER: Combined?

MR. WISCHMEYER: Yeah. When I purchased the property, that's when I found out it is existing two -- two lots. Like the backyard part of it, I believe part of the backyard is the second lot. Off of -- I would say they are, Ron (Richmond). It would be the entrance in that.

JAMES WIESNER: And obviously this is a true pole barn. There is no garage doors. Just the big sliding tab.

MR. WISCHMEYER: No. I would have two -- I would have -- I would have regular garage door style.

JAMES WIESNER: There would be two of them?

MR. WISCHMEYER: I was thinking two of them, yes, sir.

JAMES WIESNER: Maybe a side way in.

MR. WISCHMEYER: If -- the location of the structure is going to be -- if that will come up. Mind if I go --

JAMES WIESNER: Go ahead.

MR. WISCHMEYER: I was planning the driveway coming up to the garage, off of Names and then having two doors here (indicating) to make it easier so I can have a boat and the truck -- or my car there during the summer and also -- or -- the car will be out there mostly during the summer and throughout the whole winter, complete storage for that.

And then that way I can relieve some space in this garage for my wife to be able to park her car there during there in the wintertime. But yeah, I was planning on two doors, regular roll-up garage doors and I'm planning on -- because I have a stucco house, I'm planning on -- I'm planning on keeping the color of the tin structure of the barn as close as I can to the same as the -- of the house. So it doesn't really stand out like a regular red pole barn or something like that.

MARK MERRY: I guess my question is more directed more to the height of the proposed structure. Having driven through that area, very residential feel to it. Counted about eight detached garages, seven of which are equal to or under the roof line of the adjoining dwelling. So the one that does stick out like a sore thumb is the one that appears to be a foot or two above the roof line of the dwelling it sits to currently.

So I would ask you to maybe reconsider your thought of extending above that roof line, just as to why you're looking to exceed that height with the pole barn.

MR. WISCHMEYER: Like I said, I'm not 100 percent sure if the total height -- because, you know, the hip roof onto the house, I can't get an exact measurement from ridgeline to ground level. I can't see that it's going to be much more -- you know, if it is, like a foot higher or if not even with the ridgeline. I --

MARK MERRY: I guess Part II of that question would be if that were to keep you -- the height of that pole barn were to keep us from approving that tonight, what does that do to you?

MR. WISCHMEYER: If it -- if I don't get a variance -- the variance approval, it's going to end up making me move out of probably the Town to look for another location. The wife and I, we both like the location because it is -- where we are, we are convenient to come to right to the Town. For the structure, yeah, it -- I need -- I would like to have something that I can have.

MARK MERRY: Would you consider tabling this application until such time as you can verify how high that pole barn would be? You have that option available to you.

MR. WISCHMEYER: Okay.

MARK MERRY: Just a question.

ADAM CUMMINGS: To point out one -- these are very good points to consider and also consider that you're looking for something bigger. If you can build something that is at your ridgeline and below the 1,200 square feet, you can build that structure. You don't need a variance. You need a building permit.

MR. WISCHMEYER: Correct.

ADAM CUMMINGS: But you can still build it. I just want to point that out to you, as well.

But along with his height requirement, it segues nice to my earlier comment, if you make

this smaller, your ridgeline is going to be less of a length so less of a height on that top part.

FRED TROTT: What are you looking for ceiling height?

MR. WISCHMEYER: 12 foot ceilings.

FRED TROTT: That's very high. Are you -- why is that?

MR. WISCHMEYER: Just -- just so I can --

FRED TROTT: Are you looking to go put a lift in there?

MR. WISCHMEYER: No.

FRED TROTT: I have a pole barn and I went high with 10 foot. But I'm still below my height of my property. 12 feet is very high. I didn't know if you're -- have a 10, 12 foot -- a 10, 12 foot RV to put in there. If you don't need that height, why fight for it. You know, why -- why try to get that variance and you -- we don't even have the number. You know, we -- on -- on this, it asks for what it is going to change to. You -- you -- you didn't supply a number, so you could come back -- you could build the building and have it 15 -- 50 feet above your house line if we approve it the way it is.

ADAM CUMMINGS: Because of the vague part.

So I -- I -- I kind of like the idea of tabling it. We could even open up public comment and then table it until next month and allow you to get this more information. Is there some pressing matter on your schedule you have to have an answer tonight or can you wait until next month?

MR. WISCHMEYER: No, I can --

ADAM CUMMINGS: You can work with the -- the Building Department, they can get the information we're looking for to really hone in on that.

I did just run some more quick calculations. If you do a 30 by 35 foot building, you're also compliant. So just trim it down 2 feet on square footage-wise, you're compliant. But the height part we still have to figure out.

FRED TROTT: If you don't have a height requirement because of an RV or something like that, you want -- with the 10 foot, you have an 8 foot garage door so you can have a large RV. You know, if have you an Escalade or whatever, you open up the trunk, it doesn't hit the garage door. You will probably still be underneath your roof line.

ADAM CUMMINGS: So it sounds like we -- Counsel, do we want to open up the Public Hearing today?

ED SHERO: I have a comment about the plot plan. That if it was approved, the surveyor didn't put in the distance between the proposed garage and the existing house. It has to be 10 foot minimum. I scaled it. It looks like it is 12.

ADAM CUMMINGS: Yep.

ED SHERO: But it would have to be -- you know, for the building permit requirement to --

MR. WISCHMEYER: No. I believe he had it --

ADAM CUMMINGS: I don't see it marked on here. So I would agree with that.

MR. WISCHMEYER: It's going to be more -- it's -- when the surveyor came out, he put it at, I believe, 21 foot for --

JAMES WIESNER: Looks like 15.

ADAM CUMMINGS: I don't have a scale with me and I don't know if this was created to scale. Without a scale bar, I don't know if this was pre --

ED SHERO: I figured around 12 which makes it over, but I just want that added. As soon as we're talking about the plot map, do you own -- Lots 15 and 16. Those lots have been combined, one tax account number?

MR. WISCHMEYER: What was that?

ED SHERO: You said this property consisted of two lots, Lots 15 and 16?

MR. WISCHMEYER: Yep.

ED SHERO: So does it have two separate tax numbers or one --

MR. WISCHMEYER: No. I'm under one tax number.

ED SHERO: So they were combined at some point.

MR. WISCHMEYER: Yes. Those properties, I believe, they were combined when the original -- when the house was originally built.

ED SHERO: Okay. You know, I have run in that area -- I have run into this before where people actually own two lots with two separate deeds actually and the house is on one and a vacant lot on the other and it doesn't make the property line go away is the point I would make in this situation --

MR. WISCHMEYER: No. Yes. It is all -- because tax purposes and everything, it comes down saying that I am a 1-acre lot.

ED SHERO: Okay.

MR. WISCHMEYER: For -- you know --

ED SHERO: I would think we probably should have caught that when you made the application, but when you mentioned it, I thought I would revisit it to make sure. I have nothing further.

ADAM CUMMINGS: Ed (Shero), I have one question for you. We do have notes on there for a flood plain permit. I don't see that on the plot plan. I'm a little surprised the surveyor didn't note that.

ED SHERO: He actually did. If you look -- well, what -- he didn't put it as flood plain, but he has a proposed first floor elevation, a BFE is required. The only issue I have with that is, I don't know how that was determined. It is up to our Flood Plain Manager, which is Dave Lindsay, to determine the BFE. I don't know how that BFE was derived at.

ADAM CUMMINGS: We'll just mark that down to keep working.

ED SHERO: A flood plain permit is required because it's in a Flood Plain Overlay District.

MR. WISCHMEYER: He came out and -- I -- I don't have the elevations certificate. I think -- I believe I put it -- gave everybody one. I'm not 100 percent sure that I did or not.

ADAM CUMMINGS: Elevations of?

MR. WISCHMEYER: Of the property. I do have --

ADAM CUMMINGS: I have -- the surveyor plot plan that just talks about the proposed elevations that Mr. Shero just talked about. I don't have a grading plan or a contour plan or topographic map. I don't have anything like that. What we're looking for, not necessarily our Board here, but the Town is looking for the background calculations or measurements that the surveyor came up with the flood plain officer to come up with that flood elevation. To make sure you're above.

MR. WISCHMEYER: From what I understand is, is that the -- the FEMA flood elevation and -- in our area is 522 feet from what the surveyor told me. Our elevation, my -- my -- my grade level right as of now, um, where I was proposing to put the barn and I'm at 523.1 feet, and that's before any kind of grading and leveling for, you know -- for the base or the floor, and he's got the -- the proposed finish floor at 524.6.

ADAM CUMMINGS: So we would just like the surveyor to provide that 522 FEMA elevation.

MR. WISCHMEYER: Would you like to see this on this map also?

ADAM CUMMINGS: Or another document. Just note it somewhere.

ED SHERO: It will have to be noted on your flood plain map. The area is not static. It is not all the same. It can vary as you head north. I believe it lowers.

MR. WISCHMEYER: Right.

ED SHERO: Depends what the surveyor uses. That's the point.

MR. WISCHMEYER: He used the GPS pole.

ADAM CUMMINGS: We'll have Ed (Shero) mark down how he did it. I have heard there is mathematical errors with GPS equipment. Just make sure it is squared away.

ED SHERO: Dave Lindsay has the final word on this.

ADAM CUMMINGS: I think we have beaten that one up enough.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: The Board is right on. Keep going.

ADAM CUMMINGS: Can we date that? (Laughter.)

Well, I think it's been a pretty good consensus tonight we would like to table this to gather more information both for your benefit and for ours. So with that, I'll make a motion and leave the Public Hearing open.

I will make a motion to table this application until the next month's meeting which should be July 28th, I believe.

ERIC STOWE: Mr. Chairman, if the applicant is in agreement with the tabling, provide the Board the additional information.

ADAM CUMMINGS: Absolutely.

Are you in agreement with tabling this application until that next meeting --

MR. WISCHMEYER: Yes.

ADAM CUMMINGS: -- to get the information that we discussed tonight and we'll make sure the -- to square everything away. We're mainly looking for the height and the -- the width. The biggest one is the height.

MR. WISCHMEYER: If I can get a final exact height.

ADAM CUMMINGS: Of your existing ridgeline and then --

MR. WISCHMEYER: Existing ridgeline.

ADAM CUMMINGS: -- and then we'll circle it on these plans, because these architectural stamped plans seem to be -- not for the construction ones. They're the kind that are flexible in terms of the built lumber, so we can circle the one you want to make sure it is within what you're looking to go do here.

MR. WISCHMEYER: Okay.

ADAM CUMMINGS: Just frankly, it might come to light you might not even need a variance. That would be fortuitous to everybody.

MR. WISCHMEYER: Then I will make the other decision about reducing it down to 30 by 30 or -- right, correct? I think it was 30 by 30?

RON RICHMOND: What does it have to be under --

ADAM CUMMINGS: He has to be under 1200.

RON RICHMOND: He could even do 30 by 32?

ADAM CUMMINGS: Funny thing is I calculated that. It puts him 2 square feet over. I was like, who came up with 1,266? I'm just kidding.

But yes, we can visit that.

So are you okay with that --

MR. WISCHMEYER: Yes.

ADAM CUMMINGS: -- requesting information to table it to next month?

MR. WISCHMEYER: Yes.

FRED TROTT: Should we give him more than a month? I mean leaving it open because he has to meet with the contractor and you have to have the stuff.

ADAM CUMMINGS: I see what you're saying.

FRED TROTT: He has to have a new application within two weeks.

ADAM CUMMINGS: Can we leave Public Hearing open for eternity? Counsel?

FRED TROTT: Just two months.

ERIC STOWE: No. But at the same time if he -- so if you close the Public Hearing, you would -- and there was a modified application, you would reopen the Public Hearing for the purpose of discussing the modification. So procedurally, I mean, leave it open, pending receipt of the new application and then the hearing is still open. You hear it or close this Public Hearing and you would have to reopen another one. Either way I think you're okay.

ADAM CUMMINGS: Okay.

MARK MERRY: That doesn't preclude him coming back to the Town with a reduced footprint which you -- won't require any waivers for if the height --

MR. WISCHMEYER: Unless I have the height under the ridgeline. It has to be under -- can it be equal?

ADAM CUMMINGS: It can be equal.

MR. WISCHMEYER: Can be equal.

MARK MERRY: He can come back in three weeks as long as he presents that, with the Building Department stamp and go.

ERIC STOWE: Procedurally we would just need a withdrawal for the request for the variance then.

MARK MERRY: So you would be pastor of your own flock, sir.

ADAM CUMMINGS: We will not have a time requirement is what I hear. Fred (Trott)?

FRED TROTT: Yes. I know is he working with a company and sometimes this is their busy season. For him to get down and settle down and say this is how high can be difficult.

ADAM CUMMINGS: Motion to table. I think I already said that once, but I will reaffirm it.

FRED TROTT: Second it.

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

1. Applicant wishes to table this application to provide more information. He needs to verify his existing roof ridgeline to confirm whether a variance will be necessary for the height of his new structure. He is going to also consider changing the building footprint to minimize the variance, if any, will be required. He will return at a future meeting when he is prepared with this additional information.
3. Application of McDonald's USA, LLC, 111 Wood Avenue South Iselin, New Jersey 08830, property owner: F. Kuhs; for variance to erect a seventh directional sign to be 4 sq. ft. (3 sq. ft. allowed) and to be 11' 3 inches tall (42 inches allowed) at property located at 3303 Chili Avenue in GB Zone.

Randy Bebout was present to represent the application.

MR. BEBOUT: Good evening. I'm Randy Bebout with T.Y. Lin International, 255 East Avenue, Rochester, New York here on behalf of McDonald's U.S.A., LLC and Louis Buono, Jr., the franchise owner/operator.

We appeared in front of this Board several times on this project. The first time was May 19th, 2009, when we originally came in to rebuild this project and had asked for all of the sign variances.

At that point in time, we had only asked for one drive-thru canopy and the reason being the site layout at that time did not permit us to have a second drive-thru canopy just because of the truck delivery circulation. It would have hit the canopy. When we came back in last year with the amended site plan, we had modified the site slightly that allowed us to have a second canopy. We had come to the Board asking for a -- to this Board asking for a modification of the front setback. At that time we did not ask for the canopy. I don't want to say it was an oversight but it had not been determined if we were going to do that yet or not. We decided that we were going to do that and that's why we're here tonight.

Again, just reaffirming, we're asking for a variance for a second drive-thru canopy. With this, we're adding one additional sign, directional sign, free-standing sign, if you will, from what was originally approved in 2009.

I would like to note that from the original approval in 2009 to what is actually going to be built today, the building sign which has actually been reduced as a result of McDonald's signs being redesigned two, three years ago -- in 2009, our request for building signage was 83.25 feet. With the signage on the new design that is proposed, it is actually 42 square feet and is actually one less sign. Kind of a side note. Reduction in signage that the Board may not have -- may not be aware of.

As far as schedule for this project, we started this in 2008, 2009. We were back here last fall. At this point in time, we are getting very close to the end and the intent is this project will start next month. Hopefully by the end of the month is the plan.

We're finalizing building plan review. We are finalizing getting site drawings and signatures. We have all of the outside agency approvals with the exception of DOT and we're submitting for the permits for that. The plans have been approved. So we're very close to the end and it is real, if you will. It is going to happen. Nobody wants it -- it more than the owner/operator to happen.

ADAM CUMMINGS: It may or may not have a second drive-thru depending on tonight's --

MR. BEBOUT: Right. A second drive-thru canopy, but I would say regardless it will happen whether or not this Board decides to grant that variance. The impacts of that, in our opinion, and I provided this in Exhibit B, is really none. I mean, you have already approved one for the inner lane. This is another one for the outer lane. It is a nice feature. It provides cover so if somebody comes up to the drive-thru ordering point, they don't get the rain on you. Provides a little extra lighting as a down lighting in the -- in the bottom side of it, if you will.

In -- generally speaking, McDonald's doesn't like to do one in one lane and not the other. They like -- they like to do both. As you can imagine someone in the inner lane raining hard and not getting wet and the person in the outer lane is, "Why I am getting wet?"

I would note the square footage is just the -- just the letter. It is the words. The -- the "order here."

ADAM CUMMINGS: And the seven directional signs, which you're noting here, I -- I am just reading how it is listed on the application. Changing it from two to seven.

MR. BEBOUT: Well, two are allowed. Seven.

ADAM CUMMINGS: But you have already got it -- a variance approved previously.

MR. BEBOUT: But the -- what was there previously was -- I don't know if anybody is familiar with it, was a black free-standing COD. In other words, it is just a speaker with a -- with the screen. That was in the part of the original variance. So we're -- this -- this variance request adds one more freestanding sign, because that sign was not considered -- I think it was because that -- that freestanding COD was under the height requirement.

ADAM CUMMINGS: I just know there is a lot of signs that you're trying to keep track of on this one. I was here in 2009 and we eliminated some, we combined some.

MR. BEBOUT: We're still consistent with what was approved in 2009 with the exception we're asking for this request for the second drive-thru canopy. That's kind of why I was noting, you know, aside from whether this is granted or not, there is a reduction in one building sign and a reduction in the size of those signs.

ADAM CUMMINGS: And you said that even though McDonald's changed signage two or three years ago, this one is still the same that was submitted for the drive-thru lane in 2009.

MR. BEBOUT: Yes. Maybe I should clarify. They revised the design of their building signs which became smaller and they're all LED, but they became smaller. Drive-thru signs have stayed the same. The menu board and the canopy.

JAMES WIESNER: I guess I'm a bit confused. As far as the directional signs, though, we're saying on the application it is changing from two to seven?

MR. BEBOUT: No.

JAMES WIESNER: Theirs was only just truly -- what you were approved for before was six and you want to go to seven?

MR. BEBOUT: Yes. Two are allowed by code. Six were approved in 2009. We're asking for the seventh one.

JAMES WIESNER: One more on the canopy?

MR. BEBOUT: Yes.

JAMES WIESNER: The second drive-thru. The other two on the application, the height of the directional sign and the size of the directional sign, those have already been approved?

MR. BEBOUT: No. Our variance request -- we ask for three area variances for height, for number, and we ask for size.

ADAM CUMMINGS: Which is --

JAMES WIESNER: This all pertains.

ADAM CUMMINGS: All pertains to this.

MR. BEBOUT: The one canopy sign.

ADAM CUMMINGS: Which this one -- one of these was already approved in 2009. Now they're looking to go have a second identical one added to it.

MR. BEBOUT: Which if you go to any of the McDonald's that have been redone, um, there may be an exception to that, but generally speaking, if you go to any McDonald's, they have two canopies.

FRED TROTT: They have the same number of signs?

MR. BEBOUT: The other McDonald's?

FRED TROTT: Yes.

MR. BEBOUT: Probably have more directional stuff because this Board eliminated some of the ones we had.

RON RICHMOND: This request is just a replication of the other one approved for the outer lane.

MR. BEBOUT: Yes. If this Board doesn't approve it, you will have a second lane with an order speaker and screen.

RON RICHMOND: Everything on here requested is to get corporate compliant with the new theme or whatever?

MR. BEBOUT: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

ADAM CUMMINGS: I'm hoping you say the same thing you did last time.

MR. BEBOUT: I am, too.

MS. BORGUS: The only question I have, and it really doesn't relate to the variance, but listed it says property owner and it is F. Kuhs. I just heard this gentleman say Mr. Buono is the owner.

Who is the owner?

MR. BEBOUT: He is the franchise owner of the McDonald's. He doesn't own the land.

MS. BORGUS: I see. Thank you.

Adam Cummings made a motion to close the Public Hearing portion of this application and Mark Merry 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.

ADAM CUMMINGS: Similar to what you had to do in 2009, sign permit, make sure you obtain one -- apply and obtain one before you start building signs. And --

MR. BEBOUT: McDonald's won't start a project until they have the permits, for what it is worth.

ADAM CUMMINGS: That's good to hear.

Adam Cummings 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 Mark Merry seconded the motion. The Board all voted yes on the motion.

James Wiesner made a motion to approve the application with the following conditions, and Ron Richmond seconded the motion. The vote on the motion was 4 yes to 1 no (Fred Trott).

DECISION: Approved by a vote of 4 yes to 1 no (Fred Trott) with the following conditions:

1. Sign permit must be obtained prior to construction of signs.

The following finding of fact was cited:

1. This sign is identical to one that was approved at a previous meeting and will provide an improved traffic and safety aspect for patrons on the site. Since it is located on the rear of the property, it will have minimal impact to the neighboring properties and will only be visible at adjoining commercially zoned properties.
4. Application of Asif Hussain, 24 Osprey Drive, West Henrietta, New York 14586, property owner: Pronto Holdings, LLC; for variance to allow front parking for nine vehicles for proposed convenience store (no front parking allowed) at property located at 1210 Scottsville Road in GB Zone.

Nick Smith was present to represent the application.

MR. SMITH: My name is Nick Smith representing DDS Companies and Asif Hussain on his property at 1210 Scottsville Road right across from the airport there.

We're here today requesting a variance for parking within the front yard. The property currently is used -- well, it was originally used as a car wash, but they're looking to go renovate and have gone in front of the Planning Board and recently received approval conditioned upon approval tonight. They are looking to change their property into a small convenience store and to remain a gas station with gas pumps along the front.

So originally this property was a car wash and that didn't have any parking required with it other than just the pump parking and that small convenience store located at the front and so we're looking to add 14 spaces which is, as you know, from the code per square footage and per pumps.

Unfortunately, due to the size of the whole layout of the property, we can't fit all of these parking spaces behind the existing structure without an increase in the pavement and disruption of the current drainage system.

So we're here to request that we can fit nine of the spaces along the front and the five located in the back for employee parking.

ADAM CUMMINGS: All right. I don't have any questions as of right now.

MARK MERRY: How much thought has there been to moving the structure closer to Scottsville Road, eliminating all of the parking behind the building and further in front of the building? Why is that not a consideration?

MR. SMITH: That is really not in our client's budget for this project. Renovation is something more simple. The structure can't -- also is going to entail a lot of possible environmental factors to it, too. There is some existing -- I'm not sure exactly of all of the existing lines. I know they have them all drawn out with the NOCO agreement, but they don't need to illustrate that because the building is not moving and there is no disturbance there.

So there -- there hasn't been given much thought just due to the fact there is -- we don't have the exact costs down for that and we're not able to do that.

ADAM CUMMINGS: So you're trying to say -- you don't know the exact location of the utilities and you don't --

MR. SMITH: Okay.

ADAM CUMMINGS: You can't shoulder the cost to relocate them.

MR. SMITH: We do have the exact location. They're not on this plan is what I should have illustrated to you. But we don't have the means to relocate or to deal with any material that might, you know, be disturbed for some reason.

ADAM CUMMINGS: So you're saying there might be some underlining soils you don't want to disturb?

MR. SMITH: I'm not saying that. Everything is checked out completely. We have already been in front of the Planning Board for that, too, and they have a whole report on it. I'm not sure if you have been included on it, but, of course, I can forward a copy to you.

ADAM CUMMINGS: No. We have their approval with the 18 conditions on there.

MR. SMITH: Just saying --

ADAM CUMMINGS: So we don't have to do that.

MR. SMITH: Again, I do want to point out, I didn't really bring it up, these parking spots are really nine parking spots in a convenience store which makes it convenient to be parked out front, near the doors. And these spots, if you look down Scottsville Road, every other structure or one, two or three has parking within the front. Many of them have parking right up to the roadway there. And we're not -- of course, we're not proposing that. We just want it along the front of the building. That's all.

FRED TROTT: I just notice there wasn't any plans showing the signage. I'm wondering, are you going to be able to stay within the already pre-approved signs?

MR. SMITH: At this point, we don't -- we're not showing any signage because when NOCO comes, they're going to want to put their own signage up and they're going to take care of all that. They're going to come through the planning -- get any permits for that or anything that might require a variance or anything along those lines. At this moment, they need to close on this Planning Board approval so that NOCO can sign the agreement with my client to take over this and move the franchise to this location, as well.

So at some point, you will most likely -- if they need a variance for the signage or if they need signage, something may come across your desk for that.

ADAM CUMMINGS: I also don't have anything else. It was already noted that Scottsville Road is tough. Just about every one of them has parking on the front. But with that, I will open up the Public Hearing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Adam Cummings 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.

ADAM CUMMINGS: As with the last one -- no, we didn't have one today. Building permit -- building permit not really necessary is it? Do they need one for the canopy? They're renovating.

ED SHERO: If you're going to require a building permit, let me know for what. I'm sure that was a condition.

MR. SMITH: I'm almost certain of that, but I believe it was a condition of --

ADAM CUMMINGS: We'll leave it on then.

I did ask, because it does say that they -- on Condition 12, they affirmed the recommendation of the Architectural Advisory Committee. I don't recall receiving those recommendations, but I -- that confirmed it there, and I did talk to the Building Department. They did sign off on it, so I just wanted to let our Board know that.

MR. SMITH: Along with Conservation Board, as well. We have landscape plans. I don't know that you have seen them.

ADAM CUMMINGS: Not that it really pertains to our approval, but there is usually some interest there.

Since you're not up for signs, I will not add anything in there. I think that is premature. Sounds like you're already educated to know you will be back if you need variances.

Adam Cummings 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.

Fred Trott made a motion to approve the application with no conditions, and Ron Richmond seconded the motion. All Board members were in favor of the motion.

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

1. It was noted that a majority of the properties along Scottsville Road have front parking, so the allowance of front parking at this site will not adversely impact the neighboring properties or the character of this commercial corridor. The applicant did evaluate locating the parking spaces behind the existing building, but found it infeasible due to incompatibility with existing storm water drainage infrastructure and need to relocate the main building on the site.

Adam Cummings made a motion to adopt the 5/19/15 minutes as corrected, and Fred Trott seconded the motion. The vote on the motion was 4 yes with 1 abstention (Adam Cummings).

Adam Cummings made a motion to adjourn the meeting, and Fred Trott seconded the motion. The Board was unanimously in favor of the motion to adjourn the meeting.

The meeting ended at 8:29 p.m.