

CHILI ZONING BOARD OF APPEALS
April 25, 2017

A meeting of the Chili Zoning Board was held on April 25, 2017 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, Fred Trott, James Valerio, James Wiesner and Chairperson Adam Cummings.

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

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.

ADAM CUMMINGS: Any issues on the signs from the Board?

The Board indicated they had no problem with the notification signs.

1. Application of Mr. & Mrs. James Pelow, owner; 9 Mapleton Drive, North Chili, New York 14514 for variance to erect a 10' x 14' utility shed with a 4' x 14' overhang to be a total of 196 sq. ft. (192 sq. ft. allowed), variance for shed to be 13'4" high (12' allowed) at property located at 9 Mapleton Drive in R-1-15 zone.

James Pelow was present to represent the application.

ADAM CUMMINGS: How you doing?

MR. PELOW: I'm Jim Pelow. I live at 9 Mapleton Drive. I'm here today to see if I can build a shed, the 10 foot by 14 foot shed.

ADAM CUMMINGS: Board questions?

MARK MERRY: Mr. Pelow, what the purpose of the overhang?

MR. PELOW: To have some shade sitting area in the back. We're hoping to have a pool in the back. We have sun constantly back there. We just had some trees taken down due to the ash bore beetle and just looking at some shade.

MARK MERRY: Thank you.

FRED TROTT: Just going to remove the existing shed?

MR. PELOW: Once the new shed is built, I plan on removing the existing shed.

FRED TROTT: That's the octagon?

MR. PELOW: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Mark Merry 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.

ADAM CUMMINGS: One condition I will put on this, which the Building Department probably already notified you, is you will have to get a building permit for this, so just keep working with the Building Department for that. Mainly why you're here. You can't get a building permit until you get the variance.

Condition number 2 would be removal of that existing octagon shed.

MR. PELOW: My pleasure.

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.

Mark Merry made a motion to approve the application with the following conditions, and James Valerio seconded the motion. All Board members were in favor of the motion.

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

1. Building permit must be obtained prior to construction.

2. Existing octagon-shaped shed must be removed.

The following finding of fact was cited:

1. Building permit must be obtained prior to construction.
 2. Existing octagon-shaped shed must be removed.
2. Application of Taouk Holding LLC, owner; P.O. Box 52, Spencerport, New York 14559 for variance to erect proposed 62 townhouse units to be 25' from proposed interior street line (40' req.) at property located at 4201R Buffalo Road in RM zone.

John Sciarabba, Bob Winans and Dan Thomas were present to represent the application.

MR. SCIARABBA: Good evening, Mr. Chairman, members of the Board. My name is John Sciarabba with LandTech. We're the project engineers on this project tonight.

Also me with me is Bob Winans who is the Project Engineer doing the site plan and issues related to that for the Planning Board. He can answer more questions on the project than I can.

Also Dan Thomas, the owner of Taouk Development is here and we look forward to presenting this to you this evening.

It is my understanding that tonight's meeting is kind of a Public Hearing because the Planning Board is the Board that is going to probably go take the SEQR lead on this.

ADAM CUMMINGS: Correct.

MR. SCIARABBA: We fully expect this is just a Public Hearing for public input.

ADAM CUMMINGS: On variances only.

MR. SCIARABBA: So what I would like to do is go through a brief overview of the project in general for your benefit and go through the burden of proofs, understanding you can't vote on this tonight.

JAMES WIESNER: We're not voting on this?

ADAM CUMMINGS: To clarify, we could vote on it tonight or could choose to table it until later on. But once again, you haven't been in front of the Planning Board. I was going to say this later on, but more than likely -- I don't want to speak for the entire Board, but it would be my suggestion to not vote on it tonight. You grab input from tonight's meeting and then go on to the Planning Board to help the process there and then do their part of the review and then you will come back to us later on for a final variance approval.

MR. SCIARABBA: I fully understand that. That is a logical way to proceed with the SEQR process and the planning process.

But -- to take a step back, just a brief overview, we were presented this project back in January to the Planning Board informally to go over what we're proposing, and at that time that -- Taouk Development was not the owner. But currently they are the owner.

So this property is under the control of the owner and is not a speculated development. It is not subject to approvals for a purchase or anything like that. He is the owner and developer of this site.

So this site, I think everyone in the room is aware of it. It's been 21.6 acres in size. To the north we have the existing Mayflower Village sections, Mayflower Drive. We're bordered on the east by Brian Drive, on the west by Foxtail Drive and on the south of our site is a State-regulated wetland.

And the site also has access to public water, sanitary sewer, storm, gas and electric all right there.

And what we're proposing is a 62-unit townhome for rent project. This site is zoned multi-family, so this is an allowed use. We're not asking for any use variances, and we are proposing these units, which are about 1200 and -- 20 square foot in size, looking for a high-level rent, about \$1500 a month per unit.

Each unit will have its own garage. It will also be on a private drive so there are no dedicated roads or sidewalks to the Town. The site will be maintained by the owner.

We feel that it's a -- there is a lot of benefits to this project for the Town. We're able to preserve some open space around it with the private drive and things such as that. So we're excited about this project and look forward to bringing it to the Town.

As for why we're here this evening, we are here for one reason only and it's for a setback issue, an Area Variance. The setback is -- the Town requires on their code -- Section 500-14(D)4 where the Town requires 40 feet from the front of the building to the pavement. And we're here for that variance only. So there is no other variances for this project, which is kind of unique for a project of this scale.

But I would like to point out, as far as the burdens of proof, we feel there are no substantial changes to the character of the neighborhood granting this variance. The variances is -- for the frontage is for the driveway. The driveway can still accommodate a car within it, and this variance is not unusual. Mayflower Village Section 2 as of 1992 got the same variance and we are very consistent with the neighborhood if you look around. Even the photos we provided, the houses are set back about 22 feet off the road. We're asking for 25 feet. That's because of a couple of the houses in the current layout won't work. But actually most of them are set back at 30.

If there is another, you know -- there is no other way to achieve a layout in this

configuration for one main reason. If you look at the plan we provided and actually the black and white one on the board, this parcel, although it is 21.6 acres, is very unique. The configuration that was created by the previous owner and probably even the Planning Board created projections, these tails they call them, that go into the center of the parcel. Those tails encumber a retention pond and also a sanitary sewer system. And it is my belief those lines were originally proposed to be easement lines which are granted to the Town and the Health Department for the sewer. But somehow during the course of time, they were created as property lines. That is how we purchased it and we're dealing with that situation.

So, therefore, with those projections that go in, the layout is significantly defined by where we can put these buildings. So the setbacks are to these -- to the pond, which normally would be an easement with no setback. But we have taken great care with our layout to make sure that we meet all of the setbacks from our exterior neighbor. So all our rear setbacks meet the minimum requirements, so the variance we're asking for is internal.

Why the variance -- is this variance is substantial. If you do the math, it's the 33 percent deviation of code. That may sound substantial, but we feel the benefit of the applicant with the layout configuration we have, that it is really not a factor.

Will this benefit -- will this variance have any impact negatively on the environment or physical character? As I said before, this is all internal. So it is on our own property. We're not negatively impacting the neighbors with this variance request. If you think about it going from a driveway 40 feet long to 25 feet long would actually shorten the amount of pavement. We have the ability to create a little more green space around these lots.

Was this variance request self-created? We don't believe so. As I said before, the variance, why we're here tonight is because of the configuration of the lot that was handed to us.

So I kind of went over these things very quickly, but I know we have a lot of people here that probably want to ask questions about the variance. I hope you believe with the information we provided that the variance should be granted. And with that, I'll take my comments from the Board or the public.

ADAM CUMMINGS: Right now, just the Board.

MR. SCIARABBA: I will let you open it up.

JAMES WIESNER: I guess one of the things I was trying to sort out on your drawing, you're asking for a variance of 25 feet, but that's not necessarily consistent with every townhome on this map.

MR. SCIARABBA: Correct.

JAMES WIESNER: So do you have any idea how many are at 25, how many at 30 feet?

MR. SCIARABBA: I don't have an exact number standing here in front of you. I could get to the Board. What we try to do is give a little flexibility as we go through the planning process, as well. I would say 30 is the average. We're asking for 25 feet so as we go through the planning and grading issues and other elements that -- that will come up, we have a little more room.

And we also looked at the previous variance granted before and said let's stay consistent with that. I can't answer that question right now. Maybe I can have Bob (Winans) do that before we close.

JAMES WIESNER: It allows -- the minimum is 25. Some are more. Some might be more than 30?

MR. SCIARABBA: Some are more than 30. The average is about 30.

ADAM CUMMINGS: I would like to pose that question to Bob (Winans) if you don't mind coming up to the Board. There might not be any.

Are there any that meet this Town Code where you meet 40 feet?

MR. WINANS: I believe there are a few that might meet that.

ADAM CUMMINGS: If you could, off the top of your head, if you recall any of them, just to point at a lot so that the Board members know a reference point what 40 feet looks like compared to 25 feet and the -- for the benefit of that.

MR. WINANS: This lot and -- I don't know. You know, these are more like 30, 35. So --

ADAM CUMMINGS: You're pointing at 7 through 10?

MR. SCIARABBA: You might want to go --

ADAM CUMMINGS: Oh, yeah the overhead would be even better.

MR. WINANS: I don't have my scale with me, but I guess I'm -- I was looking at like this one (indicating), and --

ADAM CUMMINGS: Yeah. On the bend, I'm sure it is.

JAMES WIESNER: I was just trying to get a feel for, you know, where like 25 feet was off the --

ADAM CUMMINGS: And along with that, if you had pushed any of those -- for instance 1 through 6, if you pushed those further back and don't have 25 or 30 feet, how close to that -- because they're not easement lines, how close to that rear lot line near that storm water pond does that get the buildings? Because then we might run into a rear setback issue.

MR. WINANS: Correct. That was one of the issues we ran into with those awkward property lines that run through the site, that like -- like you have mentioned, we're backing up to the pond. We're still trying to maintain the minimum 30 foot setback off that property line where normally we wouldn't be dealing with that.

ADAM CUMMINGS: So is that clear to the Board? We could end up considering variances on front or the back. But today we're just focused on the front. I just want to make sure as we talk about minimizing variances -- this has been quite an effort to try to minimize

those. In my opinion.

JAMES WIESNER: If you were to say one that is 25 feet, like probably 19, 20 would be 25 foot? It looks like one of the least ones.

MR. WINANS: Yeah. For sure. Those would be -- well, I wish I had -- I didn't have this map to scale, and I don't have my scale with me. But it's --

JAMES WIESNER: Just trying to get a feel for --

MR. WINANS: What the percentage is that needs it?

JAMES WIESNER: Where the 25 feet falls and how many are a part of it. So...

MARK MERRY: So in your application, you do mention that they're -- there were alternative plans looked at.

MR. SCIARABBA: Excuse me?

MARK MERRY: Did you mention in your application you had looked at alternative plans? Why did you not pursue those plans?

MR. SCIARABBA: Numerous concepts were generated for this layout. They were all focused on an apartment style. We also looked at doing an apartment building, instead of townhomes. So looking at the market that's out there and trying to stay in the residential nature that Mayflower is, we came to this scenario.

JAMES VALERIO: Would you still require the same variances?

MR. SCIARABBA: Probably not. If we did two, three or four-story apartment buildings, we could probably avoid coming to you for variances. But we felt that trying to stay consistent with the surrounding neighborhood is more important than a setback variance that cannot be perceived from anywhere and also consistent with the original subdivision. That is kind of why we like this layout. We feel it is in unison with what is already there.

MARK MERRY: Okay. Thank you.

JAMES VALERIO: Just to be clear, I know you said already, but the existing neighborhood has the 25 foot setback?

MR. SCIARABBA: Yep. That was granted. I don't have the exact date, but it was for -- in 1992 it was on Section 1, Phase 2. And -- so --

FRED TROTT: That would be what streets? Snapdragon?

MR. SCIARABBA: It was actually for -- which one do we have, Bob (Winans)? It was for Springbrook coming out of our north. So this included Snapdragon, Spring Flower and Daisy Lane. That's that section.

So again, you can see that Mr. Thomas was trying to be consistent with his product. We're trying to be consistent with the variances granted. I know a lot of questions will happen with the public related to site plan. We look forward to moving through that process with them.

ADAM CUMMINGS: Before I open this up to Public Hearing, we said it a couple times, but I want to make sure it is clear tonight, this is for the Zoning Board of Appeals for the 25 foot setback. It is a 25 foot front setback only.

Any comments, theories, anything related to site planning, I will cut you off at the meeting tonight because this is not the meeting for it. We don't hear any of that. That would be for the Planning Board, and I apologize, I don't know the exact date for that, but I would recommend that you write all your things down and talk about it at that meeting because I won't be there. (Laughter). But this is specific to front setback only and I just wanted to make sure that is clear before we jump into this.

Thank you.

PAUL WANZENRIED: May 9th.

ADAM CUMMINGS: May 9th. Thank you.

MR. SCIARABBA: Mr. Chairman, if I can add one thing, too, understanding the public's opinion of this, I will also leave my card here and if anyone wants to email me any questions or write me a letter or a phone call, I will accept any that from the neighbors.

ADAM CUMMINGS: Instead of that, we would rather have it into the record at the Town. So sorry, Building Department, but I would rather have it come to me or the Planning Board Chairman which can be handed in at the Building Department.

MR. SCIARABBA: Okay. Beautiful. Thank you.

ADAM CUMMINGS: Please don't address to it the Building Department. To the Planning Board Chairman.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ELSIE PATMORE, 5 Spring Flower Drive

MS. PATMORE: Elsie Patmore, 5 Spring Flower.

Just wondering if they're going to be single-car driveways and do you have overflow parking? 25 feet you won't have two cars in the driveway if somebody has company.

ADAM CUMMINGS: Thank you.

MS. PATMORE: What the answer?

ADAM CUMMINGS: That is another thing I need to clarify. We are taking comment. We don't necessarily need to answer that. I would classify that as a Planning Board question. We can't answer that tonight. That's under the Planning. 25 feet will accommodate vehicles, but it is not within our scope --

MS. PATMORE: Not two.

ADAM CUMMINGS: I will not say whether it collects any of them, but it will accommodate vehicles and -- and that's what we're looking to do here. If the Planning Board has

it within their purview to want to restrict number of vehicles, that's up to their prerogative.

ALAN AUSTIN, 33 Brian Drive

MR. AUSTIN: Alan Austin, 33 Brian Drive. Can you explain this thing to me? I see some of the property there coming on my right-hand side and I see a red line.

ADAM CUMMINGS: The red line is the property boundaries of the entire site. And then there are black dashed lines which go to the rear of some of these new proposed buildings. Those are what are called setbacks. They're 30 feet off of the orange lines. So this is a really unique site because when they subdivided it way back when, they subdivided it and put the sewer lines and the ponds outside of this entire complex and in someone else's.

So that is what that big red line is, is the property line of this entire property which jogs all over the place.

MR. AUSTIN: You see the red line over here in this sketch and the horizontal black lines. Those are the current property lines on Brian Drive and so this one building is sitting shorter than a driveway distance from the property line on Brian Drive?

ADAM CUMMINGS: The upper right corner is, the driveway is, but not the building.

MR. AUSTIN: The lower right-hand corner, the one building that is facing a little strange, the back end of that building is shorter than a driveway, distance from the property --

ADAM CUMMINGS: And they matched that up with the dashed setback line.

MR. AUSTIN: It has less than 40 feet.

ADAM CUMMINGS: Yes. That is 30 feet off the property line. The 40 feet number is off the street.

MR. AUSTIN: I understand that. I am just trying to get this reference here relative to the property line.

ADAM CUMMINGS: Correct. That's as close to the property line as they can construct it.

MR. AUSTIN: Okay. I would think that's reasonable.

ADAM CUMMINGS: Okay. Thank you.

ZACH ROBINSON, 12 Snapdragon

MR. ROBINSON: Zach Robinson, 12 Snapdragon. I was just basically wondering if someone could explain the original motivation for the 40 feet and what sort of rationale the Board uses to decide whether or not to allow a variance.

ADAM CUMMINGS: Um, I don't know where the 40 feet came from. That was something a Town Board a while ago decided upon across the Town. And the reason why we have a Zoning Board of Appeals is to grant relief because sometimes town codes don't think of everything and property owners want relief from that, so that is why we exist. State law says we have to exist if we're going to have a zoning code.

Does that answer it well enough? We're not here specific to this one -- well, tonight we are, but normally we hear all sorts of things.

MR. ROBINSON: So what would be -- a reason be to vote yes or reason to vote no? It is just whatever the developer wants to do?

ADAM CUMMINGS: No. For area variances, there are five criteria and he spoke to those tonight. But we have a weighing test of those five criteria where it might be yes on a couple of them and no on a couple of others, and that's how we determine whether it's granted or rejected.

MR. SCIARABBA: Okay. Thank you.

DICK DOWD, 12 Spring Flower Drive

MR. DOWD: Good evening, Dick Dowd at 12 Spring Flower. Question you mentioned before tonight is for the variance for the front of a property. You mentioned if you have to deal with a back of the property, that would be done at another time.

ADAM CUMMINGS: Yes.

MR. DOWD: How would that be presented if there is an issue with the back? And you're going to present your decision sometime in the next week or two, what about the back variance? Would someone have to establish that if there is an issue?

ADAM CUMMINGS: Yes. So that scenario, what would happen is if the Planning Board ever shifted these proposed plans and exceeded those lines, they would have to make a new application to come in here for rear setback lines or setback variances because they would have only come in front of this Board for front setback. And to make it clear on that first statement you made about approval within a week, that's not necessarily happening tonight. We may or may not vote tonight as we talked about during the opening, but any actions by this Board happen at the Board. It's not like we talk about it here and then a week from now we reconvene somewhere else. Everything happens here in front of our Board.

MR. DOWD: I only mentioned a week or two because the Building -- Planning Board will be May 9th. That's what they have on the schedule. So sometime before then? Yep?

ADAM CUMMINGS: Possibly.

MR. DOWD: Okay. Thank you.

ADAM CUMMINGS: You're welcome.

FRED TROTT: As it stands now, they're not having any back setback issues.

ADAM CUMMINGS: Correct. Right now with this plan there is no rear setback requirements or applications.

JIM MURPHY, 13 Spring Flower

MR. MURPHY: My name is Jim Murphy. I live at 13 Spring Flower. Has anybody looked at the map to see the traffic flow issues?

ADAM CUMMINGS: That's a Planning Board issue.

MR. MURPHY: It is?

ADAM CUMMINGS: Yes.

MR. MURPHY: The name of the company that is involved in this that is really going to put them up, is that for disclosure now?

ADAM CUMMINGS: Public?

MR. MURPHY: Who is going to build them?

ADAM CUMMINGS: Typically what happens is the developer builds them and dedicates them over to the Town.

MR. MURPHY: Do we have any recourse if we don't agree with some things in that?

ERIC STOWE: Could we clarify what are we building and dedicating?

ADAM CUMMINGS: I'm assuming is he talking about roads. Are you talking about roads? Because he spoke about traffic.

MR. MURPHY: I'm concerned about 60 more -- 60 and you're talking potentially 90 cars a day more.

ADAM CUMMINGS: That's all a Planning Board issue. We're only here -- not front setback. But that is a consideration that they do as part of the SEQR process which stands for -- it is SEQR for State Environmental Quality Review and they do have to take into consideration traffic impacts due to developments like this. That's not part of our Board. That would be Planning Board.

MR. MURPHY: There is no shadow government type stuff going on with the contractor that is supposed to do it subs it all out to somebody else?

ADAM CUMMINGS: I have no idea about that.

MR. MURPHY: All right. I'm going to make a lot of waves. That's all I know.

DONNA PICKARD, 29 Foxtail

MS. PICKARD: I'm Donna Pickard and I'm at 29 Foxtail. Um, it seems like -- it seems like they want to have this variance so that they can fit as many units as possible into this development. Um, without that variance, they may have to change the plan. But the plan might fit better into the neighborhood. And if we -- if they have to set it back 40 feet, then do they have to come back and get another variance for the back parts that will be too close to the lot line?

ADAM CUMMINGS: That's always a possibility. I don't know if the plan revised -- gets revised, they may have to come back here and I can't speak to how they might reconfigure it. We're just looking at the plan as they have it in front of us right now.

MS. PICKARD: If you look at, um, some of the other places in our area, like the ones on Buffalo Road, they're all so packed together like the ones at the bottom there. They're just packed together. And it -- it seems so out of character for our neighborhood that they build something like this between Brian Drive and this other neighborhood, so I would ask that you not accept the variance so they can't crowd so many buildings into this small space.

Thank you.

LARRY CARNES, 3 Snapdragon Circle

MR. CARNES: Larry Carnes, 3 Snapdragon Circle.

It was stated that the reason for the 25 foot variance is so they could increase the number of units that are in there. And I know you don't rule on traffic. You don't rule on water flow. You don't rule on those other things.

But the minute you grant the 25 foot variance, you now have opened up the door for more cars and the units being built up. I have a water problem on my property already. So by building more units, they're going to cause more watershed in that area.

So -- so your first statement will impact everybody else that is going to be looking at this.

ADAM CUMMINGS: I would like to change it to be could. Not necessarily will.

MS. CARNES: You approve the 25 foot, you have automatically given them condolences to build the maximum number of units that they can put in there which increases the maximum number of cars that they can put in there which increases the maximum amount of water overflow. So do be aware, that is just trickles on down to another problem.

ADAM CUMMINGS: We understand that and the Planning Board is well aware, as well. Thank you.

MIKE KADEY, 31 Foxtail

MR. KADEY: Mike Kadey, 31 Foxtail. When we first heard about this thing, there was -- I believe 34 homes. This plan has changed a number of times. So if you put the 34 homes, single-family homes like they original planned, you wouldn't need these variances now, would we?

ADAM CUMMINGS: I don't know the answer to it. I don't know how they configured it.

MR. KADEY: It seems like they changed their plans a number of times and it's affecting all of us here. That's why we're here. This gentleman is right. Now -- right now, the rain absorbs into the ground. When the runoff comes because you built it up, there will be other issues we deal with which is not your issue. But the density will cause a lot of -- of the problems with that setback.

ADAM CUMMINGS: Thank you.

DAN PHINNEY, 29 Brian Drive

MR. PHINNEY: My name is Dan Phinney. I live at 29 Brian Drive. Um, our yard, our rear yard regularly floods. I know this is not related to that. However, I am looking at the amount of additional roads. You are putting more houses in here. You're shortening it by packing more houses in. There is less area to absorb the water and my yard will continue to flood because of this. Unless there is something done drastically different, I'm going to have a flooding issue.

ADAM CUMMINGS: This is a Planning Board -- that is still a Planning Board -- I don't want to fully address it tonight.

MR. PHINNEY: If this is approved, there will be more houses.

ADAM CUMMINGS: And that's why it is important for you to go to the Planning Board and make them aware -- who are already aware. But I just want to make it clear, everyone has made that point tonight. You don't need to say it again, but thank you for your comments tonight.

MR. PHINNEY: It's not unusual to have a foot and half of water in my backyard and I have had to dig a channel to allow it to go through Brian Drive to keep my house from flooding. This will make the worse.

GRETCHEN DENT, 54 Foxtail

MS. DENT: Gretchen Dent of 54 Foxtail. What's the blue? Why is the blue a different color on the map? And I believe that's a parking lot that is going to run up to Spring Flower. And I'm just concerned about how --

ADAM CUMMINGS: I don't see blue.

MS. DENT: On this --

ADAM CUMMINGS: It is more the color projection.

FRED TROTT: I think it is just the lamp, ma'am.

JAMES WIESNER: Bad lighting.

MS. DENT: My question, it looks very, very close, that parking area to Spring Flower, the end of Spring Flower, and I wonder if there are any regulations about how close that can be to that house right there.

ADAM CUMMINGS: No.

MS. DENT: Am I right that is a parking lot? Across from those houses.

ADAM CUMMINGS: Yes. There is some parking spaces there and then there is the turnaround.

But no, that would be a Planning Board -- but that is the typical spacing.

MS. DENT: I just wondered if it was a variance, how close that could be to that red line.

ADAM CUMMINGS: No. We look at it towards built structures.

MS. DENT: Okay. Thank you.

UNIDENTIFIED SPEAKER: Would the Planning Board address that?

ADAM CUMMINGS: I will just answer it.

Yes, that is a point that they -- knowing our Planning Board, they may bring that one up.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Dorothy Borgus, 31 Stuart Road.

I'm here all of the time and these people have an issue tonight, so I didn't want to say anything until I thought they were pretty much satisfied with their time.

Um, just a little background, please, if you know. Was this meant to be a continuation of the Mayflower project?

ADAM CUMMINGS: There -- there was a master plan that had this future phase, yes. Did not necessarily resemble this, but --

MS. BORGUS: I -- I -- I guess I'm -- I'm -- you may not know the answer to this, but how did it happen then that it -- I'm assuming at least that this piece was sold off? I'm -- sold off?

ADAM CUMMINGS: That's my understanding, yes.

MS. BORGUS: Well, that's odd to say the least. Especially since the drainage was on the property they were selling.

ADAM CUMMINGS: Part of the drainage is on this and part of the drainage is on another one. So this entire subdivision here is very unique. But in terms of selling property --

MS. BORGUS: I would say it's a mess. I don't know about unique.

ADAM CUMMINGS: I was in middle school, so I can't --

MS. BORGUS: I have been coming to these meetings a long time and you don't usually see screw-ups like this. This is what this is. It's bad.

FRED TROTT: Okay. Dorothy (Borgus), what happened?

ADAM CUMMINGS: We're not here to discuss what happened. We're here to discuss what we have to work with.

MS. BORGUS: Thank you. I just want some background here.

Now, with regard to the driveways, I -- just give -- let me give you a little personal experience here. I had a friend who lived on I believe it was -- I think it was Snapdragon. I'm not sure. Anyway, the first time I went down to visit her, I pulled down the street and my first thought was, "Well, where do I put a car?"

I looked at her driveway and I thought, "My car won't fit in there even."

So I mean if we're going to point back to history here for these people, and say that this has

happened before so it is good that -- it's okay at least it happens again, let's look at what we have done and admit that it wasn't very smart the first time so why would anybody want to do it again.

ADAM CUMMINGS: That is still a Planning Board issue.

MS. BORGUS: I know, but you -- but -- but I want to talk about driveway length and right now I'm talking about driveway length.

ADAM CUMMINGS: I personally have parked in those driveways, and they do -- they also deter from having too many cars, which is what happens in my subdivision where the driveways are too long and you can park too many cars. I don't want to talk about parking tonight.

MS. BORGUS: My point to you is you're going to decide about the length of the driveway. My first impression many years ago when I pulled in there was this isn't even workable. So I would hate to think that you are going to base any decision you make based on whatever was done in the past, because obviously it doesn't work too well.

So I don't think we ought to drop the bar here and just keep going ahead with what doesn't work. If there is another plan for that, it ought to be investigated.

And as far as the three-story apartment building, I can tell you right now in this town that has never happened, a three-story building -- apartment building and it won't happen again I'm positive, especially if these people get on it. So they need to be here at the Planning Board, and they ought to bring all their neighbors and they ought to fill this room until there is no chairs left.

ADAM CUMMINGS: I think you have made it clear that everybody needs to come to the Planning Board.

Any other comment tonight about front setbacks?

GARY ROBERTS, 13 Lily Pond Circle

MR. ROBERTS: I could get my knees cut off.

My name is Gary Roberts. I live at 13 Lily Pond Circle. I'm the President of the Board of Directors for Mayflower Village.

ADAM CUMMINGS: The Homeowners' Association?

MR. ROBERTS: Yes, that's correct. My -- the founding declaration for Mayflower Village was up to 180 homes. They were single-family homes in design but only up to 180 homes. The variance that was given to those particular streets that were mentioned previously, some of those happen to be private streets.

Daisy Lane specifically to the east and west are private streets. Those setbacks that were granted are for single-family homes. We're talking about a different project, a different scope with regard to the building of apartments. I oppose the 25 foot setback. I believe that we should stay with the 40 feet. I believe that this plan should be scaled back and presented scaled back to the Planning Board so that we can pass judgment on whether or not this is the right developer for that piece of property.

ADAM CUMMINGS: Thank you. Well said.

James Valerio 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: Are you set?

MR. SCIARABBA: Unless you want me to respond to any of those general comments.

ADAM CUMMINGS: You don't have to, but if you would like to, you can.

My suggestion would be we're pretty early on things, and one thing I would like to offer up on behalf of the Board, is you have not been in front of the Planning Board yet. And this is more of the chicken-and-the-egg type of competition, where we could grant a variance but then the Planning Board could make you change it and it's all contingent.

My comfortability is actually to hear what the Planning Board has to say to get your plan more formalized. Not that it is not formal now, but to see their input and then see what we have for the final outcome in terms of variance requests.

So I would offer up the option of tabling any Board action tonight for a future meeting in front of our Board for any actions that we would need.

MR. SCIARABBA: We accept that wholeheartedly. I would just like to recant a few -- just give a few more facts not depicted earlier.

So -- so someone said about parking. We have 35 proposed guest parking spots throughout the project. So when you say about looking at the past and proposing the future, we did. This is not a plan that we just threw together yesterday.

As I said before, we were in front of the Planning Board in January and we took those comments seriously at a conceptual level and came back with this plan. So there is a lot of thought here to the plan. If you think about the variance request, it's all internal, not asking for any rear setback variances. So I will make that cleared up.

The other point I would like to make clear, they're all private roads. The -- we're not asking for dedicated roads. So every elements off this project is private. So there is flexibility in design with that and I think that there is also some -- not asking the Town to plow these streets or anything like that. That is another misnomer.

Also going back to the concept design someone mentioned three-story -- if I mentioned

three-story, I apologize, but there is a configuration that we have that gives a lot more apartment feel than this layout. Mr. Taouk -- or Taouk Development is not looking to go make something ugly here just to make density. He's looking to conform to the neighborhood. So I think everything is very consistent. There are duplex townhomes there in that surrounding project and we have the same thing.

I think what we're going to find, we have a modern touch with a single owner who is very proud of his development and it will be a very well maintained facility. A lot of the other issues I won't get into.

We talked about drainage and things like that are handled at the Planning Board level and screening.

I would also like to say to the President of the HOA, we tried to meet with them. It has been difficult. We would still continue to try to do that and get more input from the neighbors. My business practice grows from bringing people into the fold, not excluding people.

So I would rather have more input from the neighbors sooner than later, but I know they want to yell at me at the Planning Board. I will be ready to listen to those comments and hope those comments will be in a nature where I can make our project better.

So thank you for your time this evening, and I look forward to seeing you later in the month.

ERIC STOWE: Mr. Chairman, just to be clear, the tabling is with the applicant's concept?

MR. SCIARABBA: Correct.

ERIC STOWE: Thank you.

ADAM CUMMINGS: Thank you, Counsel.

So with that, um, a board vote for -- actually, let's ask for a motion to table.

FRED TROTT: Motion.

MARK MERRY: Second.

ERIC STOWE: Did we close the Public Hearing?

FRED TROTT: We did.

PAUL WANZENRIED: I didn't hear a vote.

FRED TROTT: Motion.

ADAM CUMMINGS: Then we did all encompassing.

PAUL WANZENRIED: I didn't hear it.

FRED TROTT: He made a motion and I made the second.

ADAM CUMMINGS: All in favor?

The Board reaffirmed they were unanimously in favor of closing the Public Hearing.

ADAM CUMMINGS: So you know, we do have to -- before you can all pack up, we do have to still table this one.

Did we confirm we closed the Public Hearing?

MARK MERRY: Yes. Okay. Good.

FRED TROTT: Motion to table. We already had motion to table and second. To table.

ADAM CUMMINGS: Until a future meeting. I say until next month's meeting because we don't know how Planning Board will go.

DECISION: Unanimously tabled by a vote of 5 yes to table with the applicant's acknowledgement. Public hearing has been closed.

ADAM CUMMINGS: This has been tabled. Good look at the Planning Board. Thank you.

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

The meeting ended at 7:47 p.m.