

CHILI ZONING BOARD OF APPEALS
July 23, 2019

A meeting of the Chili Zoning Board was held on July 23, 2019 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 with the signs Board members?

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

1. Application of Mr. & Mrs. Michael Lindsay, owner; 5 Marcia Lane, Rochester, New York 14624 for variance to erect a 20' x 7' deck 53' from front lot line (60' req.) at property located at 5 Marcia Lane in R-1-12 zone.

Michael Lindsay was present to represent the application.

MR. LINDSAY: My name is Mike Lindsay. I live at 5 Marcia Lane, Rochester 14624. It's all correct. Not much more to add other than it is a -- the entrance to the front of the home. Does not have a covering. Just to access the front door with a little more space to open the door for people to stand on. It's not for entertaining, not for chairs to be sitting on. It's just a larger wood structure. It's a deck.

ADAM CUMMINGS: Okay.

MR. LINDSAY: In your terms.

ADAM CUMMINGS: One condition of approval is you have to get a building permit, you already know, with the Building Department. Just want to make note of that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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 a condition, 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 condition:

1. Building permit must be obtained prior to construction.

The following finding of fact was cited:

1. These signs will not be visible from Chili Avenue and will not adversely impact the neighborhood.
2. Application of Ashley Novak, owner; 20 Indian Hill Drive, Rochester, New York 14624 for variance to erect a 14' x 6' deck 53' from front lot line (60' req.) at property located at 20 Indian Hill Drive in R-1-15 zone.

Ashley Novak was present to represent the application.

MS. NOVAK: Ashley Novak, 20 Indian Hill Drive, Rochester, New York 14624. That's

correct.

Really again, like Mike (Lindsay), not much more to add. Just a larger entrance to the front of the homes. Going to improve the front of the structure. It's going to be composite decking with the vinyl railing system, so it will look a lot nicer than what is there. But just for entrance at the front of the home.

ADAM CUMMINGS: I want to make the same note I made before. You need a building permit. As I went through the neighborhood, I did see some other ones with front decks or front porches as they used to be called.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott 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 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 Type II action with no significant environmental impact, and James Valerio seconded the motion. The Board all voted yes on the motion.

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

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

1. Building permit must be obtained prior to construction.

The following finding of fact was cited:

1. No adverse impacts to the neighborhood were noted. Several other properties in the neighborhood have similar structures in their front yards.
3. Application of Christie Lee Emslie, owner; 34 Woodside Drive, Rochester, New York 14624 for variance to erect a 20' x 20'9" addition to house to be 40' from front lot line (60' req.) at property located at 34 Woodside Drive in R-1-15 zone.

Chris Emslie was present to represent the application.

MS. EMSLIE: I'm Chris Emslie. I live at 34 Woodside Drive, 14624. Been there for over 25 years now. I decided it was time to have a bigger living room and kitchen. I would like to go in that direction and be able to expand those rooms with the pool deck in the back. It lays out better for the floor plan than I want to do by going to the front. It gets a little bit close, but hopefully we can live with that.

ADAM CUMMINGS: Once again, you're on a corner lot, so you don't really have much of a backyard and the pool is on the one side of the house. As it is shown there. I will say, ahead of the questions this time, that you will need a building permit. That is one condition of approval. It's looking like the pool and the deck being in construction on the other side, we really don't have a way to go off the side of the house. You have a driveway on one side. That is even closer than this one would be.

On the back or the side lot of it, this addition would look like it would go within 5 feet or close to 5 feet from your neighbors. This is minimal compared to that.

JAMES WIESNER: So there is a pool on the back side of the house?

MS. EMSLIE: There is currently a deck.

JAMES WIESNER: I didn't see a pool.

MS. EMSLIE: The pool I took down. It was damaged in the winter with the wind and everything. So I still have the deck there. There is also no neighbors facing my house. Every neighbor I have, their garage is towards me. But, of course, it is a wooded lot behind me.

JAMES WIESNER: Putting it behind the house is not the layout you want to get?

MS. EMSLIE: Yeah. Mainly because I would have to move the kitchen back there, which would put the garage entrance into the living room. And I would already have one entrance in the living room from the front. Therefore, both entrances would be in the living room.

JAMES WIESNER: That's all.

JAMES VALERIO: Are your neighbors aware?

MS. EMSLIE: Yes. I have spoken to my neighbors on three of the sides. One neighbor is very old and doesn't get out very much.

JAMES VALERIO: So no concerns?

MS. EMSLIE: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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 Valerio seconded the motion. The Board all voted yes on the motion.

Mark Merry made a motion to approve the application with a condition, and James Valerio seconded the motion. The vote on the motion was 3 yes to 2 no (James Wiesner and Adam Cummings).

DECISION: Approved by a vote of 3 yes to 2 no (James Wiesner and Adam Cummings) with the following condition:

1. Building permit must be obtained prior to construction.

The following finding of fact was cited:

1. No other alternatives were possible due to the irregular lot configuration and architectural layout of the main building structure.
4. Application of Robert Feissner, owner; 24 Grenell Drive, Rochester, New York 14624 for variance to erect a pool deck to be 1'6" from dwelling/enclosed porch (8' req.) at property located at 24 Grenell Drive in R-1-12 zone.

Robert Feissner was present to represent the application.

MR. FEISSNER: Property located at 24 Grenell Drive application. My name is Rob Feissner, 24 Grenell Drive. That's correct. And I'm looking for an Area Variance to build the deck closer to my house than the 8 foot requirement. There are not any other directions in my backyard that are really appropriate for the pool deck. Mostly because I have power lines that bisect my backyard and it was a safety concern if I was to put the deck on -- on what would be the north side of the pool. The south side of the pool is too close to the end and the south side impacts our backyard and would eliminate a lot of our usable space.

ADAM CUMMINGS: On this drawing up here, the red line we're seeing, is that --

MR. FEISSNER: The red line on the left is the property setback of 8 feet. To the right you can see a setback that I have made of 10 feet to the power lines that bisect my backyard. The blue is the proposed deck location. If I was to swing it around to the back side of the deck, it cuts it to both of those.

ADAM CUMMINGS: Thank you. Good description.

MR. FEISSNER: Thank you.

JAMES WIESNER: Any consideration about narrowing the width to minimize the variance?

MR. FEISSNER: It does get a little small. If I was going to vary this much, I could reduce it from a 10 foot deck to a 9 foot deck that would change the variance request from a 1 foot 6 inch to a 2 foot 6 inch gap, but that would maintain the usable space for the kids and a table and some chairs on the deck.

JAMES WIESNER: Okay. That's all I got.

MARK MERRY: So this evening, if your deck is denied, you keep the pool and just go with a ladder?

MR. FEISSNER: Yes.

MARK MERRY: Thank you.

ADAM CUMMINGS: My first thing is the condition of approval is you will need a building permit for this. So continue to work with the Building Department on that. You already broached the subject about making it a narrower one. This is measured off the enclosed porch. I just wanted to pose the question if that enclosed porch -- if you're aiming to leave that?

MR. FEISSNER: We are. It's pretty integral to the house. The way the survey is written, it is called an enclosed porch, but it has a continuous roof over the living room of the rest of the house. If we got rid of the enclosed porch, it would significantly impact the remainder of the house.

JAMES VALERIO: Was there any consideration into connecting it to the house, like off the --

MR. FEISSNER: At the moment, at the level of the deck there is panel aluminum windows so all of the windows would have to be removed if I were to attach it to the house.

JAMES VALERIO: Same question I asked before, are your neighbors aware of the potential project?

MR. FEISSNER: Other than the signage, no.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott 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.

FRED TROTT: I'm sorry, just looking for what you're saying, the enclosed porch that has windows on it --

MR. FEISSNER: Yes.

FRED TROTT: -- you will only have 1 foot 6 inches in between, so you feel that is comfortable enough to get by?

MR. FEISSNER: I do, yes. Don't particularly have much of a view out of that enclosed porch. It's more of a storage area than living area.

FRED TROTT: Just concerned it's such a tight area.

MR. FEISSNER: In what way would that be impacting the space? Just curious.

ADAM CUMMINGS: If someone came off the steps of the pool and off the steps of the deck, not going into the house, fitting in between the deck and the enclosed porch; is that what you're saying?

MR. FEISSNER: Would 2 feet be more reasonable? I'm willing to amend the deck plans if there is -- if there is a solution more amenable.

PAUL WANZENRIED: I believe, and correct me if I am wrong, they're at different levels.

MR. FEISSNER: They are definitely at different levels.

PAUL WANZENRIED: Pool deck, enclosed porch (indicating).

MR. FEISSNER: I have a picture if you would like to see it, probably in the back of the application.

ADAM CUMMINGS: I believe it is.

FRED TROTT: So your pool deck will be higher than the enclosed porch?

PAUL WANZENRIED: Correct. You can't walk out of the porch onto that deck.

FRED TROTT: No. But I'm saying -- so the deck for the pool is going to be higher than the roof of the --

MR. FEISSNER: Not the roof, no.

ADAM CUMMINGS: Higher than the floor.

MR. FEISSNER: Going to be higher than the floor of the enclosed porch. The roof will still be above deck level.

ADAM CUMMINGS: They couldn't walk onto the deck and it is someone's choice if they want to walk -- I think I could still make it in between the deck and --

FRED TROTT: You're a skinny man. I'm not.

ADAM CUMMINGS: In a couple years, I will be turning sideways if I had to go.

MR. FEISSNER: If you followed the word "porch" to the right, there is a door with a set of stairs that exits to the right side of the page, or the north part of the property. So you would exit through that door, down the grass and up the stairs to the pool deck off the lawn.

ADAM CUMMINGS: Is that clear?

FRED TROTT: Yes. He has the one picture here that kind of positions -- it still concerns me being that close.

ADAM CUMMINGS: Interpretation or opinion question. Possibly the source of where our setback from the main dwelling comes from in our Town Code, is there any knowledge how we came about that? Is it a State requirement?

PAUL WANZENRIED: No.

ADAM CUMMINGS: One other hypothetical for you, Paul (Wanzenried), is what if the deck was connected to the porch?

PAUL WANZENRIED: Why? How?

ADAM CUMMINGS: Just connected. Not detached. So then seamless with the main structure.

PAUL WANZENRIED: You could. But if he wants 1 foot 6 and wants to weed whacker that space, that's his prerogative, not ours.

MR. FEISSNER: The justification for requesting an unattached deck was because the ledge level is not compatible with the deck height so I moved it away.

ADAM CUMMINGS: Thank you. That was a good reason.

FRED TROTT: He did mention he was willing to go make it a bit smaller if he felt --

ADAM CUMMINGS: Was it a foot smaller or half a foot? He was talking 1 foot smaller in terms of narrowness of the 10 to 9 feet and then I thought you said he going 1 foot to 6 inch to 2 feet. Or did I --

MR. FEISSNER: I'm willing to negotiate if there is a sound justification for a particular width.

JAMES WIESNER: It would appear in my opinion that's a pretty substantial variance, a foot and a half. I will just state my comment per se. I did go out and measure my pool deck because I was curious and it was maybe 6 or 7 feet. I wasn't -- that's a pretty wide deck, in my opinion. We don't have that big of a deck on our pool.

ADAM CUMMINGS: But we're here for the variance, I guess. That is a good point that we can look at that.

I will take -- one other point is standard lumber doesn't come in 9 foot, but it does come in 10. But you can also get it in 8, too. So at that point you could go down to 8. I think as minimization, the applicant is willing to go down to 9 feet. The Board seems preferential to that minimization based on two of the comments. So would you like to officially minimize you're down to 9 foot width and variance, ask 2 foot 6 inches?

MR. FEISSNER: I will officially do that, yes.

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 Valerio seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Motion to adopt this application with it being changed to variance request of 2 feet 6 inches from the main structure with that one condition of approval.

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

DECISION: Approved by a vote of 4 yes to 1 no (James Wiesner) with the following condition:

1. Building permit must be obtained prior to construction.

The following findings of fact were cited:

1. Requested variance was reduced 2'6" from main structure.
 2. No other alternatives were possible due to the irregular lot configuration and architectural layout of the main building structure.
 3. This structure will not adversely impact any adjacent parcels.
5. Application of Renita Carapella, owner; 339 Chestnut Ridge Road, Rochester, New York 14624 for variance to allow 2 dwarf goats on property with 1.8 acres (5 acres req.), variance for structure housing goats (dwelling) to be 13' from side lot line (200' req.) at property located at 339 Chestnut Ridge Road in R-1-15 zone.

Renita Carapella was present to represent the application.

MS. CARAPELLA: Hello. My name is Renita Carapella. I live at 339 Chestnut Road Rochester 14624. I'm here to ask for a variance to be able to house Nigerian dwarf goats on my property in small housing. I'm a retired educator and being retired, I still want to work with children. I want to use goats as therapy animals to go in and do reading programs in the schools and the community as well as nursing homes. And actually, the Chili Library is very interested in goats, as well. So this is why I'm here, to hope to be able to get this worked out.

ADAM CUMMINGS: Okay. Thank you. I will leave -- the dwelling and the setbacks and all that kind of go right along with the animals so as long as nobody sees an issue with that, I will keep them all as one application and one decision.

JAMES WIESNER: So by the looks of the information you gave us, they're pretty short, less than a couple feet tall? The size of a small dog.

MS. CARAPELLA: Yes, they are. Their disposition is very sweet. They're very gentle. That is why they have become so popular in therapy programs.

JAMES WIESNER: Would you get like two of the same sex, like male or two female or would you --

MS. CARAPELLA: I would get female and a male, which is a wether, because I do not want them to reproduce, so a wether is a male that is neutered.

JAMES WIESNER: So not capable of having more?

MS. CARAPELLA: Absolutely. Absolutely. Don't want to get into that.

MARK MERRY: Do you have any letters of support from your neighbors in that residential neighborhood?

MS. CARAPELLA: I don't have letters, but I did speak with my neighbors and all my neighbors were very happy to have them, would like to have their grandchildren come play with them.

MARK MERRY: Thank you.

ADAM CUMMINGS: I actually have an email that disputes the "all" claim. I have one from the resident at 339 Chestnut Ridge Road with concerns about the noise.

MARK MERRY: What address?

ADAM CUMMINGS: Oh, sorry. This is 339. This one is at 351 Chestnut Ridge Road. Ms. Jackie Miller. "The goats can be noisy and smell, especially their refuse. What plans is there for refuse disposal and/or management?"

MS. CARAPELLA: Well, I'm glad you mentioned that. In your packet I also gave you information as far as composting. Goats' manure is very highly wanted for farmers because it

does not have a smell unlike the manure with horses and the other farm animals. It does not have to be composed to be used. You can take it and use it right on your vegetables, your gardens, your landscaping. Um, as far as -- I actually have people that want me to start doing bales if I'm granted this variance to give them for their gardens.

As far as -- so they're low smell. They don't have the acid in the urine. When they do urinate, it doesn't burn the grass or the crops like other farm animals. It's actually good for the environment. And I left you a packet with all that information, as well.

As far as noise, Norwegian dwarf goats are just very sweet and lovable and they're not quiet -- or not quiet. They're not noisy. Say if I go in to feed them they might be "bah, bah" because they see me coming with the food dish, but other than that, they're very happy-go-lucky. They're just happy, very -- always happy. Like I said, they're quiet. You don't have to worry about them, you know, destroying the environment because they're not grazers. They're browsers. Beyond what people say, goats don't eat everything. They don't eat tin cans. They don't eat everything in sight. They're very, very fussy animals. One of their favorite -- they actually grouse and they like weeds like rooty plants and they love ivy. So if you have a problem with ivy, they would love to clean it up.

ADAM CUMMINGS: Just continuing on, you don't have to respond to all these. I will just read them for the record. But feel free if you did want to. I just want to point out you don't have to.

"Number 2, I fear approval of this variance will set a precedence for others in the community and don't think we should go down this path.

Number 3, I feel everyone is now using animals as a classified therapy and goats may well be great for this. I don't feel it should be used as reason for approval of a variance."

Hold on. Not done yet.

"There are parcels of land that are currently zoned for the purpose of raising farm animals and this community should remain zoned as it is without a variance of this nature. Jackie Miller, 351 Chestnut Ridge Road."

Thank you. Just wanted to get through the whole letter.

MS. CARAPPELLA: So I will respond to a couple of those. And as I said, as a retired educator, I have worked with many teachers, you know, with reading programs because we need to really engage our students in reading. We need to do anything we can to get kids to read because reading is so important.

And my take on -- yeah, there are many types of therapy animals. There's a lot of dogs. There is a couple schools -- Neil Armstrong has a dog that comes in and is read to. But no one has a goat. My take on that is we all -- most people have dogs. We love our dogs. We have a dog. But you bring a goat or another kind of animal, a llama, an alpaca into a classroom, you're going to get every little eye on you and they're going to be so excited to be able to pick out a book -- go home and pick out a book for the next time the goat comes so they can be picked to read to this animal.

I think it is important to be able to give to the community -- for myself to give to the community and help do whatever I can to help children, to help the elderly.

People who are in nursing homes, I plan on going, as well, because if I was in a nursing home, it would make me so happy. It would put a smile on my face to be able to pet a goat. Even if it is a dog or a cat. But a goat is different. And with a goat versus a dog, you don't have to introduce the goat to a person as you would a dog. Where a dog would sniff you, they like you or don't. Goats will go to anybody and just be happy.

As far as variance for the zoning of the goats and the size of the property, the reason that Nigerian dwarf goats are becoming so popular on farms is because of their size and their disposition. They are such a small goat, they don't need a lot of space. They don't use a lot of space. Like I said, they're good on the environment. They actually give to the environment.

So I think that, you know, I'm -- I'm not trying to use my goats to get the variance per se. I'm an educator. I will always be an educator at heart. I will always want to help children and other people. It makes me happy to have animals and I know animals help other people. And animals are used in so many various ways. I just want to do this from the heart and not because I'm going to use my animals to get what I want.

ADAM CUMMINGS: So you're not looking to run a business or anything like that?

MS. CARAPPELLA: Absolutely not. This is all volunteer work I'm doing. It is all volunteer.

JAMES WIESNER: Nothing to add, a couple of concerns. I want to hear the rest of the Board myself at this point.

MARK MERRY: All set.

FRED TROTT: I have a couple of questions. So with the -- my dementia is kicking in. With the animals, you said they're not loud?

MS. CARAPPELLA: No. They will make noise when they see you coming with a food dish like most animals will do that, but they're not loud and obnoxious. They're very sweet, low-key animals. I have had them before with llamas and alpacas when I lived in Avon. That's a small farm.

FRED TROTT: You have experience with these animals?

MS. CARAPPELLA: I do. I had a small farm. I had the Nigerian dwarf goats, miniature horses, alpacas and llamas and out of all of them, I would say if I had known about these goats before I again got dogs, I would have stuck with the goats than any other animal. And I love my dogs.

FRED TROTT: How much of an area would you need to pen them or -- would they be penned in your yard or set free to roam?

MS. CARAPPELLA: I would keep them -- I would keep them penned. They -- they would need an area --

ADAM CUMMINGS: It shows 20 feet by 20 feet.

MS. CARAPPELLA: Exactly. Exactly. Yep. And that's being, you know, generous because I -- because I am generous.

FRED TROTT: What is the lifespan of them?

MS. CARAPPELLA: They can live 8 to 10 years. Some can live to 12.

FRED TROTT: Nothing further.

JAMES VALERIO: They won't be wandering?

MS. CARAPPELLA: Absolutely not. If they're wandering, they're going to be with me going to do their therapy work.

JAMES VALERIO: If your variance does not work out, do you have alternative plans to be able to have goats but not have them in your house?

MS. CARAPPELLA: That would not work for me as the goats that -- that I would be getting are in Waterport, which is about an hour away. So it would be kind of hard for me to transport them. I wouldn't want to have to keep transporting them an hour to and an hour back plus doing their thing. You know, I -- I think that that would be a lot of -- a lot of work. If there was someone closer that I trusted, you know, a breeder that was closer that I knew, that would work. But unfortunately, the person that -- that I have been speaking with and feel comfortable knowing it's a healthy animal coming from, you know -- from good stock, good farm, it would really be -- hinder what I was trying to do.

JAMES VALERIO: Thank you.

ADAM CUMMINGS: It does state in the application 13 feet from the side lot line. Looking at the dimensions on the plan up here, I'm just curious where that was measured from.

MS. CARAPPELLA: I have 1.8 acres.

ADAM CUMMINGS: Right.

I'm seeing on one side lot line it is 75 feet. On the other it is 100 feet. Even off the bump-out, um, I can't see -- but your house is 33.75 and it's pretty much in line with that.

MS. CARAPPELLA: I would --

PAUL WANZENRIED: Right-hand side is 13 feet.

ADAM CUMMINGS: Right-hand side?

PAUL WANZENRIED: Of the house?

ADAM CUMMINGS: Of the house. Sorry. I was looking at the enclosure. I wasn't even thinking about the house, because it was already there.

I read it as the housing -- the structure housing the goats was 13 feet, not the main structure.

PAUL WANZENRIED: That's correct.

ADAM CUMMINGS: No. The -- the housing goats and fenced area is way up here.

PAUL WANZENRIED: You need 200.

ADAM CUMMINGS: Right. Agreed. I'm just trying to get it so our variance isn't doctored 13 feet where somebody can go and put it here or here (indicating). So the structure itself, I'm seeing 85 feet on the right side and 110 feet to the structure on the left side.

JAMES VALERIO: 75 feet?

ADAM CUMMINGS: To the structure. Not the fence. The structure. So I just want to clarify that.

JAMES WIESNER: So the 200 feet is for what?

ADAM CUMMINGS: Off the side lot lines. You're supposed to have 200 feet. That wouldn't actually be possible with this --

JAMES WIESNER: For livestock.

ADAM CUMMINGS: Right. No structure could meet that.

JAMES WIESNER: But the house is not the structure for the livestock.

ADAM CUMMINGS: No. I'm talking about the little structure, the 6 by 6. The width of this property.

JAMES VALERIO: The 13 should be changed to a 75?

ADAM CUMMINGS: Correct.

PAUL WANZENRIED: You can do that because you can make it greater.

ADAM CUMMINGS: Or a minimized variance is what I'm getting at.

PAUL WANZENRIED: Bingo.

ADAM CUMMINGS: So if you understand that, the application is not actually 13 feet. That's your main building structure. The housing of the animals would be the closest you could be to a side lot line will be -- or 85 feet. Not 75. 85 for the structure.

All right?

ERIC STOWE: My comments are more directed towards the conditions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JOHN J. CLARK, 336 Chestnut Ridge Road

MR. CLARK: Good evening, Board. I'm John J. Clark. I live at 336 Chestnut Ridge Road, 14624. I live across the street from Renita and Dave. I have been there for 38 years. Mr. Trott, you probably remember. But I met James yesterday as I was doing some of my yard

work. I'm a former educator for 34 years in the City School District. Did some administrative work which I chose to leave behind because dealing with the kids was far, far more rewarding.

I will deviate a second away from the goats. I will kind of indulge into the reading. A lot of elementary schools, be it in the city, be in the suburbs, you may remember preschool or kindergarten, 1st grade. Maybe you don't. Maybe you have children or grandchildren. When you walk into a preschool kindergarten 1st grade, the first thing that hits you is that there is a lot of color, there is a lot of action.

Of course, there is your A, B, C, Ds. So you have a large A, and what accompanies it? Apple, ant. Right? B, butterfly, ball. C, cat, cow. D, dog. G, goat. Right?

Now, how many of you have seen a little kid with a hamster or a guinea pig, goldfish, all kinds of little critters? And the teachers will have a period of time where they will talk to the children and say, "This is free time." Well, there is no free time. It's time to read. And in most Elementary School classes in the primaries, there's a small library. Print is large. Words are simple. The children very, very often will go over -- they will either get a stuffed animal, they will read to the frog. They will read to the gold fish. They will read to the guinea pig, whatever it may be.

Now, I've read everything that Renita and Dave (Carapella) have presented you.

There is another situation that I remember when I was working about the importance of reading. There is no person that is successful that is not a good reader. You can probably remember when you were in school, the people who had a hard time in school were poor readers. Why would elementary schools have reading specialists? Because the teachers sit down and they say this person, this person needs help. Anything that we can do in the educational field to help reading is a plus. Now here's a situation --

ADAM CUMMINGS: Sir, I would like to interject, we have a long agenda. And while I appreciate the stories, and, educators, you're very good at this, but I want to focus we're the Zoning Board of Appeals tonight and we're really just focused on the land. This goes with the land forever if we approve this.

MR. CLARK: I will finish this up momentarily. You mentioned there was a letter that was delivered or emailed to you from a number of 501 or 510?

ADAM CUMMINGS: 351.

MR. CLARK: 351?

ADAM CUMMINGS: Yes.

MR. CLARK: I'm not sure that this individual knows the size of the animal. Maybe she remembers Mr. Graham who had cows and goats in his place, but the fact that these are specialty small animals, and they're taking up such a small spot of property on such a big piece of property, I would hope you give them the variance.

And I think if you cannot agree on a variance tonight, I don't know if there is a thing as a possible variance. I don't know if you can table it, get more information to make a decision that would be beneficial to my neighbors. I'm just letting you know, that the people surrounding the property or adjacent to the property, we're kind of excited about it. We don't have a problem with it. I thank you for your time.

ADAM CUMMINGS: Thank you.

MR. CLARK: Very good. Good luck. Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have a farm. I could have goats. When I read this, I was stunned, this application. I cannot imagine anybody on Chestnut Ridge Road thinking that in this day and age you could raise goats on a residential lot. And all of the talk about educators and teachers and readings, I agree with Mr. Cummings is really -- it's immaterial. It's not your concern at all. It's -- it's a red herring to drag across the trail here and try to disrail the real arguments.

Now, I came in late, so I apologize, but where are these goats going to be kept in the winter?

ADAM CUMMINGS: I don't know. I will ask that. I do believe that's one of the conditions/questions that may pop up.

MS. BORGUS: Years and years ago my grandmother had goats. She had two. And I don't know about these little goats. Tried to look up on Google and find -- get some information. What I read wasn't encouraging for this application. And I don't know if people on the Board did the same thing as I did and looked them up and saw the problems. And the concerns.

They may be small, but they still do a lot of damage. It's just the way of a goat. And I would be very concerned, too, as to -- if this is just -- I take it, a structure out in the backyard, um -- or the side yard. Is it the side yard?

ADAM CUMMINGS: No. It is in the rear.

MS. BORGUS: You -- you have to provide for animals in the winter. We have bad winters. My -- my son-in-law has horses and can you believe as -- as in -- in this day and age somebody -- he -- he fusses with these horses, but in this day and age, somebody turned him in to the Humane Society because his horse -- they thought his horses were cold. So I think we got to worry more about a little couple small goats.

Mr. Graham's property was mentioned and when he had cows and animals, that's true. But this -- but not in this day and age he didn't. You're talking a long time ago when Mr. Graham had cows. So again, it's irrelevant right now in light of this application. It doesn't apply.

I -- again, I missed part of the letter. Sorry again I was late. I missed part of the letter you were reading, but from what I heard, I couldn't agree more with the points that were made in the

letter that you -- the part that I heard you read. This is -- this is -- this is ridiculous. Again, it runs with the property. Before it was chickens people wanted to keep. Now it's -- now it's goats. What will it be next? And the fact that she has 1.8 acres is really irrelevant. It's a community of homes that are close together. They're residential and width wise, there is not that much room between her house and the adjoining properties. And the people who live there now, if -- if what the prior gentleman said was true, maybe the adjoining neighbors right now don't care, but they won't be living there forever. And then somebody else will be in there and who knows what they are going to think. This is -- this is dangerous when you start making exceptions like this. This is -- this is not a fitting variance at all.

Thank you.

Fred Trott 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: I did want to bring up the chickens. We did deny an application for chickens several years ago I believe on the same road. Same road?

JAMES VALERIO: Different part.

JAMES WIESNER: Different part.

MS. CARAPPELLA: I just wanted to -- and -- I just -- you have this information in your packets, but I just want you to see, this whole side -- I didn't know if you're aware of this, this entire side of the acreage is all wooded and the neighbors -- this is all open. Nobody is there. There is no houses. There is a wooden area here. There is a small patch of wood. This is all acreage from the people that owned the properties.

This is the structure that my goats would be in (indicating). They're going to be living the life. I love my animals and I provide them with whatever they need because they're like your children. At least my animals are my children. Whether it's a dog, a goat, a fish.

JAMES VALERIO: What kind of fence will be around?

MS. CARAPPELLA: There is a -- it's a -- a field fence. It's a horse field fence, but it is a very strong fence. It's a no-climb where it keeps them in. Goats can be housed in a -- in a 4 foot fencing or they can be, you know -- whatever you might want, but a 4 foot fencing is adequate as long as you have it supported where they cannot climb and I -- as I said, I used to own Nigerian dwarf goats. I do have knowledge about them. I have had alpacas and llamas. I know how fencing works and how to keep them in. I have never had any of my animals escape with the fencing. It's how you -- you have to think smart and you have to have a plan and you have to know what you're doing and you have to research before you do that. People that don't research, I totally understand how there are problems and there are mistakes, but I always do my research in whatever I do because I want to do it right the first time and God forbid I don't want to get in trouble. So I feel very confident and my neighbors all around me support me with having these goats.

Again, I've owned Nigerian dwarf goats. They're not destructive. I never had anything destructive. They're not grazers. They do not have the -- the -- they don't destroy the environment like horses where you're grass ends up being dirt and there --

Like I said, their "number two" can be used in the environment to actually help the soil and the nitrates, putting nitrates in the soil. I have plenty of room where if I, you know, have my compost, I -- actually, on here, I have got all this wooded area in here (indicating), you know, where I would plan on starting the compost for what I'm not using. But as I said, I have people that want to come and get the little -- they're like little -- little rabbit turds. I'm sorry, but they're little rabbit turds. They come out dry and if they're wet, you have a sick animal. But...

ADAM CUMMINGS: I think one of the questions will be -- I don't know -- I will lean on the side table Counsel on this one. Typically, we can limit the number of animals and limit the number per acreage; is that correct?

ERIC STOWE: Yes.

ADAM CUMMINGS: I think we would want to do that. You have it listed as two dwarf goats.

MS. CARAPPELLA: Correct.

ADAM CUMMINGS: As opposed to one.

MS. CARAPPELLA: You can't have one because they're herding animals. You have to have at least two. That is why I asked for two.

ADAM CUMMINGS: So like baby donkeys. I learned that in my Town, my other Town that I lived in. So they need to be that.

FRED TROTT: Question about the winter storage? Will they be housed year round in that shelter?

MS. CARAPPELLA: They will have their shelter. This is what we intend on making for them (indicating). And I also have that in your packet, as well. So they have a nice little home and they will be out of the elements. They -- goats -- the thing about goats, they don't like to be wet. You don't want a goat to be wet or in a damp environment because they can get -- become ill. So goats don't like it. If it starts to rain, they go running for shelter and it's all -- it will be insulated well because I always go beyond what I'm supposed to do because --

FRED TROTT: Do they need a certain temperature?

MS. CARAPPELLA: No, goats do not. You do not want to put heat on a goat because then you will ruin them. They -- they grow a heavier coat in the winter and they do fine as long as they're out of the wind and the rain or wetness. As long as they're dry and they -- they could actually be housed in a three-sided building. A lot of goats are housed in those. I have one that I'm going to make sure that closes because we get cold weather and I just worry about my animals.

ADAM CUMMINGS: I will say that you are definitely the best dwarf goat expert I have ever met in my life, but I do have to point out, it really isn't relevant tonight. I appreciate the education on it, but I want to remind everybody that we are looking here strictly at the setback off the side lot line, which we did correct to 85 feet, and the number of animals.

You had mentioned earlier that you had goats on a farm. This is a residential. I just want to be clear on this. This is a residential lot. It is not a farm lot.

MS. CARAPPELLA: No. I understand totally.

ADAM CUMMINGS: And then the other part of it is, you are not looking to expand it out beyond that. I think you stated that already. You're just looking for the pair and you do have 1.8 acres. So I would like to limit it to the two goats for this parcel as a condition of approval.

FRED TROTT: Can I ask a question? Now, can we make it as a condition of approval, Nigerian goats, whatever they're called? Is that --

ADAM CUMMINGS: Do you want to restrict to black and white and gray?

FRED TROTT: No.

ADAM CUMMINGS: I get what you're saying. I'm just being funny while they look it up. Right now it is dwarf goats. Would you like to keep it at dwarf goats and --

FRED TROTT: I just want it to be as dwarf goats.

ADAM CUMMINGS: Not to exceed a height of 32 inches. I don't know if you can do that.

JAMES WIESNER: Are these full-grown goats that are in the picture?

MS. CARAPPELLA: Those are babies. They're 22 to 23 inches at the withers, the shoulder blades and then you have the little neck and head.

ADAM CUMMINGS: Any other conditions the Board would like to see?

JAMES WIESNER: Containment. I would hate to see the goats running around the neighborhood. They like to climb. I could see them climb on the structure, hopping over the fence and saying good-bye.

MS. CARAPPELLA: I don't have a problem changing any type of enclosure that would make you feel comfortable with that. I -- we don't have a problem with that.

FRED TROTT: Just keep in mind we do have a bear in the area.

MS. CARAPPELLA: Oh, really? Interesting.

We do have chain link, as well, fencing, as well.

JAMES WIESNER: I know with the chickens we had, they had to be contained to the property. I don't know if they -- you can state that they have to be confined to a pen. I don't know if that is something that could really stick?

ERIC STOWE: I don't think we would want to confine to a pen but provide a permanent structure. They can't leave the parcel. They have to have a permanent structure to reside in and then be contained to the structure -- or to the parcel. Excuse me.

ADAM CUMMINGS: Permanent structure to be contained to the parcel. I think what Jim (Wiesner) is saying, would you like a roof or ceiling enclosure on it?

JAMES WIESNER: Sufficient height that these guys aren't going to get out. And I -- I don't know how we can define that, but I just don't want them running loose. Goats, you find them climbing and getting into places that you wouldn't believe.

ADAM CUMMINGS: I never heard anything else from the side table.

ERIC STOWE: Your condition was two goats on a 1.8 acre parcel?

ADAM CUMMINGS: Yes.

ERIC STOWE: Do we want to put a height restriction on the goats so they stay dwarfed and you're not dealing with full-sized goats?

ADAM CUMMINGS: We did just discuss that. They said up to the withers is 24 inches and then the head and neck. So I suspect --

MS. CARAPPELLA: 22 to 23 inches at the withers and then you have the head and neck.

ADAM CUMMINGS: So I would say 36 inches or less would cover all that.

JAMES VALERIO: Paul (Wanzenried), will you go out and measure this?

ADAM CUMMINGS: What does your job description say? How much can you lift on your job?

PAUL WANZENRIED: You guys do nothing as if not make my job interesting.

FRED TROTT: Can we get a video of you measuring them?

ADAM CUMMINGS: So we have got that. I have three conditions there. Limited to two dwarf goats on 1.8 acres, permanent enclosure to be contained on the parcel and Number 3, the height of the animals not to exceed the 36 inches. That would be single height, not when they're stacked.

ERIC STOWE: Mr. Cummings, could you reread the condition with respect to the structure?

ADAM CUMMINGS: Permanent enclosure, to be contained to the parcel.

ERIC STOWE: Permanent structure shall be provided for the animals and the animals shall be contained to the parcel.

JAMES WIESNER: So animals are contained on the property.

ADAM CUMMINGS: Yes. Got it.

ERIC STOWE: But you have to distinguish between -- you have to provide shelter. You also have to ensure those animals are contained on the parcel. It's a two-piece -- or two-part, excuse me, condition.

ADAM CUMMINGS: Got you.

So year-round, weather-resistant and not temporary in nature.

MS. CARAPPELLA: Absolutely.

ADAM CUMMINGS: Not assembled cardboard-type things.

MS. CARAPPELLA: No. Never.

ADAM CUMMINGS: Too small to need a building permit. I don't have anything else to add.

JAMES WIESNER: One other thing, I don't know if you can specify no breeding, too?

ADAM CUMMINGS: We're limiting it to two dwarf goats. Oh, you're right.

JAMES WIESNER: They could be carrying a child and move it out afterward. I don't know.

ERIC STOWE: No commercial -- commercial purposes.

ADAM CUMMINGS: No commercial purpose or use. Which works better?

ERIC STOWE: The goat shall not be used for commercial purposes.

PAUL WANZENRIED: No breeding.

ERIC STOWE: No breeding. Two conditions that make it clear.

ADAM CUMMINGS: Condition number 4 is no -- no commercial purpose will be allowed with regard to these goats and no breeding will be allowed.

FRED TROTT: What is our variance for how many dogs a person can have?

ADAM CUMMINGS: Just curious. Three or four?

PAUL WANZENRIED: Three.

ADAM CUMMINGS: Because then we got to have kennel definitions.

PAUL WANZENRIED: Anything above three you get into private or commercial kenneling.

FRED TROTT: Okay.

JAMES WIESNER: When you put conditions, if they don't meet one of the conditions, it opens them up to revoke -- to revoke.

ADAM CUMMINGS: If they fail to get this, it revokes the variance; correct?

ERIC STOWE: If the conditions are violated?

ADAM CUMMINGS: Yes.

ERIC STOWE: No. It's an enforcement proceeding.

ADAM CUMMINGS: So it's Paul (Wanzenried)'s job.

PAUL WANZENRIED: Again.

ERIC STOWE: You cannot revoke a variance once granted.

JAMES WIESNER: Just enforcement action at this point?

ERIC STOWE: That's correct.

MARK MERRY: Very difficult. These are nice, but --

ADAM CUMMINGS: I would like to keep going here. All right. So I have the five conditions.

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: Motion to adopt the application with five conditions of approval?

James Wiesner made a motion to approve the application with conditions, and Fred Trott seconded the motion. The vote on the motion was 3 yes to 2 no (Mark Merry and Adam Cummings).

DECISION: Approved by a vote of 3 yes to 2 no (Mark Merry and Adam Cummings) with the following conditions:

1. Limited to two dwarf goats on 1.8 acres.
2. Provide permanent enclosure for animals, and animals must be contained to the parcel.
3. Height of animals not to exceed 36 inches.
4. No commercial purposes related to goats will be allowed.
5. No breeding of animals will be allowed.

The following findings of fact were cited:

1. Requested variance was clarified to be 85' from side lot line, per

application documents.

2. Presence of animals was described as minimal impacts to neighboring properties as the animals do not produce nuisance odors, will be contained in an enclosed area, and will not be overly loud.
6. Application of Paul Zimmerman, owner; 20 Sothery Place, Rochester, New York 14624 for variance to allow existing gazebo to be a total of 256 sq. ft. (192 sq. ft. allowed), to be 3' from dwelling (8' req.) and to be 12'6" high (12' allowed) at property located at 20 Sothery Place in PRD zone.

Paul Zimmerman was present to represent the application.

MR. ZIMMERMAN: Good evening, gentlemen and ladies. To begin with, I just like to clarify something on the application. It says, "existing gazebo." The gazebo is in a building stage. As soon as we found out we needed a variance and we had a complaint, we stopped building and went down and applied for the variance.

ADAM CUMMINGS: So it is existing but not completed?

MR. ZIMMERMAN: Correct.

So if you look at the map, the three variances that we're asking for are the height variance, which is a minimal 6 inches over the 12 foot requirement. And the only reason we're asking for that is because that's the way we had structured the pitch of the roof and the way it came out and when I measured it several times, it came out to be 6 inches more, so I wasn't about to hide anything. We just put it out there. The size of the gazebo is 16 by 16'9", which adds an additional -- I think it was 64 square foot on it. And the reason we built it that large was for -- just for the sake of the size of a gazebo.

We have had temporary gazebos that had been 10 by 10 and 10 by 12 and nothing ever seems to work. In the back of our lot there, we get probably about 80, 90 percent sun, so having a structure that would cover a number of people if we have people over, whatever, was the reason we made it that size. The requirement, I guess, for it being only 3 foot away from the house was you can't tell on the plotted map here, but our house backs up to Ford's Farm, which is a field up on the hill.

So as you move further away from the house, the land pitches down into the swale and then goes up the hill onto Ford Field. And if I was to get 10 foot out, the land drops significantly, where there would be -- not only -- not really advantageous for use as, you know, being close to where we -- where we do stuff, but it would also have to be built up on the one side and the land would be very unlevel.

The question comes up whether or not I have talked to my neighbors. I have talked to all of my neighbors, but the one that is here tonight. So they -- if you look at the map, the one right next door to me, no problem. And then one door down from them, they have a road that runs back and they built two houses off a road in a circle, back by the retention pond. And neither one of them have an issue with what we are --

ADAM CUMMINGS: Are they the ones to the north or to the south?

MR. ZIMMERMAN: The ones to --

ADAM CUMMINGS: On that sheet of paper to the right is north that we're looking at up on the board?

MR. ZIMMERMAN: Correct. To the south.

ADAM CUMMINGS: So to the left and the one to the south is the one you spoke about?

MR. ZIMMERMAN: Correct.

ADAM CUMMINGS: Thank you.

MR. ZIMMERMAN: And everything else pretty much is spelled out in the application.

ADAM CUMMINGS: And that circle that says 27 feet, that's a pool?

MR. ZIMMERMAN: That's a pool. The pool deck backs up to that. You know, and everything we have done previously we have gotten a permit for. The pool, the pool deck. Shed on the hill. You know, I just didn't realize that freestanding gazebo needed a deck or a permit. I even checked when we expanded our driveway last year to see if I needed a permit to do that and I didn't at that point. I apologize for the error, but here we are and trying to move forward with making the structure.

ADAM CUMMINGS: So in relation to the grade drop-off, because this one doesn't show topography, but where the pool is, does that cut into the slope you're describing the --

MR. ZIMMERMAN: The pool stops about a foot before the swale, a foot and a half before the swale. And then the pool cuts into the hill as it goes up slightly, about a foot and a half.

ADAM CUMMINGS: Okay.

JAMES WIESNER: Is this something you're building yourself?

MR. ZIMMERMAN: My son and I are building it, yes.

JAMES WIESNER: Will it be fully open or enclosed?

MR. ZIMMERMAN: Fully opened.

JAMES WIESNER: That's all I got.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GARY MELVILLE, 22 Sothery Place

MR. MELVILLE: Gary Melville. I'm Paul Zimmerman's next-door neighbor residing at Lot 710 up there. Street address is 22 Sothery Place. I actually called the Building Department about the structure that I observed being built because it seemed to me to be on the rather large size and I guess it's a fully 64 square feet out of compliance. The reason why I'm here is not for aesthetics or whatever. I have a nice big hedge row to block out where Zimmerman put his pool and other things you have built over the years.

But my concern is more of a safety hazard concern. And I say that because what Paul (Zimmerman) is characterizing as a gazebo is not what the -- the average or reasonable person would think of as a gazebo like you see out in front of the Amish place outlet on Union Street, pretty nice little decorative round or square gazebos in backyards.

Basically in my opinion what himself and his son built is a park pavilion. If you go to any County park and look at a high roof with only four supporting pillars and a wide open structure, you would expect to see picnic tables under it, okay? Now, if that is what he wants in his yard, I don't care. My concern is that from what I observed from my property at the top of my hill -- as he said, I have a berm up at the top of the hill. It looks like it was built on an existing stone patio with no anchoring to anything. It's just there. Okay? And my concern with that is as everybody in the room knows, our windstorms are getting more severe every year. A very wide open, high roof structure like that, like a pavilion in a park, could easily be launched up in the air and come crashing down and/or spread the debris around the neighborhood, which is a safety hazard to my house. Other neighbors around Zimmerman that seems to be okay with this, maybe they didn't think of this the way I'm thinking of it.

But my concern is -- I don't know what the code is, which is also why I'm here. I don't know if there is a code regarding the foundation. Does it have to be on a separate slab? Does it have to be anchored?

ADAM CUMMINGS: I can actually answer all of the concerns you just related are actually all building code concerns which our Building Department will help to enforce and to continue on with that, they're the professionals and do a very nice job with that. We're specifically looking at the variance, the square footage which you did bring up. They do exceed what our permit allows, the area or setback off the house, which is closer than our code permits and the height which he discussed -- he did it based on the pitch of the roof.

We won't be getting into constructability of things today, but we value your concerns on it and as does the New York State Building Code, which is part of why he needs to get a building permit to cover those things.

MR. MELVILLE: So what you're telling me is it will be affixed to a foundation or some sort of a -- like you would do a concrete footing or would you do like a fence post and surround with concrete?

ADAM CUMMINGS: I'm saying that we are not considering that tonight. As part of this. That is not within our jurisdiction and would defer that over to the Building Department.

MR. MELVILLE: How would I find out what the determination is as to how that structure will be affixed in place so it does not pose a risk?

JAMES WIESNER: A condition of any approval would be --

ADAM CUMMINGS: Paul (Wanzenried) can answer this.

JAMES WIESNER: Would be a building permit, which the Building Department would --

PAUL WANZENRIED: He will pull a building permit. He will give me drawings and we'll research that against the code and determine code compliance. If you want to look at those documents, once I have approved them, they become public record and you can fill out a FOIL with the Town Clerk and ask for those documents.

MR. MELVILLE: Okay. That's fine. That is my chief concern, is it a hazard. Is it going to affect my property -- or even Zimmermans' themselves. That is all I'm concerned about.

Like I said, he admitted himself it's a wide-open structure. I'm just afraid about the increasing windstorms we're having. That -- that could just be lifted up in the air like a kite.

ADAM CUMMINGS: Thank you.

MR. MELVILLE: Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just a question. Who labeled this a gazebo? This -- in this agenda?

FRED TROTT: Not me.

ADAM CUMMINGS: It's actually listed in the application as a gazebo.

MS. BORGUS: Well, it obviously isn't a gazebo.

ADAM CUMMINGS: I don't have a definition of a gazebo.

MS. BORGUS: The other concern, thought I had -- I don't know how far along this has been being built before it got stopped, but it's going to be a little difficult to maybe make some of the -- the building codes work if it's far along.

ADAM CUMMINGS: We have had that in the past where someone has had to excavate along the foundations to show how deep they went. I'm not saying that is what is going to happen. But as an example, our Building Department does go above and beyond to make sure we investigate properly to make sure it meets building code.

MS. BORGUS: I guess it's not a requirement, but in this particular case, was a drawing submitted with this application?

ADAM CUMMINGS: Well, it -- it really wouldn't be with this one. I suppose we could -- let me see if he has an elevation view of it. He doesn't. We just have a plan view because we're really -- other the height -- which in my eyes, a roof pitch I can visualize it. Yes, technically we

could have required an elevation view, but, you know, there isn't one.

MS. BORGUS: It's just that when -- you know, a duck is a duck is a duck and it doesn't sound like a gazebo. Thank you.

ERIC STOWE: Mr. Cummings, a gazebo is a freestanding roofed structure usually open on the sides.

ADAM CUMMINGS: I feel that meets this definition. I can't argue with the code we have.

ERIC STOWE: That's not from our code. That's from the dictionary. We don't --

ADAM CUMMINGS: That's even better.

ERIC STOWE: We don't define a gazebo so we default to the dictionary rules.

JAMES WIESNER: Webster or Oxford?

PAUL WANZENRIED: We prefer Merriam.

ADAM CUMMINGS: Motion to close the hearing?

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

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

ADAM CUMMINGS: So the height part you did say -- I want to start with that one. You are 6 inches over. Is there any way for you to get it down --

MR. ZIMMERMAN: I did look at taking the legs down 6 inches and that takes the side where you enter down and so anybody over 6 foot would be hitting their head as you go underneath entering the gazebo.

ADAM CUMMINGS: How tall is your house? It says two story.

MR. ZIMMERMAN: Two stories.

ADAM CUMMINGS: So you exceed the 12 feet 6 inches on your main house? Because your main house is taller than 12 feet 6 inches?

MR. ZIMMERMAN: Oh, yes.

ADAM CUMMINGS: The 3 foot setback, you explained that one with the swale. The square footage, other than entertaining, and that 256 square feet, that area total is only for this structure, correct?

MR. ZIMMERMAN: Correct.

ADAM CUMMINGS: It is not added with some other structure?

MR. ZIMMERMAN: Nope. Just from that structure end to end, roof line to roof line.

ADAM CUMMINGS: Because obviously if it -- taking out it was -- already started assembly, um, if we made that smaller, that would also drive the height down. Meaning if it wasn't as wide, your peak wouldn't go as high.

MR. ZIMMERMAN: It would have to be totally reconstructed.

ADAM CUMMINGS: One condition of approval I have is a building permit must be obtained. That goes without saying.

MARK MERRY: Do you mind commenting, will it be affixed and how so?

ADAM CUMMINGS: How will it be affixed? Will you affix the structure?

MR. ZIMMERMAN: We -- I have to -- I have safety concerns, too. We're not going to do nothing that is crazy or, you know -- I could see a 10 by 10 that is not affixed take off in the air and hit a house or whatever. I'm -- we're going to contact professionals and make sure that we're abiding by code. That the affixing it to whatever needs to be affixed to is done properly and it is safe. You know, we're not doing any shortcuts. It will be right. We'll abide the building code.

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: Motion to adopt the application?

Fred Trott made a motion to approve the application with a condition, 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 condition:

1. Building permit must be obtained prior to construction.

The following findings of fact were cited:

1. No adverse impacts to the neighborhood will result.
2. Variance request is minimal in nature and will have limited visibility to nearby properties.

7. Application of Mobil Mart Buffalo Road Inc., owner; 2371 Spencerport Road,

Spencerport, New York 14559 for approval to amend variances granted on 3/26/96 and 1/25/00 to allow existing 7' x 13'6" double faced freestanding sign to be a total of 189 sq. ft. (140 sq. ft. previously approved), and for sign to be 22.5' high (19' previously approved); variance to erect signs on fuel pumps per plan submitted (2 pumps have one sign on each side, 1 pump has three signs on each side) at property located at 3774 Chili Avenue in G.B. zone.

Thomas Fromberger and Eric Mehta were present to represent the application.

MR. FROMBERGER: Tom Fromberger, MRB Group, 145 Culver Road, representing tonight Mobil Mart Buffalo, Incorporated. We're here, as well. They're off to the side.

Our application is really the beginning of the process of improving the facility, both building and canopy and site improvements. The package that we provided to you has a lot of detail and so I do want to go through that a little bit. I do have some amendments to it. The existing sign, as described, which was constructed prior to their ownership is 22.5 feet. Our initial application included basically changing out the number plates as well as going from Select Premium to Sunoco and their logo which is Roc Petro. We would actually like to meet the code or get as close to it as we can. That is our revision.

So the past approvals in '96 and 2000 were for 19 feet and we would like to reduce the constructed height from 22.5 to 19 feet. The 19 feet goes to the top of the arrow, the back arrow of the Sunoco down to the ground surface. The original approval was for 140 square feet. We were going to stick with what was constructed out there or that is the point of our variance request, which was 189 square feet. The Sunoco layout with number board and top here takes us to 146, so it is actually 6 feet larger than what was past approved so our variance would be for the area to go to 6 feet as opposed to the 189 feet.

ADAM CUMMINGS: Also, in the package -- let's just stick with that sign for right now.

MR. FROMBERGER: Sure.

ADAM CUMMINGS: So to be clear, you're proposing the 9 to no longer be 22 feet high. You're going with 19 feet which was previously approved?

MR. FROMBERGER: Correct.

ADAM CUMMINGS: Therefore, no variance request.

MR. FROMBERGER: No variance request for the height.

ADAM CUMMINGS: And then you're minimizing your original application of 189 square feet to 146 square feet?

MR. FROMBERGER: That is also correct.

ADAM CUMMINGS: So what I would like to do is separate these two out. It makes it a good point to stop that -- stop at that point. So we'll think about this -- I will call it the roadside sign and we'll do two different decisions off this and then do the pumps next or separately.

So to be clear, there is no -- he has now removed one variance request for the height and he is minimizing this from 189 square feet to 146 square feet.

Any questions?

FRED TROTT: Are we running into the trouble with the amount of coverage?

ADAM CUMMINGS: You're allowed four colors.

PAUL WANZENRIED: Tom (Fromberger), for point of clarification, 73 times 2 is not 76 square feet.

MR. FROMBERGER: Oh, yes. 146. You're correct.

PAUL WANZENRIED: Thank you.

ADAM CUMMINGS: Oh, I see what you're saying. Good catch, Paul (Wanzenried).

I see blue, I see yellow, I see red. White is not a color. So I think they're set. Any other questions?

JAMES WIESNER: So you will modify the existing sign or will this be a new one?

MR. FROMBERGER: The posts will stay the same. It will actually get cut down. There is a top bracket affixed to the top of those posts. Then these will be new digital boards and then it is -- still in fill on the same section. It actually comes down from 9 feet currently to 6 feet in height.

JAMES WIESNER: So a modification then. Modification to the existing sign.

PAUL WANZENRIED: What is the modification?

ADAM CUMMINGS: Of the actual sign.

PAUL WANZENRIED: Oh, the --

MR. FROMBERGER: The posts will still remain the same. It will look very similar to their facility over in Ogden.

ADAM CUMMINGS: The one at Westside and Buffalo Road?

MR. FROMBERGER: Yes.

FRED TROTT: Just discussing this sign?

ADAM CUMMINGS: Just this sign.

FRED TROTT: No questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

ADAM CUMMINGS: Motion to close the Public Hearing?

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

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

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

ADAM CUMMINGS: One condition of approval for this one is to get a sign permit. Self-explanatory.

I will ask this question. SEQR once or both?

ERIC STOWE: Not without doing the Public Hearing for both them.

ADAM CUMMINGS: No. Agreed. I was going to move onto the next application, do that and then do SEQR all at one time?

ERIC STOWE: I'm good with that.

ADAM CUMMINGS: So, Tom (Fromberger), if you're okay, describe the fuel pump signs.

MR. FROMBERGER: The fuel pump signs, I have enlarged the picture in your packet. It includes what I have been told is basically the small signs up in here (indicating). On either side of the pumps. These are a part of the integral part of the signs as well as for delegating towards the customer's actual fuel that is in the pump.

The other item is pump-top roofs up at the top here (indicating) .

ADAM CUMMINGS: Do me a favor and put that on the overhead display so the public can see it.

That is signage down there. You don't have anything above the digital displays or card readers?

MR. FROMBERGER: Technically by law, they have to have the pricing signs up at the top.

ADAM CUMMINGS: But no advertisement signs?

MR. FROMBERGER: Only advertisement sign we're talking about is right in this location, is what they call a pump topper in the packet, which is 12 by 20, and that will be like a weekly special or monthly special. And then the signs we're also talking about are these signs on either side of the pumps and then the video screen down below.

ADAM CUMMINGS: Plus the ones at the base, at the bottom.

MR. FROMBERGER: Agreed. Plus the ones at the base, there were some discussions at the Building Department, when we checked those in, and I believe those were not part of it, but there wasn't 100 percent sure on that.

JAMES VALERIO: Diesel part has to be there.

MR. FROMBERGER: The diesel part has to be there as well as the branding of it. Part of federal regulations and part isn't.

ADAM CUMMINGS: In terms of the branding?

MR. FROMBERGER: In terms of the designation of the --

ADAM CUMMINGS: The diesel I get. But the "Sunoco" to me is another sign.

MR. FROMBERGER: Is another sign. That is what I agree with.

ADAM CUMMINGS: We don't have "Sunoco" up at the top. Just artwork.

MR. FROMBERGER: Correct. The top is not considered a sign. It is just considered graphic.

ADAM CUMMINGS: Those numbers, to be clear, are -- are pump numbering.

MR. FROMBERGER: The pump numbers down below are the selection of the grades.

ADAM CUMMINGS: I'm talking about the grades --

MR. FROMBERGER: Correct. The 1 and 5 are not considered signage either.

ADAM CUMMINGS: Right.

FRED TROTT: But the pump topper, which is that white square foot --

ADAM CUMMINGS: The rectangle there.

FRED TROTT: Will be advertisements? Weekly ads?

ADAM CUMMINGS: Correct.

MR. FROMBERGER: Correct.

FRED TROTT: Not the pricing.

ADAM CUMMINGS: The pricing would be below that.

MR. FROMBERGER: Correct. The pricing would be below that.

FRED TROTT: So you are asking for advertising signage along 1, 2, 3, 4 -- I see three "Sunoco"s and then an advertisement above that; am I correct?

MR. FROMBERGER: I see one "Sunoco" here. This could either be viewed as regulated or designating that this is for regular gas. I can see this as diesel, indicating this fuel pump is for diesel. I see this as --

ADAM CUMMINGS: To be honest, pointing at that one and saying gasoline is creative, but it is still Sunoco.

FRED TROTT: How do you say Sunoco and gasoline there?

MR. FROMBERGER: You could say regular. That's true. Either one way if you count 1, 2, 3, 4.

ADAM CUMMINGS: I wouldn't count the "diesel."

MR. FROMBERGER: But the text.

ADAM CUMMINGS: The "Sunoco" in the red. On the Number 5 pump.

MR. FROMBERGER: 1, 2, 3.

ADAM CUMMINGS: And then the advertisement one.

MR. FROMBERGER: And then the placard.
ADAM CUMMINGS: Right.
ERIC STOWE: Can I ask a question, is that a television monitor on the pump, as well?
MR. FROMBERGER: It is.
ADAM CUMMINGS: Good question.
MR. FROMBERGER: It's a video screen.
FRED TROTT: I was going to get to that.
ADAM CUMMINGS: Are those even permitted?
ERIC STOWE: We haven't had that come up yet. Changeable copy.
ADAM CUMMINGS: It gets into the changeable signs.
MR. FROMBERGER: That is what really all of the new pumps are. If you look at Speedway further down on Chili Avenue, they also have a similar video screen.
ADAM CUMMINGS: I don't believe we noticed that one on this application.
JAMES WIESNER: I think that is the one close in Gates --
ADAM CUMMINGS: Oh, that's right. I'm thinking of the Kwik Fill. They don't have video screens there. Our code didn't go that --
MR. FROMBERGER: Corner Chili and Coldwater.
MARK MERRY: The one in Chili Center.
ADAM CUMMINGS: The Mobil --
JAMES WIESNER: Never been to that one.
ADAM CUMMINGS: Used to be a Mobil. Now a Speedway.
MARK MERRY: Now it's a Speedway.
ADAM CUMMINGS: Huh.
MARK MERRY: Get your sports updates. I'm there all of the time.
ADAM CUMMINGS: I'm clear on that in terms of the signage. Number 1 advertisement sign, the topper and then the Sunoco on the upper right of the gas dispensing, the Sunoco in the lower left. So that is three signs. On -- Pump Number 5 as shown in that graphic you have the topper with the gasoline, with the "Sunoco" on the upper right on the gasoline dispenser, the "Sunoco" on lower right and "Sunoco" on lower left to give you four, so three and four.
FRED TROTT: How many pumps will you have?
MR. FROMBERGER: Three existing pumps. Actually four existing pumps that will be reduced to three pumps and those are just three under the canopy. There is a fourth pump outside.
ADAM CUMMINGS: That is the kerosene pump, the old one in --
MR. FROMBERGER: Yes. We're going back to the site plan. There are three pumps here and then the fourth pump that is located in that upper corner. Really all of the fuel dispensers we're talking about are really under the canopy, so really the signage is not meant to -- to really add additional clarification for customers coming and going so they can clearly see where is diesel, where it is not, where is typical fuel.
FRED TROTT: I don't have a problem with that. I have a problem with the three "Sunoco" signs. This Board we have kind of curtailed that in the last few that have come up to our Board. I think the color designation alone is enough to identify the area as Sunoco.
ADAM CUMMINGS: On the canopy are you looking to change the signage on the canopy? It used to say, "Select Petroleum."
MR. FROMBERGER: That's been approved by the Building Department to proceed with. That is in your packet, as well.
ADAM CUMMINGS: So you're not looking for a variance on that one in the future? You will just follow the code on that one?
MR. FROMBERGER: Correct.
ADAM CUMMINGS: Thank you.
FRED TROTT: Which will say Sunoco?
ADAM CUMMINGS: Are you allowed one or it is just two?
MR. FROMBERGER: I think you're allowed two.
ADAM CUMMINGS: That's right. You're on a corner lot so you get one to each road.
MR. FROMBERGER: Correct.
ADAM CUMMINGS: Then on the building you will have one, as well?
MR. FROMBERGER: On the building we will not have the "Sunoco" on the building. It will say "Roc Petro" and then -- we're proposing four signs.
PAUL WANZENRIED: I don't agree with your math. Your initial submission.
ADAM CUMMINGS: So the word -- we're shifting from the fuel pumps back to the monument.
MR. FROMBERGER: 26.6, 13.6 and 32.6.
PAUL WANZENRIED: No. Your existing free-standing with new signs, that proposal right there, where you were using the 22.5 tall, you had 13.5 times 7 feet times two sides is 189 square feet; correct?
MR. FROMBERGER: Our original total square footage?
PAUL WANZENRIED: Tom (Fromberger), this one (indicating).
MR. FROMBERGER: Yes. Which we're not going with.
PAUL WANZENRIED: I get it. But you see how the math was developed there?
MR. FROMBERGER: I will confirm it right now. $13 \frac{1}{2}$ times 7 is $84 \frac{1}{2}$. 84.5 square feet times 2 is 189.
PAUL WANZENRIED: Correct. But you see how that math was developed, right?

MR. FROMBERGER: I do.
PAUL WANZENRIED: Fine. Now we go to this, your new sign.
MR. FROMBERGER: New sign.
PAUL WANZENRIED: So I will take 9 times 5.33 which is essentially 5 feet 4 inches.
MR. FROMBERGER: Okay. I will indicate that the square footage calculation is based on the actual shape of --
PAUL WANZENRIED: That's not how we do it. That is where you're tripping up.
MR. FROMBERGER: That's where we're wrong.
PAUL WANZENRIED: You look at it as a rectangle. So 9 times 5.333 -- whatever 3/8 is.
MR. FROMBERGER: About 48.
PAUL WANZENRIED: 48.97, correct. You go down underneath it and you are either at 4 feet 6 3/4 to 1' 11" and take that as a block times 7 or you are going to take 4' 6 3/4 times 7 and 1' 11" times 7. Either way.
MR. FROMBERGER: You come up with?
PAUL WANZENRIED: I'm coming up with 93.232 per side which is 186.
ADAM CUMMINGS: Appears you were doing it based on the digits.
MR. FROMBERGER: I was doing it based on what the supplier gave us which is the square footage of the upper and then -- correct.
PAUL WANZENRIED: It's a rectangle. If my quick math is right, I came up with 93.232 per side which would give you 186 total.
MR. FROMBERGER: Just confirming, as well.
ADAM CUMMINGS: What did you get, 186?
PAUL WANZENRIED: Yeah. 186.
ADAM CUMMINGS: I will admit, too, it on the record, I wasn't listening to you.
MR. FROMBERGER: Thank you, Paul (Wanzenried).
ADAM CUMMINGS: But I agree with you.
MR. FROMBERGER: So 186, so we are --
PAUL WANZENRIED: So you're not really minimizing.
MR. FROMBERGER: You're right. We're going from 189 to 186. But we are reducing the height.
PAUL WANZENRIED: You are reducing the height.
MR. FROMBERGER: And in theory --
PAUL WANZENRIED: 3 square feet.
MR. FROMBERGER: -- 3 square feet less and more air blowing through the upper portion of the sign.
ADAM CUMMINGS: Okay. Glad we caught that now.
I would like to shift back over to the fuel pumps. Any other questions?
Across the street. Jog my memory. Did we allow Byrne Dairy to have them at the bottom?
I didn't think so.
FRED TROTT: No.
ADAM CUMMINGS: But they do have advertisements.
MR. FROMBERGER: They do have price toppers on Byrne Dairy.
ADAM CUMMINGS: But not their logo --
MARK MERRY: That's correct.
FRED TROTT: That's correct.
JAMES WIESNER: What are they actually allowing?
JAMES VALERIO: Two signs total.
ADAM CUMMINGS: I don't think we have anything for it.
Paul (Wanzenried), do you know that answer? How many are they allowed to have on fuel pumps? I don't think we call that out because it's just a quantity of signs.
JAMES WIESNER: Which is an excess.
ADAM CUMMINGS: Right.
JAMES VALERIO: The total for the whole business, is it two signs they're allowed?
ADAM CUMMINGS: Let's take the building out of it.
JAMES VALERIO: So the building doesn't count. I thought the --
ADAM CUMMINGS: Well, the building is what is taking up all that.
JAMES VALERIO: But what is the code? What does the code say?
MR. FROMBERGER: Based on linear footage.
JAMES VALERIO: I was just trying to get -- what does the code -- how many square feet?
ADAM CUMMINGS: The way the code is, they're above and beyond even just having one on the fuel pumps.
MR. FROMBERGER: We meet the building square footage for the sign on the building and we're actually proposing slightly less.
ADAM CUMMINGS: That doesn't really relate to the fuel pumps. The fuel pumps are in addition either way.
JAMES VALERIO: Yes.
ADAM CUMMINGS: And then if they had a tiny sign on the wall, on the building, we would still be talking to -- about the fuel pumps like we are right now.
FRED TROTT: So my question is -- that brings it -- so are we counting the pump square footage of the signs, the amount of signs -- are we counting all three that I pointed out plus that pump topper is going to be an advertising and then what do we do about the display screen that

will be an advertisement?

ADAM CUMMINGS: Display screen is not addressed. Square footage I don't think is added in here either.

MR. FROMBERGER: We have added the pump topper at 2 square feet. The signs on either side -- I will bring this back up to you guys. So the -- so the pump topper is 12 by 20 at 2. Paul (Wanzenried) checked these. The display screen and basically these two small add up to one square foot.

ADAM CUMMINGS: You don't count the diesel. The diesel is not one.

MR. FROMBERGER: Agreed. But for the calculation, that was done and then the bottom panel was -- in total took up 7 square feet.

ADAM CUMMINGS: Even at this bottom one, the bottom panel calculation is larger than it really should be because it should be the block, the rectangle that -- that encompasses -- the Sunoco logo. I don't know what the square footage is.

FRED TROTT: Is that 10 square feet per one side of the pump?

ADAM CUMMINGS: Of which one?

MR. FROMBERGER: Yes, that's correct. So we basically had 10 square feet per one side, times two sides, times three pumps to give us a total of 60.

Once again, that was not added to the 186. Because we're not considering the square feet. On those fuel pumps tonight.

ADAM CUMMINGS: Paul (Wanzenried), can you answer that question? Do we usually add the square footage? I don't recall for Fastrac because that was such a long time ago. I was middle-aged at that point.

ERIC STOWE: Cumulative for all square footage per pump?

ADAM CUMMINGS: For the overall site, do we have to consider that as a square footage?

ERIC STOWE: My recollection of Fastrac was we limited each sign and the square footage of each sign. I don't recall that we did a cumulative.

ADAM CUMMINGS: I don't believe we did. I don't believe anywhere in the code does it call it out as being cumulative. We never considered the different number of dispensers we would have add fueling stations in the code.

FRED TROTT: But I remember Fastrac we counted each --

ADAM CUMMINGS: Yes, we did.

FRED TROTT: And the cumulative pumps, I think they had 8 or 10 pumps. That is why it was such a drastic amount.

JAMES VALERIO: I remember us counting --

ADAM CUMMINGS: Correct. It was based on the quantity of the number of logos, not the square footage necessarily because they have it across ten things, they had Fastrac written three or four times. That was exaggerated, but -- in this case we don't have that -- for instance, they had "Fastrac" at the top. They had "Fastrac" in the middle. They had it on all of the advertisements, on the bottom. Not to call out Fastrac tonight, but --

FRED TROTT: But we are looking at this -- we don't know what is going to be in this middle session here that is a pump topper.

ADAM CUMMINGS: In terms of the Sunoco prototypes, do they have Option B where it is just a plain base that just says "diesel" or the Sunoco artistry but not -- the artwork but no Sunoco logo? Similar to what you see at the top, the one in the file.

MR. FROMBERGER: Right. The checkers and the striping. Not aware of that. I don't think they do.

FRED TROTT: So I guess that goes to the next one. Is the little -- in terms of the quantity, the little "Sunoco"s, those are just decals so they don't need to go on there. I am guessing these all show up preassembled and everything else.

MR. FROMBERGER: You are correct. They are pretty much a prepackage.

FRED TROTT: I'm bothered that we're looking at a pump topper that is square blank. We don't know what is going to happen there.

MR. FROMBERGER: If we remove the pump topper?

MR. MEHTA: It's not a big deal.

MR. FROMBERGER: Would that be more amenable?

JAMES VALERIO: Getting rid of the pump topper.

ADAM CUMMINGS: I will be honest, I don't have a preference either way. It is underneath the canopy. We have gas stations on all -- well, not a gas station anymore, but on that corner, I get our focus on signage and things like that. There is only three gas pumps and not like ten where we had on a different application. This doesn't have an accessory structure, a car wash with the same logo. That is just my opinion. I do want to keep this moving along.

Any other questions, I will ask for the side table?

JAMES VALERIO: I don't know what we're doing. This is usually very clear. This is the code, here is what they want. Here it just says, "Fuel pumps per plan submitted" and what they have, but it doesn't say what that violates.

ADAM CUMMINGS: They're actually allowed zero. So anything they're asking for is above it.

JAMES VALERIO: Okay. So zero permitted.

ADAM CUMMINGS: Right.

JAMES VALERIO: Okay.

ADAM CUMMINGS: Paul (Wanzenried), do you want more time? I will open up the

Public Hearing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Mark Merry 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: You will separate these out.

ADAM CUMMINGS: Yes. I will separate these out. The double-sided monument sign or freestanding sign out by the road will be 7A. To clarify that one, its height is not up for discussion tonight. There is no variance for that. It was previously approved. The final revised one is 186 square feet?

MR. FROMBERGER: Yes.

ADAM CUMMINGS: For the total square footage. The application was for 189.

FRED TROTT: We're discussing this as trying to compare it to the Fastrac and how we looked at that one. This just seems -- we're just looking at as 16 square feet. I just have a problem with it. I think he has a problem with it. Will you kind of break that one down a little better?

JAMES VALERIO: I just remember seeing this is how many square feet it is over what is allowed. You know what I mean?

ADAM CUMMINGS: But it is not what was over what was allowed. It was what was being quantified on the site. Because once again, that one was above -- anything above zero is what had to go in. We're trying to minimize that one.

JAMES VALERIO: So we --

ADAM CUMMINGS: Here we just quantify.

JAMES VALERIO: Here the pumps would be --

ADAM CUMMINGS: That was -- the 60 square feet is what we came up with total, with the three pumps, both sides.

JAMES VALERIO: Both sides.

ADAM CUMMINGS: Yes. 10 square feet per each side.

Are all set over there?

PAUL WANZENRIED: What was your question?

ADAM CUMMINGS: I don't know. Were you researching something?

FRED TROTT: I guess we have a question about the video screen. Is that allowed?

PAUL WANZENRIED: To me, that is changeable copy. That goes to changeable copy.

ADAM CUMMINGS: I agree with that. But it is not on this application.

MR. FROMBERGER: Display screen, what is changeable copy? If you could enlighten us?

PAUL WANZENRIED: Well, a TV screen I think is what we're referring to.

MR. FROMBERGER: Display screen.

PAUL WANZENRIED: Right?

ADAM CUMMINGS: Not -- not the key pad for the transactions. The one above it.

PAUL WANZENRIED: At the top there is a display screen there. I mean it is changeable copy because it can advertise.

ADAM CUMMINGS: And it changes.

PAUL WANZENRIED: And it changes.

ADAM CUMMINGS: Which is unique to our code here in the Town of Chili. We don't restrict it. Correct me if I am wrong, we don't restrict whether it's a small display size like you have here or a long School District might have a larger one or the American Legion has a changeable -- changeable type. We limit the illumination of those, the frequency they can change, the speed they can change so they don't become a distraction.

Did I explain that properly?

ERIC STOWE: Yes. But we also -- we have in 550(a)4, um, illuminated signs shall employ only a light of constant intensity.

ADAM CUMMINGS: Meaning not changing.

ERIC STOWE: Not changing.

ADAM CUMMINGS: Not motion.

ERIC STOWE: And no sign shall be illuminated by or contain a flashing intermittent, rotating or moving light or lights.

ADAM CUMMINGS: So we don't want to have screens on fuel dispensers.

ERIC STOWE: The way the current code is written, it doesn't permit those.

FRED TROTT: So they need to come in for a separate variance for that.

ADAM CUMMINGS: Yes. We can't consider that tonight. It was not noticed on the public agenda.

MR. FROMBERGER: Even though it was --

ADAM CUMMINGS: Because it needs to call out that specific section of code.

MR. MEHTA: My name is Eric Mehta. I'm the owner of the station. The Sunoco people told me that the TV screen is approved nationwide, so any new pumps that come in, you know -- so they have the option, you can have it.

ADAM CUMMINGS: Agreed with the option, but nationwide approval means that's a corporate approval and we have our Home Rule State here in New York State and especially in the Town and Village side of things, so we get to set our own rules. It doesn't matter if has a federal approval or national approval, as you term it, from the corporation. It is really our rules.

MR. MEHTA: So no other station has the TV screen with the pumps in the Town of Chili?

MR. FROMBERGER: Speedway does.

ADAM CUMMINGS: The Speedway we just learned on that one. The Speedway across from Wegmans.

MR. MEHTA: If Speedway has it, we --

FRED TROTT: They're non-compliant.

ADAM CUMMINGS: They're non-compliant.

JAMES WIESNER: The Mobil station?

FRED TROTT: It's a Speedway now.

ERIC STOWE: We already have an issue with them, so let's move on from them.

ADAM CUMMINGS: I wouldn't use them as an example. They're likely to see some enforcement actions.

MR. FROMBERGER: They also have signage at the bottom, too.

PAUL WANZENRIED: Oh, yeah.

ADAM CUMMINGS: And they did not come here when they changed from Mobil to Speedway.

PAUL WANZENRIED: But they will be.

ADAM CUMMINGS: So tonight we're not saying no to the display.

MR. FROMBERGER: Understand.

ADAM CUMMINGS: Just saying we can't consider it tonight. So I guess with that, I guess we could even table --

ERIC STOWE: Perhaps it's best to make sure --

ADAM CUMMINGS: I say we table this and continue on the discussion about --

JAMES VALERIO: Should we open up the monument because it's a separate structure?

MR. FROMBERGER: Agreed. We would like to at least move forward with the freestanding sign.

ADAM CUMMINGS: Agreed. So just official word, I call it 7B. The application for the fuel pump signs, um, would the applicant be willing to have --

ERIC STOWE: With respect to SEQR, if you're breaking this out, leaving one piece out there that is not complete --

ADAM CUMMINGS: Let me do two separate SEQRs at this point.

ERIC STOWE: On one application? The only -- the cleanest method would be to withdraw that, go to the monument and have them resubmit with the other one.

ADAM CUMMINGS: The other one?

ERIC STOWE: Separate the two, withdraw one. It would have to be resubmitted, republished.

ADAM CUMMINGS: For the --

ERIC STOWE: For the pump signs. Just to clarify.

ADAM CUMMINGS: That is what I was getting at. I was going to ask him to withdraw the fuel pumps and then --

ERIC STOWE: Okay.

ADAM CUMMINGS: Actually, I was going to ask him -- we would vote on tabling it but withdrawing it would be better.

ERIC STOWE: Well, that clarifies the SEQR issue.

ADAM CUMMINGS: Right.

There was discussion amongst the Board what to do incorporating the request for the display.

MR. FROMBERGER: Could I ask for maybe a point of clarification or straw vote? If we were to come back with the revision with the video screens and it's published and advertised and basically presented to you again as we're doing tonight, what is the feasibility of actually getting that approved through -- through the Board?

ADAM CUMMINGS: I don't feel comfortable giving away preordained decisions on this or in essence a vote on that from the Board. But I do have one point of clarification from the side table.

If they withdraw this or reapply it or amend it, is that another application fee with process? Eric (Stowe), am I correct in saying we don't want to do a straw vote?

ERIC STOWE: That would be correct.

ADAM CUMMINGS: So sorry. I don't want to gauge it. I understand what you're asking for.

MR. FROMBERGER: Why come back just to have it denied potentially if we're there already. So...

MR. MEHTA: We do have the option on that that we don't have to turn it on.

ADAM CUMMINGS: Right. But we also don't have the option tonight because we did not publicly notice it so we can't make a decision on -- on the display part of your fuel pump question. It's in your application package there, but it was an incomplete application in terms of that specific code section.

MR. FROMBERGER: We were directed that way. If it is not turned on, is basically --

ADAM CUMMINGS: Well, I will stand up for my Building Department here. How were you directed? The label I see here you have got leader arrows that shows display but nowhere is it labeled "display screens" or "TV screens." They're just a gray box.

MR. FROMBERGER: If you look at our application, it was amended a bunch of times at the counter. We did have those discussions with -- with representatives from the Town. But if I can go back to the discussion that we do not have the video screen turned on -- our main focus is we need to become operational as soon as possible and we need to make a selection of the pump and that is kind of holding us up. We have orders in for the canopy. If we don't turn the TV screen on, would -- the video screen, the display screen, um, and come back to you guys with that application --

ADAM CUMMINGS: Yeah. That would be fine. Would -- with a separate application.

MR. FROMBERGER: With a separate application.

ADAM CUMMINGS: That would be fine.

MR. FROMBERGER: Basically our application tonight would be strictly the freestanding sign and discussion on the signage on the pump?

MR. MEHTA: Yeah.

ADAM CUMMINGS: Yeah. That would be fine.

PAUL WANZENRIED: What are you agreeing to up there?

FRED TROTT: He just changed the square footage.

ADAM CUMMINGS: Square footage of what?

FRED TROTT: The square footage of the gas pumps. That is counted.

JAMES WIESNER: Is he saying he is going to assign -- added into the application it's a changeable sign, which is another section of the code?

ADAM CUMMINGS: Oh, that was in the 10 square feet?

FRED TROTT: Yeah.

ADAM CUMMINGS: What I was agreeing to if they don't turn -- turn the display on for the TV, it is not actually a sign then.

MR. FROMBERGER: Pump is able to do that. We're trying to make a selection of the pump.

ADAM CUMMINGS: They would come in in the future with an application for a changeable copy sign and activate those TV signs.

MARK MERRY: If it was approved. That seems like a big business risk to me. Order a pump thinking you will not turn the screen on on day one and come back.

MR. MEHTA: The screen would be on -- it would -- when they start, if you want to pay inside, if you want to pay with a credit card, if you want to cancel, that is how that screen starts.

MR. FROMBERGER: It doesn't cycle through beyond that?

MR. MEHTA: It doesn't cycle through beyond that.

ADAM CUMMINGS: You're saying the lower of the two screens or the upper one?

MR. MEHTA: The one that shows when you start pumping the gas, it shows you how many gallons you are pumping and how many dollars. The bottom screen which we are calling "TV," that says if you want to pay inside.

ADAM CUMMINGS: Okay.

MR. MEHTA: If you want to pay with a credit card or debit card, that is how the screen starts. We would just keep it with that, and --

ADAM CUMMINGS: That is okay. We just don't want the TV screen showing the TV advertisement.

MR. MEHTA: That's correct.

FRED TROTT: You're saying that is the only thing it does or --

ADAM CUMMINGS: That's at Byrne Dairy.

MR. FROMBERGER: It has an option to go into -- into TV mode, but we would not activate that without coming to you guys for a separate application.

ADAM CUMMINGS: Yes. So at that point, it becomes the requirement of doing a transaction, so yes -- we would allow that option where it just shows the credit card transactions or debit card transactions. I will call it an instruction that is integral to this pump. It is not -- yeah, those are all over Town. We would be okay with that.

MR. MEHTA: That's fine with me.

ADAM CUMMINGS: Which you're right, would lower the square footage, Fred (Trott).

FRED TROTT: Yes.

ADAM CUMMINGS: I'm so confused right now.

MR. FROMBERGER: So we would back up and go through -- you guys on board with what we just talked about?

PAUL WANZENRIED: So you will not turn the TV screens on and you will have the pumps go as they are?

MR. FROMBERGER: Both screens would be active. But the bottom screen --

PAUL WANZENRIED: Bottom gray box with the white buttons on either side.

MR. FROMBERGER: Would show your fuel and the price that in gallons -- as you're ringing it up.

ADAM CUMMINGS: That is the upper one.

MR. FROMBERGER: Upper one.

ADAM CUMMINGS: The lower one tells you credit, debit, do you want a receipt and remove my card.

MARK MERRY: Cash back.

ADAM CUMMINGS: That's it. I'm okay with that.

JAMES VALERIO: Then they come in in the future if they want it to do more.

PAUL WANZENRIED: Right.

ADAM CUMMINGS: We don't want you to come back in the future with moveable copy. We would just like the transaction.

MR. FROMBERGER: I didn't hear that. It sounded like a straw vote to me.

ADAM CUMMINGS: No. That was an opinion.

MR. FROMBERGER: Oh, opinion. I'm sorry.

ADAM CUMMINGS: No, but if you did want to come in in the future, you are more than welcome to come in for a changeable copy TV screen, which we have never approved in this Town, but not to say we wouldn't. I think that clarifies what is going on with those.

We're drawing this out and seem to spend too much time on fuel pumps with the Zoning Boards.

FRED TROTT: I would rather come up with a regulation.

ADAM CUMMINGS: Talk to the Town Board.

JAMES WIESNER: I don't feel like we really know what the square footage of those on the pumps are.

MR. FROMBERGER: The lower square footage is half of 27 times 37. The other square footage would be half of basically 37 times 27. I can give you that square footage. We aired on the conservative side for one but apparently not the right one with the freestanding signs.

ADAM CUMMINGS: So I have got 7 -- we'll call it 6.9 square feet on that half of 27 -- actually that is 27 by 37, so half of that. So we'll call it 3 1/2 square feet per side. Times 6. 21 square feet.

MR. FROMBERGER: We're not counting --

ADAM CUMMINGS: Right now I only did the bottom of that 27 by 37 cut in half. Then what did you say those toppers are?

MR. FROMBERGER: They're 12 by 20, so...

ADAM CUMMINGS: So 2 square feet. So you're looking at -- they're double-sided?

MR. FROMBERGER: Yep.

ADAM CUMMINGS: So 12 plus -- how big is that little "Sunoco"?

MR. FROMBERGER: That little "Sunoco" is approximately --

ADAM CUMMINGS: 3 inch by 5 inch? Yes. Maybe 6 by 3.

MR. FROMBERGER: 1.5 we can call it.

ADAM CUMMINGS: 1.5. So that brings you -- what is your final number then?

MR. FROMBERGER: So somewhere around 7 -- did I do that right?

So 5.6. 5.7 if you round up.

ADAM CUMMINGS: So what's the total number?

MR. FROMBERGER: 5 -- sorry. 5.7 square feet.

ADAM CUMMINGS: For those panels plus the topper, plus the 12.

MR. FROMBERGER: For one side we're talking.

ADAM CUMMINGS: Right. Right. So then you multiply that by 6.

MR. FROMBERGER: Times two signs.

ADAM CUMMINGS: So just under 43.

MR. FROMBERGER: 43 -- or 44.

ADAM CUMMINGS: 34? That makes sense.

MR. FROMBERGER: 5.7 times 36. 34.2 square feet.

ADAM CUMMINGS: What was that?

MR. FROMBERGER: 34.2 square feet.

ADAM CUMMINGS: Thank you. I agree with that. 34 square feet. A little more focused on the quantity of signs. One is a smaller "Sunoco." One is a larger "Sunoco." And they're on each side.

Any other Board discussions?

JAMES WIESNER: No. I don't have anything.

ADAM CUMMINGS: Side table, anything? All right.

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 an Unlisted action with no significant environmental impact, and James Valerio seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Once again, I have those split up. We'll go to the monument sign first which I designated as 7A. This is the freestanding sign. Condition of approval is the sign permit will need to be obtained. I ask for a motion to adopt this application with that one condition.

Mark Merry made a motion to approve the Application 7A with a condition, and Fred Trott seconded the motion.

JAMES WIESNER: I guess I'm confused as to what we're voting on at this point.

ADAM CUMMINGS: Right now we're doing the freestanding sign and we're talking about the 186 square feet. There is no height variance because they have reduced it down to the

existing variance.

JAMES WIESNER: We have not talked about the wall sign yet.

ADAM CUMMINGS: I did not see the wall sign.

MR. FROMBERGER: The wall signs we're not -- they do not need a variance.

ADAM CUMMINGS: The wall signs meets the code.

JAMES WIESNER: The four signs across the front of the building are all okay?

JAMES VALERIO: They're different businesses.

MR. FROMBERGER: There's a reduction in total square footage.

JAMES WIESNER: Because it's on the application. That is why I asked.

ADAM CUMMINGS: Yeah. But that meets the codes.

PAUL WANZENRIED: Crossed off.

ADAM CUMMINGS: Well, is it crossed off on mine? Or on this one. Crossed off on the first one. Goes to monument sign. Yours is not crossed off?

MARK MERRY: April Fools.

JAMES WIESNER: That is why I asked.

ADAM CUMMINGS: Good question. No. We're not considering that one.

JAMES WIESNER: Considering just the monument sign and the pump sign.

ADAM CUMMINGS: Just the monument sign. For this vote, it is only the monument sign.

All Board members were in favor of the motion.

DECISION ON APPLICATION 7A: Unanimously approved by a vote of 5 yes with the following condition:

1. Sign permit must be obtained prior to construction.

The following finding of fact was cited:

1. There are similar signs located along Chili Avenue, and the addition of this sign will not significantly alter the character of this neighborhood.

ADAM CUMMINGS: That one is approved.

Now, moving onto what I call 7B, which is the fuel pumps, which we're calling out three fuel pumps.

MR. FROMBERGER: Could you break that down into smaller chunks as well as you go through your discussions? If that helps.

ADAM CUMMINGS: We could.

PAUL WANZENRIED: I have a question. In his diagram, he is showing two different things.

ADAM CUMMINGS: Right. There is one with "diesel" and one without "diesel."

PAUL WANZENRIED: So he just went through the math and came up with 34.2. Which again, I will challenge Tom (Fromberger) and his math because --

ADAM CUMMINGS: I assumed that the bottom part, the one on the left, he just counted the whole rectangle to be the same as the rectangle on the right, even though it has two signs on the right one as opposed to --

PAUL WANZENRIED: He took 5.7 square feet times 6 and got 34.2. 6 is three pumps, two sides. And that means -- this one on the right doesn't exist.

MR. FROMBERGER: The one on the left.

PAUL WANZENRIED: Yeah. Left. Sorry.

MR. FROMBERGER: Would be equivalent to the basically the two "Sunoco"s added together.

ADAM CUMMINGS: Right. I took it he just acted like the square footage on the bottom part is the same on both of them. One has more quantity of signs but the square footage is the same. Or equivalent.

MR. FROMBERGER: Approximately equal in size if you split the pump halfway. The small "Sunoco" on the right side plus Sunoco text and added the two together --

PAUL WANZENRIED: Well, if you're telling me that -- that I'm looking at one side of the pump on the left and the other side of the pump on the right --

ADAM CUMMINGS: What I'm saying -- what I think he is saying is on the right-hand side there is one pump that has diesel but the one on the left, there are two of them like that because those are the two gasoline ones; is that correct?

MR. FROMBERGER: That's correct.

ADAM CUMMINGS: So there are three pumps total. Two of them will look like the one on the left. One of them will look like the one on the right.

I haven't seen too many places have more diesel pumps than gasoline pumps. That is why I'm assuming that.

PAUL WANZENRIED: He will have to give me a breakdown on the math. It's not coming out.

MR. FROMBERGER: There is one more application. We could do that math and come back.

On the right, 27 inches, I'm saying that is half that square footage. You would agree with

that for height?

PAUL WANZENRIED: You're saying the "diesel," the red part is government regulated, right? It says "diesel"?

MR. FROMBERGER: Yep.

PAUL WANZENRIED: So you're saying 27 times half of 37 --

MR. FROMBERGER: 18 1/2 times 37.

PAUL WANZENRIED: Equals.

MR. FROMBERGER: 84.5 square inches.

PAUL WANZENRIED: Okay.

You have got how many of those?

MR. FROMBERGER: We have just two sides, one pump. So it would two of those.

PAUL WANZENRIED: You have 6.84 inches times two?

MR. FROMBERGER: Correct.

On the other side, we have basically half of 37. Times 27.

PAUL WANZENRIED: What is on the other side?

MR. FROMBERGER: Same thing. So 18 1/2 -- if I did that right -- times 27 is 499.5 inches.

PAUL WANZENRIED: How many?

MR. FROMBERGER: 499.5 square inches.

3.46 or 3.5 square feet.

PAUL WANZENRIED: That's for how many pumps?

MR. FROMBERGER: One side right now times 2. 2.5 times 2 is 7. For one pump. 7 square feet for one pump. We have two that are exactly the same as the pump on the left. So that is a total of 14 square feet.

Again, we have basically the 3.5 on the right side, the one side for one times two, 7 square feet and then we only have one pump of that, so it's 14 plus the pump on the right, which is 7. Total of 21 square feet for the bottom portions of the pump. The top emblems, the pump on the left, we are going with 3 inches by approximately 6 inches for the "Sunoco." 18 divided by 144 is .125 square feet. Times total of four for the two pumps on the -- up on the left is .5 total square feet for the small "Sunoco."

The pump on the right, we are saying that these are what is required. The small "Sunoco" would match the small "Sunoco" we were talking about with the pump on the left, which was .125 square feet times just 2 now instead of 4, which would be .25 square feet.

So in recap, the pumps -- the signage on the pump is 21 square feet plus our .5 and our .25. So .21.75 for the bottom and then we talked about the pump topper at the top for an additional 2 square feet, so we're looking at a refined number of 2 square feet times six sides, which would be an additional 12. So 12 plus our 21.75 is 33.75 square feet and we initially started our discussion at 34 square feet. We were at 60.

ADAM CUMMINGS: Your original application was at 60 --

MR. FROMBERGER: Yes.

ADAM CUMMINGS: -- square feet. We're now at 34 square feet.

MR. FROMBERGER: Now at 34 square feet.

PAUL WANZENRIED: The "Sunoco" on the left on the bottom, are you drawing the rectangle around that? Or are you taking the whole to 37 by 27?

MR. FROMBERGER: Half 37 times 27.

PAUL WANZENRIED: I'm talking the one on the left, taking half.

MR. FROMBERGER: I'm taking half because it's approximately half of the square footage of the bottom panel.

ADAM CUMMINGS: And it really doesn't reach all of the way down to the 27 --

MR. FROMBERGER: That's true. It -- it doesn't reach all of the way down to the 27. But it does exceed -- if you look at the circle as a dot in the middle of the panel with the lock key, it does bump over to the right slightly, but if you wanted to knock off 7 inches. Or --

ADAM CUMMINGS: I actually contend that this is conservative, because on the right-hand pump it is not 27 inches tall on the entire sign. Are you saying you took half of the 27?

MR. FROMBERGER: Half of the 27.

ADAM CUMMINGS: Half of the 27 there.

MR. FROMBERGER: Yes.

ADAM CUMMINGS: And half of the 37 on the other one?

MR. FROMBERGER: Yes.

ADAM CUMMINGS: But you did the full 27?

MR. FROMBERGER: Yes.

ADAM CUMMINGS: I would say that would be close to the area of it.

Paul (Wanzenried), are you comfortable with these measurements from 60 to 34 square feet?

MR. FROMBERGER: Or 30 square feet.

ADAM CUMMINGS: We'll stick with 34.

PAUL WANZENRIED: Yeah, I guess.

ADAM CUMMINGS: Is the Board clear on how we just arrived at that schedule of dimensions?

JAMES WIESNER: We trust you.

ADAM CUMMINGS: I didn't do the math, but I followed his logic.

So on this one, a sign permit would be obtained for all these. Once again, this is for the fuel pump signs. There are three fuel pumps underneath the canopy. For clarification, there is no fourth pump. The -- the existing site had a fourth pump.

MR. FROMBERGER: Which will be removed.

ADAM CUMMINGS: All right. I would like to ask for a motion to adopt that application.

James Valerio made a motion to approve the 7B application with a condition, and Mark Merry seconded the motion. The vote on the motion was 3 yes to 2 no (James Wiesner and Fred Trott).

DECISION ON APPLICATION 7B: Approved by a vote of 3 yes to 2 no (James Wiesner and Fred Trott) with the following condition:

1. Sign permit must be obtained prior to construction.

The following finding of fact was cited:

1. There are similar signs located across the street and the addition of these signs will not significantly alter the character of this neighborhood. Most of the signs will not be visible from the right-of-way.
8. Application of McDonalds, c/o Creative Realities, 13100 Magisterial Drive, Louisville, Kentucky 40223 for approval to amend variances granted on 5/19/09 to replace two existing menu board signs with two 18 sq. ft. menu board signs (two 42 sq. ft. previously approved) and to be 6'10" high (5' allowed); variance to erect two new presell menu board signs to be 9 sq. ft. each (18 sq. ft. total) and to be 6'10" high (5' allowed) at property located at 3303 Chili Avenue in G.B. zone.

There was discussion about putting something up on the overhead projector.

Louis Buono and Chase Taylor were present to represent the application.

ADAM CUMMINGS: So before we get going with this, I would like to split this one up similar to the last one where we'll do the 18 square foot menu board signs and then we'll do the presale menu board signs as a separate decision.

Are you okay that? Go ahead.

MR. BUONO: My name is Louis Buono. The owner of the McDonald's at 3303 Chili Avenue. I'm here with Chase Taylor from Creative Realities who will be helping me with the installation of the signs if they're approved.

We're merely replacing the menu boards. Current menu is 42 square feet each equaling 84 square feet and we're replacing with them two new menu boards reducing the square footage dramatically.

JAMES VALERIO: We don't need a variance for the reduction.

MR. BUONO: The variance we're asking for is height. Right now the code states 5 feet. The menu boards we want to put in are at 6 foot 10 inches.

ADAM CUMMINGS: So, Eric (Stowe), that is a good question. Since we previously approved 42 square feet, that continues on, but they're going down to 18 square feet?

ERIC STOWE: Approved 42, reduced to go 18. They can still have 42.

ADAM CUMMINGS: Correct. But we're not considering a variance for two 18 square foot signs. We're just considering the height variance.

ERIC STOWE: Correct.

ADAM CUMMINGS: If you listen to the question.

ERIC STOWE: Correct.

ADAM CUMMINGS: Okay. That was clear. So the reason for the height of why you're going up to almost 7 feet tall?

MR. BUONO: It's the new layout of our menu boards. They're going more of a vertical state and condense the width just to be able to lay out our products easily and more simplified for our customers.

ADAM CUMMINGS: We just got into TV screens. Are you looking for TV screens?

MR. BUONO: These will be digital menu boards. Without -- so they are going to be used like they're currently used right now. So I know we get into changeable copy where we'll be changing our copy is from our breakfast to our lunch and that is where they'll be changed out. The other area, like I said -- just like we do on the existing boards, that we change out our lunch to breakfast.

JAMES WIESNER: I'm trying to figure out what is here, because there a lot of pictures here.

ADAM CUMMINGS: I can help you out.

JAMES WIESNER: If you can take --

ADAM CUMMINGS: Take the one you will explain and put it on the board so everybody can see it, please?

MR. BUONO: Can you put it right here (indicating).

JAMES WIESNER: Try to tell us what happened here because that is what I'm really confused about.

MR. BUONO: So this is the new menu board we're proposing (indicating). Right now, this is the one currently located in Spencerport, also in Brockport and Leroy.

JAMES WIESNER: This is replacing the sign.

MR. BUONO: The new one.

JAMES WIESNER: Four across.

MR. BUONO: Yes. This is the sign it would be currently replacing.

JAMES WIESNER: Essentially you're able to make it smaller because you will change the menu as the day goes on depending what meal it is.

MR. BUONO: Yes.

JAMES WIESNER: So that is the menu board and then there is another one, as well?

ADAM CUMMINGS: And then the presale.

JAMES WIESNER: The presale, what is that one?

ADAM CUMMINGS: We're not on that one.

MR. BUONO: When we -- I do have pictures when we get to that one.

JAMES WIESNER: Okay. That's all I need.

MR. BUONO: To his point, these old ones flip around from breakfast to lunch to dinner. This will be just a digital flip. You don't really condense anything in that area. It is the same exact menu items.

JAMES WIESNER: How do they change the existing one now? Someone has to go out and turn it?

MR. BUONO: Yes. Another purpose of this is for the safety and security of the staff, to be able to change it inside from a computer. It's actually automatically programmed to change at 11 o'clock.

MARK MERRY: In your application then, I assume when you say it streamlines the drive-thru offering, it streamlines it for the employee, not the customer?

MR. BUONO: The offerings are streamlined for the customers.

MARK MERRY: How so? Can you explain it for me?

MR. BUONO: Sure. It condenses the menu and we're able to go ahead and offer guests it laid out in a much more easily readable way for them when they drive through the drive-thru lane.

ADAM CUMMINGS: More pictures, less reading?

MR. BUONO: Correct.

ADAM CUMMINGS: That contradicts what we have in the fifth application tonight.

MR. TAYLOR: It has been found customers go through the drive-thru quicker with these new boards.

MR. BUONO: Copy is much more readable on these boards than from print.

MARK MERRY: I don't follow that logic, but I keep thinking maybe it will happen here in Chili. "While increasing the number of signs from two to four, the total square footage of signs will be reduced by 36 percent." Sounds good. Right?

"Generally these menu boards are not visible to the general public unless the viewers are using the drive-thru lanes."

How will that change now with these new Boards?

MR. BUONO: It won't.

MARK MERRY: It won't. So there's no improvement there. That is only two questions I had. Thank you.

ERIC STOWE: It doesn't change the square footage per then. Even if it is 18 they're doing. It just allows a greater height and -- and the same square footage. That is my only comment. This is to modify the existing variances or the existing variance for at least the height purpose. Not the quantity.

ADAM CUMMINGS: Correct.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott 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: The second part of it, this is the presale menu boards. This one, once again, we're going to the height, matching the height of the other one. So what you're replacing here is before it was two slender signs, next to each other and the one sign?

MR. BUONO: Correct.

ADAM CUMMINGS: However --

MR. BUONO: The height is also -- which would maintain the same height as the menu board.

ADAM CUMMINGS: This one you're showing here is Spencerport.

MR. BUONO: Yes.

ADAM CUMMINGS: I see it here, but the bollard is kind of messing with my eyes.

MR. BUONO: Correct. It is Spencerport.

JAMES WIESNER: This is replacing something existing, as well?

ADAM CUMMINGS: Yes.

MR. BUONO: No. Correction. It is not replacing.

ADAM CUMMINGS: Oh, I thought it was replacing.

MR. BUONO: I misunderstood your comment earlier. There are two variances here. The first one is to add this one, and then the second is to -- again, the height. Okay?

JAMES VALERIO: But still with -- even adding the two, you go from a total of 84 to 54 square feet?

MR. BUONO: Correct.

JAMES VALERIO: Which is reducing it --

MR. BUONO: Dramatically.

ERIC STOWE: Only to clarify my prior statement where they get -- the square footage on the 42 stayed the same, that is an amendment to repost the total square footage to 18 per sign. So I misspoke.

So it would be a total of 36 for the two signs. They are reducing and surrendering. It's an amendment of that variance to go higher in exchange for reduction I guess is the way to look at it.

ADAM CUMMINGS: Meaning they can't come back later and make it a 42 square foot sign.

PAUL WANZENRIED: Bingo.

ERIC STOWE: They're requesting to amend their variance.

ADAM CUMMINGS: Thank you for that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Mark Merry 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.

PAUL WANZENRIED: Dorothy (Borgus) looks like she wants to ask a question.

MS. BORGUS: Did you just close the Public Hearing?

ADAM CUMMINGS: I will reopen it again. I looked around. I would like to reopen it.

PAUL WANZENRIED: You had to read her facial expression.

ADAM CUMMINGS: I would like to reopen the Public Hearing.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: These are additional signs then?

ADAM CUMMINGS: Yes.

MS. BORGUS: Because I didn't know what a presale menu board was.

ADAM CUMMINGS: It's an ad; am I right?

MR. TAYLOR: More of a menu. Just for the second person in line, so the first person is at the ordering menu and this is visual to the second person in line.

MS. BORGUS: Okay. Are there prices on this sign?

MR. BUONO: Yes.

MS. BORGUS: There are?

MR. BUONO: Yes.

ADAM CUMMINGS: It looks like on the bottom portion. The top two do look like advertisements.

MS. BORGUS: To me, it looks like just more signs.

JAMES WIESNER: This is a constant. Won't keep flipping.

MR. BUONO: Only from breakfast, then to lunch. But right, it is not rapid or rotating on a minute basis. At 10:30 and at 11 o'clock on the weekends and then it goes to lunch offerings. Three new pictures for lunch offerings.

ADAM CUMMINGS: We don't have the site layout on the signs, but if you actually go around to the double drive-thru, this is right before you get to the kiosk to order -- I will call it order arches.

MR. BUONO: Canopy. Right before the canopy, right, that that person sits.

ADAM CUMMINGS: Right before you enter. As you said, you have one car in the queue ordering and the second person in line is staring at this so it is not visible from Chili Avenue.

MR. BUONO: No. It's not. They both face the exact same direction as the existing menu board.

MS. BORGUS: But my point is it is still more signs.

ADAM CUMMINGS: Yes.

MS. BORGUS: More signs and more signs and more signs. As it is, I don't know if they got a permit for those signs they have already put up between their line and Ace Swim Serve's line, but that was more signs.

I hope they got a permit for those two that are there, about texting your order in and somebody delivering your food to the car. I mean that -- that was more signs. It just seems like we're getting an awful lot of signs at McDonald's. And do other restaurants with drive-thrus have these quote "presale signs"? Is this something new that you're going to get from every drive-thru now?

ADAM CUMMINGS: Wendy's does have them. Burger King has them. Arby's has them. Taco Bell has them.

MS. BORGUS: Just seems to me we're getting sign happy.

FRED TROTT: You know a lot about fast foods.

ADAM CUMMINGS: I'm a civil engineer.

MS. BORGUS: End of my comments. I just think there has to be an end -- just so many signs. And -- and actually McDonald's is -- maybe they have been a little better lately, but I mean they -- I have blown them in I don't know how many times for having signs on the outside of that building. They know they're not supposed to do that.

Sometimes you can barely see out when you go in there to get a cup of coffee. You see the back -- signs. It is just sign heaven there. So for what it is worth.

ADAM CUMMINGS: Thank you.
Motion to close the Public Hearing?

Fred Trott 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: This one would need a sign permit to be obtained, the first one, as well.

FRED TROTT: Are we breaking them out?

ADAM CUMMINGS: We are breaking them out for two separate decisions.

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 an Unlisted action with no significant environmental impact, and James Valerio seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Moving onto 8A, which was the menu board signs, not the presale menu board signs. This one is only for the height. Or the amendment of the area from 242 square feet to two 18 square feet and the height of 6 feet 10 inches high. With one condition of approval. Ask for a motion?

Fred Trott made a motion to approve the application 8A with a condition, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 8A: Unanimously approved by a vote of 5 yes with the following condition:

1. Sign permit must be obtained prior to construction.

The following finding of fact was cited:

1. These signs will not be visible from Chili Avenue and are smaller than the existing signs that were previously approved.

ADAM CUMMINGS: Moving on to 8B, which is the presale menu board signs, which is two signs at 9 square feet each for a total of 18 square feet and the height to be 6 feet 10 inches. Ask for motion and one condition of approval of this to get a sign permit, as I mentioned earlier. So I would ask for a motion to adopt this application. With that one condition of approval.

James Wiesner made a motion to approve the application 8B with conditions, and Fred Trott seconded the motion. The vote on the motion was 4 yes to 1 no (Fred Trott).

DECISION: Unanimously approved by a vote of 4 yes to 1 no (Fred Trott) with the following condition:

1. Sign permit must be obtained prior to construction.

The following finding of fact was cited:

1. These signs will not be visible from Chili Avenue and will not adversely impact the neighborhood.

ADAM CUMMINGS: Any comments on the minutes from the June meeting?

JAMES WIESNER: Looks good to me.

James Valerio made a motion to adopt the 6/18/19 Zoning Board of Appeals meeting minutes, and Fred Trott seconded the motion. All Board members were in favor of the motion.

Fred Trott made a motion to adjourn the meeting, and James Valerio seconded the motion. All Board members were in favor of the motion.

The meeting ended at 9:42 p.m.