

CHILI ZONING BOARD OF APPEALS  
November 26, 2019

A meeting of the Chili Zoning Board was held on November 26, 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 signs?

FRED TROTT: I had one for Scottsville Road. I didn't see one.

ADAM CUMMINGS: Application 4.

JAMES WIESNER: I did see it. I didn't see the one for the Town -- the Townhomes.

ADAM CUMMINGS: The Townhomes. Which would have been posted. It was just tabled from last -- last month. So they had it last month.

JAMES WIESNER: Didn't see it last month either.

ADAM CUMMINGS: I have the email with the picture. Maybe not picture but email stating it was up.

Speaking of that, just to remind everybody, if you need a packet for Application 6 because it was from last month -- James (Wiesner), you can borrow mine. I can slide it over.

Any other issues? All right.

We'll move onto number 1.

1. Application of Michael Scudder, owner, 884 Brook Road, Rochester, New York 14624 for variance for: **A:** An undersized lot to be .7 acres to R. O. W. (5 Acres required), variance to allow a lot width of 101.00' (275' required), **B:** Variance to erect a shed/carport to be located 41.2' from front of property (100' allowed) located on Humphrey Road and 39.0' from east property line (50' allowed), on property located on 884 Brook Road in PRD zone.

Michael Scudder was present to represent the application.

MR. SCUDDER: Good evening. Mike Scudder. 884 Brook Road.

I started to build a carport and I thought I had read where I didn't need a building permit for the carport, but that was for temporary units only. So I received a letter in the mail saying discontinue building my carport and also they -- the lot I was on was an illegal lot.

So what had happened is in '74 when they settled my grandmother's estate, they sold off the property and at that time, they just divided the house up with one acre. So now here we are wanting to build the carport on an illegal subdivision and now I have to have it resurveyed, get the variance and go from there.

ADAM CUMMINGS: Yep. So bring it up to somewhat conformance. That is why you're here.

MR. SCUDDER: Yes.

ADAM CUMMINGS: To give you relief to not try to impose a resubdivision or dissolving the old subdivision to get it back to five acres. Which I don't know if that is possible.

MR. SCUDDER: No.

ADAM CUMMINGS: I don't believe so. Okay. Thank you.

So we'll start with letter A, which is the undersized lot.

Any questions from the Board?

FRED TROTT: Why is he preexisting, nonconforming? Is that -- so.

ADAM CUMMINGS: Uh-huh.

FRED TROTT: Why does he have to get it rezoned?

ADAM CUMMINGS: Not rezoned. He is asking for relief. Eric (Stowe) can explain it better than I.

ERIC STOWE: My understanding is at the time the subdivision was done, there was no filing with the Town for approval of an undersized lot.

ADAM CUMMINGS: This is -- it is not that it is preexisting, nonconforming. It is technically illegal. It was done improperly back then. We're just correcting that oversight now.

PAUL WANZENRIED: It has no approvals from the Town. The deed was filed down at the County, as a lot of time it was deed-only transactions with the County. We don't see it and we catch it when something happens on the property, if they put up a shed or want to put pole

barns up or whatever. That is what happens. So I asked them to come in to achieve a variance for the undersized lot.

FRED TROTT: What was the five-acre lot --

ADAM CUMMINGS: Introduced?

FRED TROTT: Yeah. Just curious.

ADAM CUMMINGS: I'm not positive when the Local Law was for that. I know we changed some zoning out there, but I don't remember when the 5-acre came in.

As you stated, 1974 is when the estate --

MR. SCUDDER: When we settled the estate and the property was sold off.

FRED TROTT: That's the only question I had about the rezoning.

ADAM CUMMINGS: Any ideas?

ERIC STOWE: It's not immediately available.

ADAM CUMMINGS: Okay. I think it was a while ago, is a fair statement to say. And this one was done in 1974.

FRED TROTT: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this Application 1A and James Wiesner 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: We'll move onto letter B, the shed carport. 41 by 2 feet from the front of the property where it is supposed to be 139 feet from the side where it is supposed to be 50 feet.

FRED TROTT: Just -- there is no way to put it anywhere it would be in compliance, correct?

ADAM CUMMINGS: Correct.

FRED TROTT: So it is a moot point. I am just pointing that out.

ADAM CUMMINGS: Thank you.

And they are fairly centrally located on this narrow lot we have here, the 100 foot wide lot that is there.

FRED TROTT: Yeah. Nothing further.

PAUL WANZENRIED: I don't think that entails as hardship, no?

ADAM CUMMINGS: A1, for sure. Which is why it is tied in with the first one, it is the undersized lot which is prompting us to this. I would like them to be separate decisions, but they are tied together in a sort of fashion.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this Application 1B 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 will be to obtain a building permit, which I believe they already notified you of that.

MR. SCUDDER: Correct.

ADAM CUMMINGS: And that's really with regard to letter B, which is the carport. We don't have any conditions for letter A.

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: First vote is letter A, the under size the lot variance.

Mark Merry made a motion to approve the application with one condition, and James Valerio seconded the motion.

DECISION ON APPLICATION 1A: Unanimously approved by a vote of 5 yes with the following finding of fact having been cited:

1A. The requested variance improves the situation of an undersized lot.

ADAM CUMMINGS: Letter B. Motion to adopt letter B application?

JAMES WIESNER: Does that have conditions?

ADAM CUMMINGS: Yes. That had the building permit must be obtained.

James Valerio 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 ON APPLICATION 1B: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. Due to the narrow characteristics of the lot, the proposed location is the further possible location from the property lot lines and minimizes the variance to the least amount practicable.
2. Application of Mr. And Mrs. Kenneth Stevens, owner; 3668 Chili Avenue, Rochester, New York 14624 for variance to allow total sq. ft. of garage area including a new 40' x 42' (1,680 sq. ft.) detached garage to be a total of 2687 sq. ft. (1200 sq. ft. allowed) at property located at 3668 Chili Avenue in R-1-15, FPO zone.

Kenneth and Cindy Stevens were present to represent the application.

MR. STEVENS: Kenneth Stevens, 3668 Chili Avenue.

MS. STEVENS: Cindy Stevens, 3668 Chili Ave.

ADAM CUMMINGS: I did want to -- before you say too much, I did want to let everyone know I did get Monroe County Department of Planning comments. They did make a comment in this matter that according to their flood boundary and floodway map from FEMA, the site may be located within the federal flood insurance 100-year flood plain boundary and that the municipality's Permit Administrator should be satisfied that the development will meet the requirements of the flood insurance program.

I did speak with Mr. Wanzenried -- who had spoken to David Lindsay and he is aware of this one?

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: Go ahead.

MR. STEVENS: We're trying to build this garage just for personal use only. I -- I work on cars and I just need a place to expand to.

ADAM CUMMINGS: You're looking at a height of -- it looks like the side walls are 14 feet.

Is that 20 feet at the peak?

MR. STEVENS: 20 feet to the peak.

ADAM CUMMINGS: How tall is your main house?

MR. STEVENS: At least 28 to 30 feet tall.

ADAM CUMMINGS: Okay.

JAMES WIESNER: Has anything changed since your application, first application many years ago?

MR. STEVENS: No.

JAMES WIESNER: Same size.

MR. STEVENS: Same everything. But we -- we went back and then we were -- the size was going to make a difference, you know what I mean? So we went with the 42 by 40.

JAMES WIESNER: Okay. Which is the same size is the last time.

MR. STEVENS: Yeah.

ADAM CUMMINGS: So you didn't change it.

MR. STEVENS: NO.

ADAM CUMMINGS: You made it seem like you reconsidered and made it smaller, but you didn't make it smaller.

MR. STEVENS: Right. Right.

MARK MERRY: Could you explain as to why on Question Number 5 you responded, "No"? I would like a little more information as to why you responded that way.

ADAM CUMMINGS: Alleged difficulty is self-created. I read the question for you. You replied, "No."

MS. STEVENS: Apparently I don't have that page here. What is the question?

ADAM CUMMINGS: The question.

PAUL WANZENREID: The alleged difficulty is self-created and your response was "No."

MS. STEVENS: I don't know. I will be honest with you, I filled that out. I have no idea what difficulty this --

ADAM CUMMINGS: It is the hardship -- that is asking you for relief from this zoning code. So this square footage requirement that we have in this Town -- not giving you the answer, but I will tell you the answer on that one is 99 out of 100 times it's "Yes."

There is no avoiding it. You bought the property as is. The code was in existence. So it is a self-created -- it's not the end all for our decision. It's a State question that was put in there for people -- when they do put "no," we do try to correct them.

MS. STEVENS: It was a 50/50. I went with "No."

ADAM CUMMINGS: Flip of a coin. So yes, that is one of the criteria. There is five of them that we consider here and with that one, it is self-created. You're choosing to have something that is larger than what the code allows and it's -- with your own volition to do that.

Anything else?

MARK MERRY: Do you have any letters of support with you tonight from neighbors?

MR. STEVENS: Yes, sir.

MARK MERRY: Could we see those please?

MS. STEVENS: Unfortunately, I only have the one copy. This is our most direct neighbor. They're directly behind us. We don't have anybody else that is really close to us because our house sits in the middle of the property.

ADAM CUMMINGS: Right. You have Brookview Road that would be on the west side and neighbor across that way.

MS. STEVENS: We have a creek running through our yard on the --

ADAM CUMMINGS: On your property you have a drainage swale.

MS. STEVENS: Flood relief from Black Creek.

ADAM CUMMINGS: And on the other side of that is another house and then you have the one --

MS. STEVENS: The one right behind and that is the letter.

MR. STEVENS: They're our most closest neighbor.

ADAM CUMMINGS: I will go ahead and read that. It is dated November 26th, Jim and Alberta Feiock who live next door to Ken (Stevens) and Cindy Stevens. "Totally have no problem with Mr. and Mrs. Stevens' application which was described in the letter sent to us by the Chili Zoning Board. We understand and we approve it," and I can confirm that was sent from their email address. That's James and Alberta Feiock at 1 Brookview Road.

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

ADAM CUMMINGS: I will add this to the project file. If you need a copy, you can go to the Building Department.

FRED TROTT: The placement where you're putting this proposed shed, is this where the -- you have like a low gravel area?

MR. STEVENS: That's correct.

FRED TROTT: That is where it is going to be?

MR. STEVENS: Yes.

FRED TROTT: You have -- when I drove by there, a couple boats or a boat and trailer?

MR. STEVENS: One is my boat and one is my buddy's boat. He stores it. I leave it there for winter, correct.

FRED TROTT: Will it be stored inside?

MR. STEVENS: Yes.

FRED TROTT: You already have a three-car garage; is that what I saw?

MR. STEVENS: Yep.

FRED TROTT: This will take everything outside and put it inside?

MR. STEVENS: Exactly. That's what we're trying to do, clean it up.

FRED TROTT: That's what I like to see. All right. Thank you.

MR. VALERIO: Fred (Trott) stole my question.

ADAM CUMMINGS: Well, I stole Mark (Merry)'s time.

MR. VALERIO: Any thought about just expanding the current garage?

MR. STEVENS: The more reason I'm trying to do with the height, I work on cars. I can show you pictures of them. I really want to put like a lift in there. Getting on the ground, I can't get up anymore. You know what I mean?

MR. VALERIO: I see. Okay. That's all I have.

ADAM CUMMINGS: Did you ever consider to alleviate this one, you still would need a variance but getting rid of the three-car garage?

MR. STEVENS: Not really. Really -- she would like to park in there. She hasn't parked in the garage in 22 years.

MS. STEVENS: 25.

MR. STEVENS: What we're going to do is use that for more of our house garage for her and my -- my kids and then we'll have this garage for storage.

FRED TROTT: Nice cars.

MR. STEVENS: Thank you.

MR. VALERIO: Nothing will be outside?

MR. STEVENS: Right. That is my whole goal, to get everything put away. You know what I mean?

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: Conditions of approval. One, you need a building permit that would have to be obtained from the Building Department.

I will also put one in, commercial business operations, storage of materials, et cetera, shall be prohibited --

MR. STEVENS: No problem.

ADAM CUMMINGS: -- in this structure.

I can't think of anything else. Anything else on the Board's side?

FRED TROTT: What about anything outside?

ADAM CUMMINGS: I don't believe I can limit outdoor storage.

FRED TROTT: Couldn't remember if you could or not.

ERIC STOWE: Per the code. Beyond what the code says.

ADAM CUMMINGS: Right. So meaning they could have licensed or registered vehicles -- not licensed but registered vehicles could be stored outside but not beyond registered ones if there were any.

I do need to point out -- well, one question. This is -- so even the location of the structure, you didn't have it further to the east at the previous application?

MR. STEVENS: No. No.

ADAM CUMMINGS: It was in the exact same location?

MR. STEVENS: Yep.

ADAM CUMMINGS: Further to the east is lower.

MR. STEVENS: Right.

ADAM CUMMINGS: Which would mitigate any height impacts or visual impacts to the neighbors because it would be lower, but once again, it is in the flood retention area so it restricts it from being able to be placed there.

MR. STEVENS: Right.

ADAM CUMMINGS: I do need to make one reminder and explain it to you, this is a variance for this piece of land. It is not for -- specific to you. I can recognize your cars and the hobbies that you're trying to do there, but ours is to assess the impact on the piece of land. This variance stays with it forever.

I just want to remind the Board of that.

ERIC STOWE: Forgive me. Did we open the Public Hearing?

ADAM CUMMINGS: Yes. We closed it.

ERIC STOWE: I knew the letter. Just didn't hear it.

ADAM CUMMINGS: I just want to remind that one.

But other than that, I think we have heard sufficient information tonight.

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.

James Valerio made a motion to approve the application with conditions, and Fred Trott seconded the motion.

DECISION: Denied by a vote of 3 no to 2 yes (Fred Trott, James Valerio) with the following finding of fact having been cited:

1. This requested variance is substantial in nature and would significantly impact the character of the residential neighborhood. Additionally, this application was identical to the application that was denied several years prior. As stated by the applicant, no changes were made to the application compared to the originally denied variance request.
3. Application of Mr. and Mrs. Peter Sawyer, owner, 29 Mapleton Drive, North Chili, New York 14514 for a variance to allow the total square footage of 2 sheds to be 211 sq. ft. (192 sq. ft. allowed) at property located at 29 Mapleton Drive, in R-1-15 zone.

Peter Sawyer was present to represent the application.

MR. SAWYER: Good evening. Peter Sawyer, 29 Mapleton Drive.

So we're looking for a variance for the two sheds that were pre-existing on the property when we bought the house a few years ago. When we bought the house, we had asked our realtors to make sure all of the permits were up to date and they said -- the other person's realtor said they were and nobody followed up on it and apparently they weren't. So we were looking to put a deck on the back of our house on -- this fall and when we went to get the permits for that, it was discovered that the variance was not granted for the two sheds previously, so we were just looking to get that up to date.

ADAM CUMMINGS: Thank you.

MARK MERRY: Was there any thought to taking one down and put another shed in place -- taking both down and putting one in its place?

MR. SAWYER: The goal was to do that, but we didn't have any specific time frames when we wanted to put them down into one -- one shed at this point.

MARK MERRY: I have the same issue as with the --

ADAM CUMMINGS: Yeah. So with our variance request today, we're just doing square footage so whether it is one structure or two --

MARK MERRY: As long as it is compliant.

ADAM CUMMINGS: It is the square footage. I just wanted to point that out.

MR. SAWYER: I would actually like to point out the square footage of the sheds is wrong on this notice that went out. It is actually 201 square feet, not 211.

ADAM CUMMINGS: Okay. On mine it is crossed out to 211.

Well, legally, we have to maintain the 211, so we'll maintain the 211 for our decision tonight. Thank you for pointing that out. I'm guessing -- I'm guessing it was a calculation of the overhang.

PAUL WANZENRIED: 211 is right.

ADAM CUMMINGS: 211 is right.

ERIC STOWE: 10.3 and 10.2. If you multiply those and -- by 2 it is 210 and a fraction.

ADAM CUMMINGS: So it would round up.

PAUL WANZENRIED: Round up.

ADAM CUMMINGS: So -- so -- I do believe you wrote in your application 2 -- 201.

MR. SAWYER: That's what the Building Department originally told me, so that is why there is confusion there.

ADAM CUMMINGS: Well, it was corrected on my original here and the public notice. So just to be clear, we're considering 211 square feet.

MR. SAWYER: Okay.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JIM STALKER, 31 Mapleton Drive

MR. STALKER: Jim Stalker, 31 Mapleton Drive. I live right next door. The buildings have been there -- I have no problems with the buildings there. And, you know, for -- whatever the additional square footage, it's fine with me. I have been there for, I don't know, 37 years or so. I remember when they were built.

ADAM CUMMINGS: I wish you would have told them to come get a permit.

MR. STALKER: I can tell you a story about that.

ADAM CUMMINGS: Not for tonight, but thank you. Thank you for coming tonight and for the comments.

Mark Merry made a motion to close the Public Hearing portion of this application and James Wiesner 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: They're already built, so I will not put condition of approval you need a permit.

But if you did build a new structure, you would have to get a building permit.

MR. SAWYER: Yes.

ADAM CUMMINGS: I don't have anything else.

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.

James Valerio made a motion to approve the application with no conditions, 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 no conditions and the following finding of fact was cited:

1. Requested variance is minor in nature and are not easily visible from the road right-of-way or neighboring properties.
4. Application of Mr. and Mrs. Thomas Beach, owner 2317 Scottsville Road., Scottsville, New York 14546 for a variance to create an undersized lot (Lot #2) to be 2.105 acres to R.O.W. (5 Acres allowed), variance to allow existing accessory structure to be 5.2' from proposed side lot line (8' req.) at property located at 2317 Scottsville Road in AC zone.

Thomas Beach and David Staerr were present to represent the application.

MR. STAERR: I'm Dave Staerr, Vice President, land surveyor of Parrone Engineering. I have the Beaches with me with their application. I see you managed to get the map on the board.

I was going to ask for a larger projector.

Situation is, is the Beaches own a home right now on Scottsville Road that is already a non-conforming, preexisting. The farm surrounding them owned by Doris Krenzer is being subdivided in a Planning Board application a month or two weeks from now. With that, they would like to secure additional lands around the existing home. As you can see, the fainted 100 by 200 is their existing lot. Surrounding the house, they want to secure the lands to the east and north, so the code requires five acres. They're going to ultimately have 2.1 acres, which obviously is -- requires a variance. I don't have -- so should I go on to the next one?

ADAM CUMMINGS: Well, one point is the 100 by 200 in terms of acres, how many acres was that existing lot?

MR. STAERR: It's 20 -- it's half an acre.

ADAM CUMMINGS: So we're jumping from half an acre to over two acres. We're not up to 5, but we're jumping up to 2.1.

MR. STAERR: Correct. With that, part of the situation is the land that surrounds is currently agricultural, being sold to a family member and he will continue to farm the land. So to continue taking more land would take away from the farm.

ADAM CUMMINGS: Right.

MR. STAERR: The other situation is there is an existing structure behind the house. Denoted on the map is a corn crib. There is no plans to tear it down. It was already there. But when we extend the lot line out, they would like to put the property -- it creates a substandard side tie of 5.2 would be existing -- I'm a little blind. I'll get my glasses back on -- and 8 is required. So we're looking for variance on that, as well.

ADAM CUMMINGS: All right.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Wiesner 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 don't have any conditions on this one. I did want to reiterate the point that this is an improvement to an existing -- I would say nonconforming situation with the small lot. And the 5.2 compared to 8 feet and it is large enough that we don't have to worry about State variances or State applications.

JAMES WIESNER: Who is doing SEQR on this?

ADAM CUMMINGS: I believe -- well, it will still be us. Just like I normally declare it. But you're right. They did do a SEQR short EAF from what I already. Unless I'm mixing up my applications.

Here it is. So there is a short form here.

We actually cover it when I do that long statement I read so fast that Sandy (Hewlett) is professional at catching. But I didn't see anything that jumped out, unless one of the Board members did in terms of the SEQR side. I'm in agreement it is a short form.

Are you in agreement that would be a short form?

ERIC STOWE: It's not a Type I.

ADAM CUMMINGS: Correct. I have even got it listed as Type II action. Would it actually qualify as an Unlisted at this point? It's a subdivision.

ERIC STOWE: Give me one second. Go ahead and I'll double check it.

ADAM CUMMINGS: They changed the law so I don't remember exactly.

ERIC STOWE: I'm wondering about that change.

ADAM CUMMINGS: Since it's residential, I believe it still stays as a Type II. But since it is next to the agricultural zone, I believe I'm going to call it an Unlisted to be safe.

ERIC STOWE: Setback clearly is the subdivision. I guess if you do Unlisted -- the setback -- the setback -- it's just the --

ADAM CUMMINGS: Right. The size of the lot with the subdivision.

ERIC STOWE: Yep.

ADAM CUMMINGS: Not that we're doing subdivision tonight, but we are doing the size of it. Is the subdivision going to Planning Board, or is it administrative?

PAUL WANZENRIED: Yes. Mr. Beach is here tonight. He is at the Planning Board on the 10th. And he has an application coming back before you on the 17th.

ADAM CUMMINGS: Okay. So I believe that goes with Jim (Wiesner)'s question. We'll do SEQR in terms of our variance actions, but not in terms of the subdivision action.

ERIC STOWE: Correct.

For clarity sake, you do not necessarily declare lead agency as it's not a coordinated review.

ADAM CUMMINGS: Right. Right. Right. All right. I'll move on.

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

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

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

1. The requested variance improves the situation of an undersized lot and preserves the surrounding agricultural lands. Additionally, the accessory structure has existed in this location for years without impacting neighboring properties, and will continue to do so.
  
5. Application of Mr. and Mrs. Jeff Spring, owner, 807/809 Morgan Road, North Chili, New York 14514 variance for: **A:** Create an undersized lot to be, .545 acres to R. O. W. (5 Acres required), variance to allow a lot width of 160' (275' required), **B:** Variance to erect an enclosed 12' x 18' porch to be 34' from front lot line (100' required). **C:** A variance to erect a 30' x 50' attached garage to be a total of 1500 sq. ft. (1200 sq. ft. allowed) and to be above the ridgeline of the dwelling; variance for garage to be 30' from side lot line (50' required) and 32' from rear lot line (50' required), **D:** Variance per an existing house to be 40' from front lot line (100' required) and 34' from side lot line (50' required) at property located at 807-809 Morgan Road in AC zone.

Jeff Spring and Pamela Spring were present to represent the application.

MR. SPRING: Jeff Spring, 51 Clifton Road. Pamela Spring, 51 Clinton Road.  
ADAM CUMMINGS: All right. Starting letter A, the undersized lot, um, it is depicted on here.  
Any idea when that was -- well, you're looking to subdivide it out now; correct?  
MS. SPRING: Correct.  
MR. SPRING: We're trying to combine two.  
ADAM CUMMINGS: So that is what that dashed line is --  
MR. SPRING: Yes.  
ADAM CUMMINGS: -- where the garage is. So you're enlarging it? You're enlarging your lot by combining those two?  
MR. SPRING: Yes.  
ADAM CUMMINGS: Any questions?  
JAMES WIESNER: I don't have any questions.  
PAUL WANZENRIED: Where are all of the dimensions?  
ADAM CUMMINGS: I see dimensions. From the side lot lines.  
MS. SPRING: They're there.  
FRED TROTT: Those are preexisting.  
PAUL WANZENRIED: That's not right. Unless I'm not seeing it from this angle, but you don't have the right map.  
ADAM CUMMINGS: 34 feet.  
PAUL WANZENRIED: Look at the maps you were given today.  
ADAM CUMMINGS: Which is --  
PAUL WANZENRIED: Look at this. Huh. Now, there is a variance.  
ADAM CUMMINGS: That's what I'm looking for.  
Thank you, Paul (Wanzenried). I don't know where mine went.  
FRED TROTT: These were given to us today.  
ADAM CUMMINGS: They were in the mailbox, yes. They are in the mailbox.  
FRED TROTT: And we're informed of the meeting Saturday.  
MARK MERRY: Should check your mailbox before you sat down.  
ADAM CUMMINGS: It was in the mailbox. It was on the website. You didn't get them in the mail, correct?  
FRED TROTT: I mean the notice --  
ADAM CUMMINGS: It has been on the website. The agenda has been on the website for a couple weeks.  
FRED TROTT: We didn't receive any notice.  
JAMES WIESNER: Anyways.

There was conversation at the dais.

ADAM CUMMINGS: In the mail box.  
FRED TROTT: No. The mail.  
ADAM CUMMINGS: That's what I said. In the mail box. Not mailbox. In your postal box.  
FRED TROTT: Yeah.  
ADAM CUMMINGS: Understood. This clears it up nicely.  
So we're talking about the under size, which is the dashed line. And the lot width is being expanded from 120 feet to 160.  
So, Jim (Wiesner), you didn't have any questions?  
MARK MERRY: Now that we have that that, was my only question.

FRED TROTT: We're just on the first -- the first after --

ADAM CUMMINGS: A.

FRED TROTT: I don't -- could you explain the -- I guess -- so -- could you quick explain how you had two pieces of property and --

MR. SPRING: We purchased it at a foreclosure auction and that is how it came. We wanted to put a garage up and were informed you can't straddle a property line. So here we are.

ADAM CUMMINGS: You bought the smaller lot at auction?

MS. SPRING: It came together. The --

ADAM CUMMINGS: So what you're doing is the two came together at the auction or the -- or the purchase and then you are dissolving that one and making the one parcel so you could build a garage?

MR. SPRING: Exactly.

JAMES VALERIO: Just wondering what size it was before.

MS. SPRING: Apparently, the story is the guy built the house in '47, wanted more after the fact, so his father-in-law sold him another spot for a --

MR. SPRING: 40 foot.

MR. VALERIO: For the farm or whatever was there.

MS. SPRING: That's the story.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this Application 5A 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: Moving on to letter B, to be 40 feet from the front lot line, which is expertly drawn up there with some very nice handwriting.

Any questions?

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this Application 5B 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: Letter C is for the detached garage to be a total of 1500 sq. ft. And to be above the ridgeline of the dwelling; for it to be 30' from side lot line and 32' from the rear lot line.

JAMES WIESNER: No questions. What we'll just ask -- obviously this is all part of a plan, all these variances. You purchased the foreclosed property. And your intent is to -- all these variances is to revamp the place and modernize it and make it look nice again.

MS. SPRING: You got it.

JAMES WIESNER: It's all kind of a package.

FRED TROTT: I just want to confirm you're going to be removing the old structure that was a garage?

MR. SPRING: Yes. Yes.

FRED TROTT: And why do you need -- why are you asking for it to be that big?

MS. SPRING: We have vehicles.

MR. SPRING: I have a lot of things. Just snowmobiles, motorcycles, I mean --

MS. SPRING: Just to keep -- we don't like having it outside.

MR. SPRING: I enjoy woodworking and I will have a little shop in there. But by the time you put two cars in there --

MS. SPRING: Motorcycle, lawn mowers, snow mobile. You have -- we need more room.

ADAM CUMMINGS: I would -- it is a small lot, but I would point out it is also in the AC zone, so there are other properties with large structures. Not the small postage stamp. Not that small of a lot, I would agree.

MS. SPRING: We did try to contact the farmers around us.

FRED TROTT: I see you had that in your note. Just the size of the garage. The size of the lot.

MARK MERRY: Do you have a fall-back plan for the garage, a Plan B? Do you have a sense maybe the Board not wanting to grant such a variance for the garage?

MS. SPRING: Just better to keep things inside than outside. That is all.

MR. SPRING: Not right now.

ADAM CUMMINGS: Along those lines, if that portion was denied, the 1500 square feet, you would still be allowed 1200 square feet. If you did that, would you still plan on using the same width and just go a length of 40 feet? So 30 feet by 40 feet?

MR. SPRING: Potentially.

ADAM CUMMINGS: And then -- obviously -- it's obvious, but the roof is peaking along

the 30 foot dimension.

So your height would remain the same, correct?

MR. SPRING: Correct.

ADAM CUMMINGS: So we would still be here for that variance for the height request. Even if it were a smaller structure. Unless -- unless you made it a narrower building, instead of 30 feet. To minimize the height requirement. What is the height or the ridgeline for the main structure. It's only a one-story brick. So it is probably 10, 12 feet plus the roof. So you're looking at 20 feet.

PAUL WANZENRIED: Not even.

ADAM CUMMINGS: Not even.

MR. SPRING: No. It's -- it's 8 feet high, the roof on the inside. The -- the first floor is 8 feet, but the first floor is also.

ADAM CUMMINGS: Off the ground.

MR. SPRING: Off the ground.

ADAM CUMMINGS: So I would say --

MR. SPRING: 20 feet. It's about 20 feet.

PAUL WANZENRIED: Is it the Board's attempt to lower the square footage or reduce the number of variances?

ADAM CUMMINGS: I was just pointing out those facts. I'm not stating one way or the other.

JAMES WIESNER: It would minimize the variance.

MARK MERRY: Yeah.

MR. SPRING: And there is -- it is well treed. There is also another row of trees right down the old property line that is not shown on that survey map. The whole backyard is treed.

ADAM CUMMINGS: Treed.

MR. VALERIO: I just say because there is no neighbors and -- it -- the -- whether it's 40 feet or 50 feet from the street, you're not going to know the difference. The frontage is still going to be the same. So to me it is inconsequential.

MARK MERRY: I think, James (Valerio), we're concentrating on the number of variances requested not so much visual --

MR. VALERIO: But we talked before about the size of the variance.

ERIC STOWE: Just for number of variances, if B is granted, D is unnecessary.

ADAM CUMMINGS: Oh, right.

PAUL WANZENRIED: D is a fail safe to legalize the property. Back to legalizing the existing structure.

ADAM CUMMINGS: I follow you.

ERIC STOWE: The front setback will go to 34 instead of 40, so D will not be necessary if B is granted.

ADAM CUMMINGS: If B is granted. Correct.

ERIC STOWE: Correct.

ADAM CUMMINGS: Sorry. I jumped to C.

ERIC STOWE: When you're talking about the number of variances --

ADAM CUMMINGS: Yes. Yep.

PAUL WANZENRIED: In addition, in the previous -- during the course of this procedure, um, the applicant had a shed that crossed the rear lot line which they took down because of having this property surveyed. It -- they found out it was crossing the property line. We couldn't approve it. So they did take a storage shed down to proceed with this.

ADAM CUMMINGS: You're depicting trees on that one side. You said there are trees on the other side as well as the rear?

MS. SPRING: It's pretty much trees.

MR. SPRING: There is a row of trees right here (indicating). Actually, there is a whole back -- a whole back -- like a double row pretty much all across the back.

ADAM CUMMINGS: That's pretty well screened. All right.

So you didn't consider or are not planning on reducing it down?

MR. SPRING: Not yet. I mean possibly 28 by 48, that's a common Amish size, but -- we're going to have it built.

MS. SPRING: I want to park in the garage.

JAMES WIESNER: Did you have any plans what it might look like or is it too early?

MR. SPRING: Just a standard pole building. Not a 14 foot high. Just 8 or 9 foot walls. And I think we could --

JAMES WIESNER: No storage in the top of it?

MR. SPRING: I think we could pitch the roof down enough to keep it below.

ADAM CUMMINGS: Below the ridgeline.

MR. SPRING: Of the current house.

ADAM CUMMINGS: If you could -- is that measured -- the height is measured in relation to the ground --

PAUL WANZENRIED: Dwelling.

ADAM CUMMINGS: Right. So it is in terms of visual comparison or measurement from it. It's not that there is a height from where the ground is it at that point. So yeah, if you can -- well, that -- I hate for you to have to come back in. If you're making -- if you're making that statement that you won't be above the ridgeline and you find out you have to be above the ridgeline and you come back in, I would rather avoid that.

FRED TROTT: One, if we grant it the way it is, she can make it 20 feet above the ridgeline.

ADAM CUMMINGS: Correct. Well, not -- you would get to the height restriction at that point.

FRED TROTT: I'm just saying, at some --

PAUL WANZENRIED: If he is building -- if he is building a 9 foot wall, okay, side wall, standard truss on a pole barn is probably a 4/12 pitch. 4 times 15 is 60. That's 5 feet. 9/12, 5 feet. We're at about 14? Okay?

ADAM CUMMINGS: Which is lower than 20.

PAUL WANZENRIED: Which is lower than 20.

MS. SPRING: But that side lot is a little bit higher. That --

PAUL WANZENRIED: It's -- it's fine. It is just based on doing rough calcs, ahead for the Board, your standard -- typically on a pole barn, you're at a 4/12 pitch. Okay? Because it's a metal roof. 9 foot wall. You can chalk it up that way.

ADAM CUMMINGS: So I --

PAUL WANZENRIED: He has some play.

ADAM CUMMINGS: So do we even need the variance request to be above the ridgeline?

MS. SPRING: Well --

MR. SPRING: I'm willing to cross it off. Are you?

MS. SPRING: Okay. I don't care.

ADAM CUMMINGS: I will talk to Eric (Stowe) on that one. Wouldn't it behoove us -- we're minimizing variances. So we could eliminate it. It is kind of vague.

ERIC STOWE: It would need to be withdrawn by the applicant.

ADAM CUMMINGS: If you would be willing -- it sounds like you would be compliant to be below the ridgeline. So if you're -- so if you're interested and willing on letter C, withdrawing the variance request to be above the ridgeline of the dwelling --

MR. SPRING: I'm okay with that. So I say so moved?

ADAM CUMMINGS: No. You just ask for it to be withdrawn.

MR. SPRING: We agree.

ADAM CUMMINGS: You're asking for it to be withdrawn.

Then the only other -- you can't really -- you have to have the separation distance from your one-story brick, your main dwelling, so therefore, it doesn't look like you could really push it closer to the house or -- or increase the side setback from 30 feet to being greater than 30 feet without encroaching on the house.

MR. SPRING: Right. Because there is a current, I guess, breezeway there that we would leave.

ADAM CUMMINGS: So -- okay. Which is why it is an attached garage. I thought that was a sidewalk at first. I'll be honest.

MR. SPRING: It's narrow.

ADAM CUMMINGS: And then the rear lot line, I don't have any other questions on that one. Anything else? We have Board questions on that one.

FRED TROTT: I think it's -- it's up to Jim (Valerio).

ADAM CUMMINGS: James (Valerio) and then the side table and then public.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

##### GEORGE EMENS

MR. EMENS: George Emens, 861 Morgan Road. Um, you folks, I assume, visited the property as part of the process. The shrubbery, the trees and so on and so forth well screen that property. If you're waffling on letter C, about how deep it should be and so on and so forth, you will never see the side of that building with those existing trees there. I mean it's a well-sheltered lot.

So me, as a neighbor, if -- I would rather look at a building that was longer versus potentially down the road something that was going to end up stored outside. First of all, I probably wouldn't see any of it, but I would rather see the fact it would be inside if it happens. So the size, the way that lot is -- is treed and -- and they're mature evergreens along that -- serves as a windbreak as well as a privacy shield or whatever. So no problem from this perspective.

ADAM CUMMINGS: All right. Thank you, sir.

Fred Trott made a motion to close the Public Hearing portion of this Application 5C 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: Letter D, which is the back-up plan. We'll still discuss it. I got to make it to 9.

PAUL WANZENRIED: Jess (Sudol) will occupy that time.

ADAM CUMMINGS: That's true. So if it is a back-up plan, we have already got -- 40 feet is covered under that one. So we have already discussed the front -- front setback, the side setback, the same as letter B.

JAMES WIESNER: What is the back-up plan from, if the subdivision doesn't go through?

ADAM CUMMINGS: No. The subdivision is done. But it's a back up of letters --

FRED TROTT: We still have not voted on them.

PAUL WANZENRIED: B and C.

ADAM CUMMINGS: If we vote down B and C, we can consider D.

JAMES WIESNER: Okay.

ADAM CUMMINGS: For the existing house.

JAMES WIESNER: D is if everything is left alone, preexisting.

FRED TROTT: A and B?

ADAM CUMMINGS: No. B and C. Because B is the attached garage, so if we voted down the attached garage size --

FRED TROTT: I see.

ADAM CUMMINGS: -- then our side lot line --

FRED TROTT: Okay.

ADAM CUMMINGS: -- we would have to consider the side lot line from --

JAMES WIESNER: We still do D if A, B and C actually pass?

ADAM CUMMINGS: If B and C actually pass, we don't have to do D. I have started reading (indiscernible) Adventure with my son. That's what it feels like. But I like it because it is good to have it publicly noticed just in case.

So we have already covered the Public Hearing for the aspects D just in those other parts, so I don't think there is any other relevance to grab public comments.

ERIC STOWE: But we need to have it because we said it would be heard.

ADAM CUMMINGS: Okay. It was in the notice.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of Application 5D, and James Valerio seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: So we will have A, B and C and possibly D.

FRED TROTT: And we're removing the above ridgeline?

ADAM CUMMINGS: Yes. He has already withdrawn that. So on letter A, I don't have any conditions of approval.

Letter B, we have got a building permit would be necessary because it's a porch.

Letter C, would be a building permit required for the garage.

And letter D would not have any conditions of approval.

ERIC STOWE: I think we would qualify this as an Unlisted, as well, under the substandard lot.

ADAM CUMMINGS: Yes. Yes.

Let me jot some notes quick. So moving onto request A, which is the undersized lot to be .545 acres where 5 acres is required and the lot width to be 160 feet where 275 feet is required -- actually for all of these, I will declare the Zoning Board as lead agency.

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

James Wiesner made a motion to approve the Application 5A with no conditions, and Fred Trott seconded the motion.

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

1. The requested variance improves the situation of an undersized lot and preserves the surrounding agricultural lands.

ADAM CUMMINGS: Now moving on, I ask for motion to adopt the application for letter B with one condition of approval that building permit for the enclosed porch be obtained.

Fred Trott made a motion to approve the Application 5B with a condition, and Mark Merry seconded the motion.

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. The location of the proposed structure is screened well from the neighboring properties. Additionally, the porch is located in a location which will not adversely impact the character of the neighborhood and will not limit any line of sight views for the public road right-of-way.

ADAM CUMMINGS: Now moving object to -- asking for a motion to adopt the application for letter C, which is the variances related to attached garage, excluding the posted request to be above the ridgeline of the dwelling that was withdrawn by the applicant. It does have one condition of approval a building permit must be obtained.

Fred Trott made a motion to approve the Application 5C with a condition, and Mark Merry seconded the motion.

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. The requested structure is not out of the character of other properties located within the A.C. Zone. The proposed location and requested variances will not adversely impact the neighboring properties, are well-screened, and the neighboring properties will not adversely impact the neighboring agricultural lands.

ADAM CUMMINGS: For letter D, we don't have to do any action on that, correct?

ERIC STOWE: I don't believe -- you have already granted the relief requested.

ADAM CUMMINGS: Right. So there wouldn't even need to be a Board vote for anything.

ERIC STOWE: So we'll have to have a withdrawal from the applicant.

ADAM CUMMINGS: So since you have the other three approvals, can you formally withdraw or give a request to withdraw letter D?

MR. SPRING: Yes.

ADAM CUMMINGS: Okay.

DECISION ON APPLICATION 5D: Withdrawn at the applicant's request. The following finding of fact was cited:

1. Variance request unnecessary as the other requested variances achieve the necessary relief.
6. Application of Howitt-Paul Road LLC owner, 758 South Avenue, Rochester, NY 14620, for variance **A:** Parking, 377 required, 301 provided including 13 land banked. **B:** Variance for loading berths-1 required, none provided. **C:** Variance to allow front parking per plan submitted for phase (indicating) (front parking not allowed), **D:** Variance to erect two-3 story mixed use buildings & one- 3 story apartment building to be 45' high (35' allowed), **E:** Variance to allow pad sites to be over 10,000 sq. ft. per plan submitted (maximum 10,000 sq. ft. pad sites allowed) at property located at 751 Paul Road in RB w/PNOD zone.

Jess Sudol, Jack Howitt and Rachel Howitt were present to represent the application.

MR. SUDOL: Good evening. My name is Jess Sudol, engineer from Passero Associates here this evening on behalf of Howitt-Paul Road, LLC and also this evening is Jack Howitt and Rachel (Howitt), who I'm not sure of her last name, so I will not guess.

MR. HOWITT: Same last name.

MR. SUDOL: Rachel Howitt. Great.

What I would like to do -- this is a very unique situation so I would like to go back and kind of address the overall plan and how we got here and what I'll do is go back and address each one of the area variances individually. So as long as that is okay with the Board, I'll continue forward.

The property in question is really the remaining portion of the Greenwood project, which has -- the start of construction, which has been completed, was all of the town homes that are currently out there now east of Wegmans. All that started back in 2009 with the preparation of and approval of an overall Master Plan for the Greenwood development which you see there on the top.

That plan was basically designed and put forth in accordance with the Chili PNOD zoning district. It's a very unique district to the Town.

I'm sorry. I can move this back.

So anyway, back in 2009, um, over 10 years ago, Mr. Howitt worked with our office. We

came up with this Master Plan. It went through the Town Board and then went to the Planning Board. There was multiple iterations. As the town homes were constructed on individual lots, I believe we appeared before this Board multiple times dealing with kind of ultimately trying to shape these lots to the townhome units and dealing with window wells and things like that. That is not necessarily germane to this conversation.

The good news for the PNOD, as we called it and eventually the Greenwood project, is the residential component of it was very much a success. The project was completed. All of the units were occupied. It went very well.

What we were left with, over in this area (indicating) -- if you don't mind if I step away with the microphone -- this commercial component that was designed at that time to include 50,000 square feet of retail and commercial buildings in approximately nine separate buildings. The main driver behind that was this kind of weird portion of their code which said you couldn't have any building bigger than 10,000 square foot.

So we put together what we thought at the time was a great plan, but then what we found out over the course of time, was that in order to construct all of the infrastructure associated with the commercial component of the project, you couldn't do that with just getting a 2,000 square foot lease here (indicating) or 4,000 square foot commercial lease here (indicating). There was really no big -- or no opportunity for us to get a big retailer because we were restricted by that 10,000 square foot limitation.

So over the course of time and trying to piece together leases, essentially everyone says "Hey, you don't have a project. You haven't started it yet. There is no buildings there. We're not going to sign a lease for 3,000 square feet where we can go move on down the road."

We did try in earnest for ten years -- or Dr. Howitt and his team did -- finally coming to the conclusion roughly a year ago that we really like to do something with this project. It's an opportune piece of land with its adjacency to Wegmans and Target and that commercial development. Why don't we consider what other opportunities we have.

That's how we came up with our current plan which is before you this evening, which currently contemplated those two L buildings are first floor retail and then they have two stories of residential above.

If you have been near or aware of any planning movements, certainly in these nodal-type areas or villages, it's really an idea that pushed forth because it gives you that work/play/live mentality, the whole idea of having a mixed use component in a village-type setting. It is really within the Chili Center area of Town.

And the building all of the way to the left, because it's all of the way in the back, we really didn't think offered much opportunity for retail so that is three stories of residential. We know that there is a strong residential demand based on our own project that is right next to it and how successful that has been. But that project has mostly two and three-bedroom units and we have a lot of people asking more of the one-bedroom units which is primarily what is proposed in this current project.

So once we got this idea, we went back and laid it out and said okay, this is a version of this -- although I think has been approved over the course of time through our work the Town Board and Planning Board. We started and went back all of the way to the Chili PNOD code which if you ever read it, it is a little bit lengthy, a little bit confusing and extremely specific to the previous plans for development. We found out that there were some deviations which are currently the variances that were requested here.

When you read through the Chili PNOD code, the process for getting to this point, it is a little bit lengthy, which we have been through the vast majority of it. It started with us bringing forth an application for the Town Board to adopt a new master plan. The old master plan was that black and white drawing I had previously. The new master plan is essentially what you see today. That application is then referred to the Planning Board. We went to the Planning Board and worked with them and made some fine-tuned adjustments. Then ultimately they recommended that we move forward with this revised master plan as you see it today.

After that, we went Town the Town Board. We met with them. We have been keeping them in the loop the whole time. And they, too, you know, found that, you know, this project was in the spirit of what is trying to be accomplished in this area and ultimately they adopted a new master plan.

So now we have a PNOD zoning code which has remained unchanged but a new master plan that has been adopted. The issue is the new Master Plan which has been approved and adopted now does not comply with that very specific code that was prepared over ten years ago which was designed and written towards a different Master Plan that has since been overwritten.

So again, I'm just trying to talk about the uniqueness of the situation because when you start to consider some of these variances, I really don't believe that there is an issue of precedence here because this situation, it is very unlikely it would ever come back before this Board where you have an approved master plan and -- at this current juncture of the entitlement process.

So with that, you know, just some of the typical project stuff. Obviously the idea of doing a mixed-use project in this area is looked upon very favorably for a number of reasons. It provides a transition for the heavily commercial areas to the west of us, to the residences to the east. Very early on in the process we did have a neighborhood meeting with all of the residents, or at least all of the residents in the Greenwood Townhome projects. They were invited with a good number of them showing. I believe there was two or three dozen at least. And It was received very favorably. Basically and not surprisingly, the residents are looking for something be done there. It has been kind of vacant land for the last ten years with nothing going on there.

The opportunity to have, you know, some more retail stores that they could walk to is certainly something that they were in favor of. And, you know, they appreciate the possibility of having more activity in this area. Again, with the one-bedroom units, a lot of young professionals, a lot of empty-nesters. Not necessarily a lot of kids and school buses and those kinds of things.

So with that, that is kind of the general background. But we have kind of got -- we have gotten -- I think and everyone so far as agreed a very good plan, but in order to deal with this PNOD code, we have this process to go through and we're on one of our remaining steps here with this Board. But with that, just going through the variances, the first one is on parking. When you look at what is required by the letter of law for parking, it is how much parking do you need for the retail plus how much parking do you need for the residential units.

Now, first of all, residential unit is -- the parking is not determined by whether it's a one-bedroom or two-bedroom or three-bedroom or four-bedroom. Which most codes, I think, are written that way and I don't believe they should be written that way. Because the amount of parking per unit is a function of how many bedrooms and how many people are actually living in it. In this case, as I stated, we're very much on the low end.

But what the formula does and the letter of law, it doesn't consider the mixed-use nature of the project. The one of the reasons why the mixed-use projects are so good for our communities is because of things like being able to share parking. You know, when everybody -- when that residential -- these people are away at work and a lot of that retail is active, there is opportunity to share those spaces.

We have had a lot of experience with this idea. We have worked in some more progressive areas of New York State. Not saying that Chili is not progressive, but, you know, down in Tompkins County, the City of Ithaca, even in the City of Buffalo are actually trying to find ways to reduce parking to the maximum extent reasonable because parking -- how many people have gone by all these huge big box retail stores, whether it's in Chili or Gates or Henrietta, and there is just seas of asphalt and nobody is parking there. You know, everyone is staring to realize we have to take a harder look at that and reduce parking what is actually required.

And the ITE, which is the Institute of Transportation Engineers, has recently come out with much -- a lot more publications based on what is actually required for parking, considering things like mixed use, like the number of bedrooms.

So with all that, we reference that manual because that is starting to become more of the industry standard in terms of what truly is required for parking for any given project.

So with that, the numbers, just to kind of recap them, just going straight, A plus B equals C, we're required 377. But when you go back and you look at the ITE manual and you use their data for projects like this, that number falls all of the way down to 281, which is a lot more consistent with what we see out in industry.

We're requiring -- not requiring, but requesting 301. So 20 more than what IT says plus an additional 14 land-banked spots which kind of puts us in between the two numbers what is currently required by the Chili Code and what is currently required or suggested by the Institution of Transportation Engineers. And by us reducing the parking and limiting it, obviously that allows us to save ourselves some green space, not have as much storm water impact and everything that goes along with putting pavement out there.

I will go through these one by one and we can go back to answer questions on each of them, Mr. Chairman.

ADAM CUMMINGS: That works.

MR. SUDOL: So B is kind of funny, a weird thing we don't come across very often. There is a section of the code and it kind of lumps every use that is not residential together. It says whether you're a hospital, you're an institution or you're a commercial area, you're required to have these loading berths, which is almost kind of like a loading dock. We have a berth that is inside the building. The type of uses here -- and we're asking for a 21,000 square foot plate. That plate has since been shrunk down a bit, but inside that plate we're not proposing 20,000 square foot retail. We're proposing stuff like over by the Leaf & Bean where you have a coffee shop, or you have a barber shop, a retail shop that sells some kind of trinkets or ornaments. That is where our interest has been coming from. Those type of uses we anticipate having here certainly don't have the need for that type of loading requirement.

What we did do is we did provide -- in addition to 360-degree access, we do have this access lane that is in the middle of the two buildings with areas striped out on other side that nearly meets the requirements for the loading berth where we wouldn't have to, you know, apply for that variance, but doesn't have an area where you can back a semi up to the building.

Again, that is not a -- that is not necessary for this type of development. Instead of what we done is we have designated an area where trucks can park, where they can loaded. Most of these types of small retail uses, at most, a box truck shows up at 7 a.m. before the store is open and they load with a handcart right through the front door. That is the type of stuff we're talking about here.

But we have provided that separate area which at one time was some parking that could be used for loading area and it doesn't restrict circulation because you still have the 360-degree access. We could connect the buildings and put a loading berth in there to avoid the variance, but that would be a lot of unnecessary cost and honestly wouldn't function as nearly as well for this project for its intended use is.

C is the variance for this -- for these few parking stalls that are technically in the front yard. They're in between the edge of our building and Paul Road. Going back to the Master Plan that was originally approved, back in 2009, you could see there was far more parking in this area

(indicating) up against Paul Road. We have reduced that substantially. We took away any parking that was facing Paul Road so you wouldn't have headlights facing out that way so you wouldn't be looking at cars. We felt it appropriate to have some parking stalls on this area (indicating), but only on the building side. But even though the parking is outside the front setback, because it is in between the building face and the right-of-way line, by the letter of the law, it still falls in the requirement -- or still falls into the front yard, which then triggers the need for variance. We made an effort to greatly reduce this from prior plans and maximize the amount of green space between the edge of pavement and the travel lane. Of course, again instead of having the travel lane close to the building parking on this side, we flipped it the other way. Again, we only limited to one side to try to limit the amount of impact to the extent practical there.

Because they are three-story buildings, we want to have 360 degree access for fire apparatus vehicles. That is something the Fire Department certainly appreciates. So there is going to be a road there anyways. It only makes sense that we would add some additional parking stalls for convenience.

For example, if we have a user that ends up, you know, in a 40 foot wide spot here (indicating), you know, of course we would want people to be able to park front door, not park up here (indicating) and walk all of the way around the corner or back here (indicating) and walk all of the way around the building. But we have only provided a handful of stalls there.

D, variance to erect a -- I'm sorry, or basically a build -- three-story building that exceeds the requirement -- or the limitation of 35 feet in height. We're actually just under 45, but just to be safe, we have called it 45. Um, there are a lot of reasons we have decided to do that.

First of all, if we were only going to do a two-story building with a pitched roof, there is not enough residential units on those floors above to be able to basically leverage the financing that is needed to build the project. The way it is currently structured with the residential units as currently planned, um, we are able to move forward with the project, build the retail and sign letters of intent and fill that retail area. If we basically cut our residential units in half, that would not be feasible for us.

Another way we could have avoided the variance would be to go with a flat roof. So instead of having a roof that takes us from, you know, 30 feet up to 43 1/2, which is where we currently are, but quite frankly, based on the residential scale of this neighborhood, we didn't think that's appropriate either.

I was going to show you guys the buildings quickly. Here are the buildings here (indicating). We have limited the roof slope to the extent that we can. Rather having a very steep pitched roof. But we were really going for this residential feel because it is part of the overall Greenwood project which does have a significant, obviously residential component to it. So in order to get this residential kind of theme, or continue this residential theme, we felt it important to have a flat roof with these gabled ends, rather than a really contemporary looking building with a flat roof. It certainly has its home in certain applications, but I don't believe that Chili Center is one of them.

Again, the Planning Board and the Town Board certainly have agreed with that approach. We have also been through multiple iterations with the Architectural Review Board who have been making suggestions along the way, but they also agree with the idea of having the pitched roof and slightly higher roof height. I don't think it has any line-of-sight impacts. When you look at the signage and parapets what is going on with Wegmans and Target and everything kind of right next to our site, those are all comparable heights. So we're certainly not a staunch character -- or not out of character with the neighborhood when it comes to the building height.

Lastly, the variance to allow these pad sides or restrict them to 10,000 square feet, you know, we are about twice that for each of the two bigger buildings. Again, that goes back to just -- I mean, quite honestly, the whole idea of having that item in the code is kind of crazy to me to begin because there are so much efficiencies that are accomplished by having this two buildings instead of four. Yes, we could have broke it up into four buildings but now you have twice as many elevators, twice as much common space. It just gets very inefficient through very little benefit to the project.

I do want to point you do see some building separations here (indicating). What that is, there is an actually an open-air pass-through through each one of these buildings. So if you parked here and you had to get over here (indicating), you could walk through the building instead of having to get around. It's a nice little pedestrian feature.

But again, that 10,000 square feet was certainly one of our major restrictions when we originally had the Master Plan for the PNOD, but our current approach allows us to be very flexible and accommodate retail users as they express interest in the project. So whether they -- they want 2,000 square feet or 8,000 square feet or 10 or 4, this approach gives us far more flexibility than if we were limited to just 10. Then we have an 8 and a 4. What do you do. But this way we can really accommodate everybody. We can be efficient on a residential design in terms of staircases and elevators and that kind of thing through what I feel is really no detriment to the project as a whole.

With all that, that was kind of a quick run through of where we currently stand. I'm happy to obviously answer any questions, but should we be successful tonight, our next step really is getting down to our last step is final approval from the Planning Board. I will say the Planning Board did issue a SEQR determination for the overall project, a negative declaration and did also issue preliminary site plan approval, but before we can go back for final site plan approval, we are, of course, required to appear before this Board and make our case for these variances.

ADAM CUMMINGS: Thank you.

One of the first questions I was going to have is on the front parking. The reason why they're in there, because obviously with letter A, the parking required, the front spaces go away. That changes that variance. And -- and lessens the amount of parking spaces you would be providing. But I feel you gave a good explanation of that. So I'm not going to belabor that point. We'll talk about C when we get to that.

But moving on with A, the parking, any questions from the Board on the parking? The parking quantity. Sorry. The parking quantity.

I'm in agreement with getting rid of the sea of asphalts and updating codes to make it more appropriate for the uses.

MARK MERRY: Could you restate what the parking ratio is for retail?

MR. SUDOL: What the ratio is, it is 5 spaces per 1,000. Or 1 per 200. We calculated that based on raw square footage of the outline of the building which, of course, does not take into consideration fire walls, common spaces, mechanical spaces, staircases, things like that. We took the actual footprint of the building and then divided that by 1,000 times 5 basically or divided by 200.

MARK MERRY: The ratio for the apartment?

MR. SUDOL: Two per unit. So, you know, with -- with a large majority of our units being one-bedroom units, there is no need for us to have two parking spaces.

MARK MERRY: Why is that?

MR. SUDOL: Because many of these will be people that are single. Data has shown, and which is why we referenced the ITE manual, the vast majority of one-bedroom units only require one parking spaces. In many cases now, based on current trends, zero parking spaces because people are electing alternate modes of travel. Not necessarily true for the Town of Chili but more for urban areas.

MARK MERRY: That is pretty conservative assumption on your part.

MR. SUDOL: Conservative?

MARK MERRY: If you were to eliminate the apartment house in the back, could you take those other two apartment houses and even move that parking off Paul Road even further?

MR. SUDOL: If we eliminated the apartments in the back, that would be the end of the project.

MARK MERRY: Could you eliminate the apartment house in the back and draw everything back off Paul Road so you don't have --

MR. SUDOL: We would not have a project without those units.

MARK MERRY: That's too bad. That's all I have for parking.

MR. VALERIO: I would just say, you know, I was on the Chili Center Master Plan Committee and this idea of mixed use was, you know, the idea that the Committee wanted. So this falls in line with that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this Application 6A 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 now letter B, loading berth.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this Application 6B and James Wiesner 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: Letter C, this is for the front parking discussion. Jim (Wiesner), any questions?

FRED TROTT: No further questions, but I would think that your Master Plan was no front parking.

MARK MERRY: That is correct.

ADAM CUMMINGS: I'll be honest, sitting on this Board, since the inception of that one, I still struggle with that requirement.

FRED TROTT: I do, too.

ADAM CUMMINGS: The intent was to do Chili Avenue and get to it be a village feel, but we then adopted on a Town-wide basis pretty much and we have granted a lot of variances from this Board --

MR. VALERIO: The discussions were Chili Avenue, where you would have pedestrian traffic.

MARK MERRY: That's not how it was applied.

ADAM CUMMINGS: Because we -- we don't have -- on the residential component of this

project, we do not have front parking, which it looks very nice, but I can't say as it is pedestrian friendly to walk along Paul Road.

MARK MERRY: That is not a big green space between the parking and Paul Road either. It's very narrow.

ADAM CUMMINGS: Right. Even on the -- on the residential side of things. Getting to the Father's House, that's --

MARK MERRY: Minimal.

ADAM CUMMINGS: Not -- it's not -- it's not extravagant for residential.

MARK MERRY: No.

ADAM CUMMINGS: I just want to point that out. Not like what you see on the bus routes on Chili Avenue.

MR. SUDOL: One thing I could say we could do that and I don't think it applies to any of the variances necessary but more of a site plan discussion, but just seeing some of the Board's concerns, this access right here (indicating) is a one-way, because we don't want people coming out that close to the entrance to Paul. We could very easily take those stalls and make them angled. What that allows us to do is pick up about another 10 feet in this drive aisle (indicating) and increase this green space by 10 feet, which is fairly substantial.

ADAM CUMMINGS: I don't want to get into site plan discussions here, but I did review that in terms of that and by having that a bi-directional wayfinding markings on it, I find it to be confusing similar to what we had Walgreens at the corner. So yes, if you could kindly suggest that, I think it would help. Because I'm scared someone is going to drive the opposite direction on that.

MR. SUDOL: I was just noticing that we have one way but perpendicular parking.

ADAM CUMMINGS: Perpendicular parking and you have parking in the pavement that shows both directions.

MR. VALERIO: I don't know what your tenants will be. You gave us some ideas. Let's say you have a small restaurant or something like that. Do you feel as though there is enough parking for that kind of business?

MR. SUDOL: Yes, because it would be a small restaurant, not a big restaurant. It would be something like the Leaf & Bean. I mean, it is kind of a restaurant, coffee shop.

But if you had 20 people there that got there in ten different cars, we have what we feel is more than enough.

ADAM CUMMINGS: Right. Especially with the land-banking and the larger portion in the middle -- the -- to the south of the two large buildings.

MR. SUDOL: We're comfortable where we're at now, but we also have the land-banking stalls that should we be wrong, which I firmly believe we're not, we do have the ability to add more in if needed.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this Application 6C 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: Letter D, this is for the two three-story mixed use and one three-story apartment building to be 45 feet high.

JAMES WIESNER: I have a few questions. A couple of them might be more general.

ADAM CUMMINGS: Okay.

JAMES WIESNER: You're showing the north end right now, and on the other drawing there was also an east end which would be a future build-out. So that is not under consideration for anything right now. If you go to the one behind it right now. And you see the -- the -- you have existing. You have future, future. This is filling in the space where the existing is.

MR. SUDOL: This is filling in all of the future stuff. We are replacing this plan, which was done back in 2009 -- last revised 2012 -- with this plan (indicating). So this is occurring in lieu of this (indicating).

ADAM CUMMINGS: Where it says existing --

MR. SUDOL: Those were the town homes that have already been built.

JAMES WIESNER: So you are filling in all this?

MR. SUDOL: This would complete the Greenwood development. There is no additional build-out.

JAMES WIESNER: So there will be some additional green space? That will not fill that whole area? It doesn't follow that whole shape per se.

MR. SUDOL: There is green spaces in here. All of the wetlands and green spaces that have been established already remain.

JAMES WIESNER: Okay. Now, the town homes have been widely successful. That is -- that can't be considered for the rest of the property as well as far as -- is this retail really --

MR. SUDOL: Well, the PNOD -- the spirit of the PNOD code is mixed use. There is some very elaborate and complicated ratios and calculations, but all of them are focused on this not being a strictly residential project. Having the mixed use retail component. That is really how we got here. This was the best way we found to accomplish it.

JAMES WIESNER: So it's driven by the PNOD code?

MR. SUDOL: Driven by the PNOD code, but also I do think when you look at the piece of land and you have residential east of it and very what I call high intensity commercial to the west, it is a good way to make that distance transition. All zoning codes aside, if you were to ask me to look at this in silo, I would say this is a perfect place for a mixed-use residential/commercial to make that perfect transition.

JAMES WIESNER: Going back to the height you're asking for 45 feet and that is actually probably going to be very near, if not the tallest building in Town. Are you aware of any of the buildings in Town that are that tall? I know the Microtel -- just looking at it here is 40 feet.

ADAM CUMMINGS: Microtel, and then I believe it is the insurance building behind the old Pizza Hut.

JAMES WIESNER: That was the tallest.

ADAM CUMMINGS: That's our the tallest one.

JAMES WIESNER: I'm not sure how tall.

MR. VALERIO: That back side is taller because of the pitch of the land.

ADAM CUMMINGS: That's our only three-story building.

JAMES WIESNER: It is on the edge of the Town. Not in the center of Town. It is a fairly substantial height.

MR. SUDOL: I'm very aware of that. As doing many projects in the Town of Chili, and proposing three-story buildings elsewhere in the Town of Chili and getting asked nicely to leave and come back with something else -- I was pleasantly surprised that both the Planning Board and Town Board said if we do three stories, this is certainly the place to do it. I feel the same being a resident of this area and using this area.

JAMES WIESNER: Why does it have to be three stories? Why can't it be two?

MR. SUDOL: Because if it was two -- remember this is all retail. If you make it all two, we would lose half of our residential units which the -- wouldn't make the project financially viable. It would be dead.

JAMES WIESNER: It was never intended to be residential. It was always intended to be commercial?

MR. SUDOL: Well, the initial Master Plan was all contemplated to be commercial, but based on the success of the town homes, the request for single-bedrooms units, it just seemed like a good fit and in the spirit of the Town's planning documents as well as the PNOD code to propose something that was mixed use. But in order for us to accomplish that, we do need to get to a residential mass that gives us the financial leverage to be able to actually build the project.

ADAM CUMMINGS: So with the original Master Plan, it has been ten years. There was no success in getting tenants with that Master Plan of commercial --

MR. SUDOL: Not a mass of tenants that would sign lease commitments that you could ever take to a bank to get financing to go build out the infrastructure you need for that site.

JAMES WIESNER: I guess the concern is retail has not gotten to be a more friendly place in ten years. It has gotten to be --

MR. SUDOL: It has, but if -- I think --

JAMES WIESNER: Challenging place.

MR. SUDOL: -- it is location dependent. If you look at the success of the redeveloped KMart plaza -- granted, it has Aldi's in it. If you're going to do retail anywhere, people generally look for traffic. Retailers look for traffic and visibility and where are you going to get more traffic and visibility in Town of Chili than right there? With everybody going to Wegmans and everybody going to Target and everybody seeing it and saying, "Look what is over there. That bakery, that barber, I should give them a call." Whatever it is.

ADAM CUMMINGS: I would also just -- it is speculating on what could go in the future, but with the new Chili Park Master Plan and the community building going back there, this would also be connected or able to be connected to that new community building going behind Wegmans.

MR. SUDOL: Absolutely.

ADAM CUMMINGS: I think it will change from what we have always seen.

MR. VALERIO: Just out of curiosity, is there any -- this has nothing to do with the -- with the line of questions. Is it going to be connected to the Wegmans parking lot?

MR. SUDOL: We are -- yes, I believe it will be. We're currently working with Wegmans on final terms of an access agreement that allows that pedestrian connectivity and then separately --

MR. VALERIO: Only pedestrian?

MR. SUDOL: Well, potentially vehicular. Likely vehicular. And then independent -- again, this is off the record, has nothing to do this application, but we're also working with providing a pedestrian connection around the west side of Target which would then tie the Community Center, all of the Target and Wegmans and all this project together. You could leave your kids at a sporting events for an hour at the Community Center and walk over and -- pretty healthy walk all of the way around.

ADAM CUMMINGS: Sometimes you need it when you go to Wegmans.

MR. SUDOL: But that's our hope.

ADAM CUMMINGS: So I would say possibly vehicular, but once again, nothing under our consideration tonight.

On the -- on the -- any questions?

MARK MERRY: I think Jim (Wiesner) raises some good points. Those are extremely

large structures for that area of Chili. I'm not sure -- the compatibility just doesn't seem to work. For either the town homes or the neighbors across the way.

Retail is also a concern. And I would ask for your LOIs, what type of businesses do you have committed to that retail use in that section?

MR. SUDOL: We don't have any today.

MARK MERRY: You said earlier you're targeting shops with trinkets and ornaments. I'm not sure what the retail shops are like that in Chili. I don't see that long-term success based on what else we have seen here in Chili.

MR. SUDOL: My answer to that would be -- the Planned Neighborhood Overlay District specifically called for retail component in this area. The previous Master Plan did have 50,000 square feet. We have reduced that down a bit from what was originally approved. But we don't have LOIs we're able to share with the Board.

ADAM CUMMINGS: Nor can we actually consider them.

MARK MERRY: In the event we were to move forward with approving this, would there be have a restriction that lower level has to be retail?

ADAM CUMMINGS: I'm going to get to that. That's going to be my question when I get to it. But I think Eric (Stowe) has something.

ERIC STOWE: We can't consider the nature of the tenancy. It would be any permitted professional use in the PNOD.

ADAM CUMMINGS: What I was going to jump in, just looking at the visual of this, it doesn't actually lend to me a perception of having retail at the bottom. Obviously, it is subject to change, but I did want to state that we want it to be retail. We do not want to have a surprise in the future where suddenly it is storage because it would be nice for the residential spaces to then have storage down at the bottom or parking garages.

MR. SUDOL: No. We have been very clear with all Boards and staff and the Supervisor and everyone from day one that this is going to be retail.

ADAM CUMMINGS: Perfect. Thank you.

I will state my opinion, but I actually differ from some that were stated. I think this is a great transition going back and forth from what I would call the traditional outdated -- we have one of the older-looking Wegmans, modern-looking Target and who knows if Wegmans will ever update. But I do see that KMart plaza and that whole area is going through a transformation and this just helps to modernize that. I would view this as similar to what you see at the harbor down in Watkins Glen. It's lending itself to the uses like we -- you see at Park Point, but we don't have a college here obviously. At least not in that part of Town.

But I did want to be clear, I don't want it to blend in. It needs to be mixed use and not residential.

MR. SUDOL: That's not a problem.

ADAM CUMMINGS: I think that was the point you're trying to make.

MARK MERRY: Correct.

FRED TROTT: You kind of took my thunder. That is what I was concerned about, is the retail model becoming -- from the pictures I didn't even recognize it as retail.

ADAM CUMMINGS: And they're subject to change. The tenants, I'm sure, will be driving some of that, too. I think we're clear on it.

FRED TROTT: When you initially came, we wanted apartments and they said it wasn't feasible at the time.

ADAM CUMMINGS: No. When they first came, it was all going to be restaurant.

FRED TROTT: Yes. They said we couldn't put --

ADAM CUMMINGS: Residential was going to be the town homes. There wasn't going to be a mixed building from what I remember.

FRED TROTT: I remember them saying that we can't do that. People don't want to be on top of a restaurant. Now we're putting two floors on top of the restaurant.

MR. SUDOL: I think some of that stems from -- and I was part of the project all along. We looked strictly at this site plan and said why don't you make these buildings (indicating) two stories, and the reality of some of the efficiencies I spoke to earlier to make a whole bunch of individual buildings two stories and then provide all of the accessibility requirements and elevators, that would certainly be restrictive. I think that was part of it.

MR. VALERIO: I don't have a question. Just I think, you know, situated between residents and the parking lot of Wegmans, which is like you have said, the most commercial areas we have, that if there is any spot in Chili for this, it's right there. That's my thought.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Valerio made a motion to close the Public Hearing portion of this Application 6D and Fred Trott seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

ADAM CUMMINGS: Lastly, letter E, this is the square footage per plan of the pad sites.

JAMES WIESNER: This is all part of PNOD again?

ADAM CUMMINGS: This is the PNOD. We will keep our opinions of PNOD out of that. We'll talk to the Town Board separately if we have issues with it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this Application 6E and James Wiesner 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: We have A through E here. SEQR has already been initiated, correct, Eric (Stowe)?

ERIC STOWE: It wasn't a coordinated, though.

ADAM CUMMINGS: Right. So we are lead agency.

MR. SUDOL: It's still a Type II area variance.

ERIC STOWE: Type II?

ADAM CUMMINGS: Unlisted.

MR. SUDOL: Unlisted.

ERIC STOWE: Okay. Making sure.

ADAM CUMMINGS: I'm going to go with Unlisted, but I want to make sure we're not declaring lead agency.

So I will declare that based on the information and evidence presented in this hearing, find this application to be an Unlisted action with no significant environment impact.

Is there a second?

FRED TROTT: Second.

The Board voted unanimously in favor of the motion.

ADAM CUMMINGS: So we're going to start out with the parking letter A. Parking provided -- 301 provided including 39 land-banked.

Fred Trott made a motion to approve the Application 6A with no conditions, and James Valerio seconded the motion.

DECISION ON APPLICATION 6A: Approved by a vote of 4 yes to 1 no (Mark Merry) with no conditions and the following finding of fact was cited:

1. The lower number of requested parking spaces will still provide sufficient parking for the proposed uses and will limit the amount of impermeable surface constructed for parking on the site.

ADAM CUMMINGS: Moving now to letter B, which is the loading berth.

James Valerio made a motion to approve the Application 6B with no conditions, and Fred Trott seconded the motion.

DECISION ON APPLICATION 6B: Unanimously approved by a vote of 5 yes with no conditions with the following finding of fact having been cited:

1. The layout of the development provides sufficient maneuvering spaces for delivery vehicles and does not require dedicated loading berth areas.

ADAM CUMMINGS: Letter C, this is the front parking per the plan.

James Wiesner made a motion to approve the Application 6C with no conditions, and Fred Trott seconded the motion.

DECISION ON APPLICATION 6C: Denied by a vote of 3 no to 2 yes (James Valerio, Adam Cummings) with the following finding of fact having been cited:

1. Per the Comprehensive Master Plan, front parking is not desirable in the commercial area along Chili Avenue and this extension of commercial businesses along Paul Road due to the proximity of residential properties to the north of the subject property.

ADAM CUMMINGS: That did not pass, so the front parking is not on there.

The letter D, which is the two, three-story buildings for the height -- the two three-story and the one three-story for the height of 45 feet.

James Valerio made a motion to approve the Application 6D with no conditions, and Fred Trott

seconded the motion.

DECISION ON APPLICATION 6D: Denied by a vote of 3 no to 2 yes (James Valerio, Adam Cummings) with the following finding of fact having been cited:

1. The requested variance was found to be substantial and higher than other residential buildings in the Town.

ADAM CUMMINGS: That did not pass. And letter E, for the pad sites over 10,000 square feet. Ask for motion.

James Valerio made a motion to approve the Application 6E with no conditions, and James Wiesner seconded the motion.

DECISION ON APPLICATION 6E: Approved by a vote of 4 yes to 1 no (James Wienser) with no conditions and the following finding of fact was cited:

1. The requested variance still provides the required retail/commercial coverage and does not significantly increase the lot coverage of the building and impermeable areas on the site.

ADAM CUMMINGS: To reiterate -- that one passed, but to reiterate all of them, letter A passed, letter B passed, letter C did not, letter D did not and letter E did.  
So thank you.

ADAM CUMMINGS: Now we move onto Board minutes.

Adam Cummings made a motion to adopt all outstanding Board minutes, and Fred Trott seconded the motion. The Board was all in favor of the motion.

Adam Cummings made a motion to adjourn the meeting, and Fred Trott seconded the motion.

The meeting ended at 8:53 p.m.