

CHILI PLANNING BOARD  
September 14, 2021

A meeting of the Chili Planning Board was held on September 14, 2021 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 Michael Nyhan.

PRESENT: Paul Bloser, David Cross, Joseph Defendis, Matt Emens, Glenn Hyde, John Hellaby and Chairperson Michael Nyhan.

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; Eric Stowe, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manger.

Chairperson Michael Nyhan declared this to be a legally constituted meeting of the Chili Planning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

**PUBLIC HEARINGS:**

1. Application of Fallone Properties, Ltd., 70 Quail Lane, Rochester, NY 14624, owner; for preliminary site plan approval of a 23 single-family residential subdivision (10 duplex buildings and 3 single family detached) at property located at 93 King Road in R-1-15 District.

MICHAEL NYHAN: First application is Fallone Properties. This application has been tabled at the applicant's request and will about heard at our October meeting.

2. Application of Speedway LLC, Store 7664, 1035 7th North Street, Liverpool, NY 130880 owner; for approval of a revised site plan and special use permit to allow outdoor sales at property located at 4371 Buffalo Road in GB District.

Stephen Hall and Chris Kardys were present to represent the application.

MR. HALL: Mr. Chairman, Planning Board members, Ms. Hewlett, my name is Stephen Hall. I'm an attorney for Speedway, LLC. I'm here with Mr. Chris Kardys, Senior Manager for Speedway.

This application is with respect to the facility at Buffalo Road. This facility has been and continues in operation as a convenience store/petroleum station with a car wash since final site plan approval was issued by the Board in 2007.

This application is for revised site plan approval in issuance of a Special Use Permit for some limited and specific outdoor sales as set out in the application.

I think most importantly some things to note, there is no change in -- or effect on use of the property, access, internal or external traffic circulation, traffic visibility, parking, landscaping walls or fences. No effect on drainage or storm water flow or management. No effect on utilities, service or demand. No change effect in lighting. No building alterations or construction. No effect in first-responder access or protection. No environmental concerns or concerns possibly generated and I think no impact on use of or development of adjacent lands.

Essentially Speedway offers year-round seasonal products as well as propane and ice in designated locations and size areas on the exterior sidewalks.

And per communication I received from the Town Engineer, as indicated in the application, originally the 36-inch ADA width is being preserved on the sidewalks.

The seasonal products can vary. They're currently firewood, water, windshield washer fluid.

Mulch, the other major product being placed outdoors is seasonally placed on pallets. The Town Engineer has -- we had a comment we have agreed to permanently mark the mulch and pallet locations with pavement paint so there is no doubt where the mulch is and can be. Based on locations of the mulch, I respectfully submit there is no issues with traffic lines of sight or visibility. Buffalo Road in particular -- I know I had some communications with the Building Department Manager and previously, mulch was located just to the north of the canopy here (indicating). There was a little bit of concern it could cause some constriction in traffic, so as a result, we're taking it off the pavement and putting it on a landscaping area adjacent to the curb.

So we have the mulch here (indicating). And then we have two designated locations on the sidewalk for the other seasonal products: Water, windshield washer fluid, firewood. And propane -- you know, standard propane operation on this side of the building (indicating) and bagged ice here (indicating). That's really the deal on Buffalo Road. You know, in effect, we're just simply proceeding with business as normal with no -- no change in our operation and nothing, I think, affecting the use of the property or any adjoining property.

That's the application. I'm really summarizing what is already in writing, but any questions, I'm happy to answer.

MICHAEL NYHAN: So two main things that are always a concern. One is, you know, from a public standpoint, it looked -- if it is not kept up and there is plastic wrap and it's blowing across the front yard or it is strewn across the front, the sidewalk -- so from a maintenance standpoint other than me just saying this out loud and hoping it is something maintained -- I guess I should have started by saying these comments are for both applications, so. You know, that is one of the big concerns, it can look like crap. So as long as it is maintained and you guys care for your stores and pick that stuff up, that is one of the big ones.

The other two you have addressed -- is them being in the way, right? And the mark-out, I am glad you agreed to that. That is probably the only way I would have been on board with that.

The other part is just with the ADA approach -- I have done this before for another client, but the other thing to keep an eye on is not just the width but also the approach on the doors from the ADA. So it is the full path from -- from the accessible spot. And what happens is, over time -- is a new manager comes in or a different person is there and they say, "Hey, what if we put up two pallets? What if I can get three out here? I can sell more wood."

It sounds great and it is great for sales, but all of a sudden now that sidewalk is completely impassable.

So those, you know -- Mike Hanscom did a nice job outlining those issues. As long as you're addressing them -- and it sounds like you have a plan for that -- I don't have any other issues.

MR. HALL: Most definitely. I know Chris (Kardys)' operations, they make efforts to pick up and maintain the product displays. Customers take a toll on them, but it is up to the operator to fix that up and clean up debris.

This -- there is no question about the ADA passage. There is -- I just kind of looked at it myself and I'm not an engineer, but Buffalo Road, there is clearly ample room. The sidewalks are, I think, typically wider than the 3 foot minimum, and -- or they're typically wider than the space needed to provide a 3 foot minimum, and I think -- you know, operationally, we will make efforts to keep the product in the approved areas and not encumber the sidewalks or prevent the doors from operating properly.

JOHN HELLABY: I'm on board with the ice machine and the propane because probably 90 percent of the stations around have those things. I am having a tough time swallowing the mulch, though. How does that make or break your business? I mean if I remember correctly, Speedway is now owned by 711?

MR. KARDYS: That's correct.

JOHN HELLABY: They run 3,200 branches or more. I guess out of all of those branches, how many of your branches actually handle this mulch? I have a hard time saying somebody is going to go up and gas up the car and say, "Oh, by the way, I need 20 bags of mulch. Can you throw them in my truck?"

I just don't particularly care for it sitting out there like that.

MR. HALL: I will let Chris (Kardys) address this in part. But obviously Speedway is in the business of making money and maximizing its profit and the retail world is shifting on everyone's feet. Everyone is selling everything. It is kind of a question of outshining your competitor. Why should I go there as opposed to here?

Mulch is a convenience that everyone uses and needs at a certain point in the year. Now, is it a make or break profit center? I don't think I'm speaking out of line and saying it is not, but at the same time, everything they can sell -- it's not a huge margin of business, so everything they can sell is certainly valuable. Again, it is just a competitive world and they're simply offering some services and products that maybe other gas station convenience stores do not. I think convenience stores, it's -- across the board in terms of what they offer, some offer less than Speedway. Some offer more.

I think mulch has become a product that people need and it's convenient for them to grab it. Maybe not 20 bags. Maybe just a couple of bags. But I think in terms of maintenance, they will keep it in the specified area within the pavement markings and -- Chris (Kardys)?

MR. KARDYS: Sure. Absolutely. That is -- it's a great question. Because when you think a convenience store, you don't think of that is a place to go for mulch. I have actually got about six or seven locations that year over year sell mulch products.

Like he said, we want to be able to try to sell whatever we can to help grow the bottom line. Those two locations that we had about a total of 20 pallets dropped off, we went through all of it. With the occasional -- you get the damage of customers, you know, moving it and the bag rips. We -- we write those off and dispose of those. But we actually went through all our pallets of mulch. Brockport, our new Clarkson location, Lyell Ave. Our site further down Chili Ave. here, Chili Center, North Chili, we have gone through all our mulch. We have put thousands of dollars to our bottom line.

Like any business, we're looking for opportunities we can help serve the public. Not everyone wants to go to a Walmart or Home Depot or Lowe's if they have something very nearby. Are we going through as much mulch as Home Depot or Lowe's? No. But it has become something convenient for some of our folks out here in the Greater Rochester area to purchase.

JOHN HELLABY: What is the time frame you're looking at? When you would get mulch there and carry it through?

MR. KARDYS: So we have -- our marketing folks from Corporate Office give us a heads-up, usually around April, "Hey, these locations we had last year, the vendor is going to drop off."

We're requiring -- required to be there to designate -- you just don't leave it in the middle of the lot. Those two locations we'll have it paved -- or the pavement paint-designated for there. Once they unload, we verify it and sign the invoice. It's usually mid-to late April once everything is set.

Usually by mid-August, late August, we are through with the sales and we're done with it until the following year.

JOHN HELLABY: You have been in operation now for what, about 13, 14 years or something like that?

MR. HALL: Um, in Buffalo Road?

JOHN HELLABY: Well, Buffalo Road and Chili Center. I think both.

MR. HALL: As a Speedway -- as a Speedway, I'm not sure.

MR. KARDYS: Speedway, we're talking about 2014. The -- our location in North Chili used to be a smaller -- really small building, almost like a gas only. That was rebuilt some years ago. The one over here used to be an Express Mart before we purchased the chain and converted that. I couldn't tell you. I couldn't tell you what Express Mart had prior. But we have had, I believe, mulch displays out there for the past two years now.

JOHN HELLABY: Just an observation on my point looking around today. You got pallets strewn out there. You have shipping tubs stacked up on the sidewalk along with bread trays down by the Dunkin' Donuts. Those are the kinds of things that don't look real good.

MR. KARDYS: Some of that is Dunkin' Donuts' equipment, which we'll make sure they're communicating to our guys. They're a franchisee. We rent the space out to them, but we'll make sure we're having those communications.

JOHN HELLABY: All I have right now.

MR. KARDYS: Perfect.

GLENN HYDE: Around the building, you're going to be able to restrict into the marked area so it won't turn into like a flea market out front?

MR. KARDYS: Correct. Correct.

PAUL WANZENRIED: I have one question. You're showing -- where you're showing the mulch -- you're saying mulch on the curb. But is that the grass? Isn't that the grassed area?

MR. HALL: Yes. It's a landscape, grassed area leading up to the curb edge.

PAUL WANZENRIED: So what is in white is where you have had it in the past and what is in pink is -- or salmon is where you're going to put it? Or you want both locations?

MR. HALL: Both -- the current location is not shown. It used to be in the pavement about here (indicating). But we're going to be placing the mulch up on the curb here (indicating) as well as down the pavement -- am I looking at the right location? I'm sorry.

PAUL WANZENRIED: It's on both locations.

MR. HALL: They are a little different. Buffalo Road, the mulch used to be in this vicinity (indicating). On pavement is -- is gone. Now it will be up on the curb here (indicating) and the landscaped area as well as in the pavement, a smaller amount in this vicinity (indicating).

PAUL WANZENRIED: So my question for the Board is when you have them delineate where they are going to put this, they're going to go out and spray paint the grass which will be gone by June?

MR. HALL: No. I think -- Mike -- I'm sorry. But I think the comment from the engineer was to spray paint the edge of the curb where it would be on the --

PAUL WANZENRIED: Why not be consistent? Why have it in two spots?

MR. HALL: I think part -- part of the reason it ended up this way, we wanted to avoid -- even though we didn't believe there was an issue with mulch being on the pavement area down here (indicating) in terms of constricting traffic flow, to avoid any issue, we decided to put it on the curb up here (indicating) and to, you know, preserve the same quantity to put some in the paved area over here (indicating) where, you know, the -- the pavement width is much larger and there is no issue for traffic flow. So basically the idea was to eliminate any issue what was on the pavement, put it on the curb and just locate some -- some remaining quantity over in the pavement area where there is more space? Am I answering your question?

PAUL WANZENRIED: Yes.

On the Buffalo Road site, those three that are in the corner, will that have any impact on your ability to deliver fuel since they're close in proximity to the --

MR. HALL: I think the short -- being a small world, in all seriousness, my secretary's husband, Randy McGoffin (phonetic), is a truck driver with AGR who actually delivers fuel to the site most of the time. I ask him, "Randy, do you have a problem with this?"

He said, "No."

I asked him in terms of the original location where the mulch was down on the pavement.

He said, "No, I never had any problem." So I just had it on -- from the horse's mouth. The guy deals with it. He said, "The only problem I ever had is where customers pull out on the concrete for no good reason and sit in the cars and I have to wait for them."

But the mulch never presented any problem even in the previous locations.

PAUL BLOSER: So again, for clarity, these are going to be parked up on the grass then, the curb?

MR. HALL: These -- this pink shaded area will be on the grass, you know, more or less flush with the curb.

PAUL BLOSER: So come fall or August, you will have killed all of the grass underneath it and there will be a mud swath there.

MR. HALL: I don't have an immediate answer for that one. I guess it's possible.

MATT EMENS: You could mulch it.

MR. HALL: Entirely possible. That is something we'll have to --

PAUL WANZENRIED: Again, I go back to why not just keep it on the pavement? Why are you shifting it from one spot to the other?

MR. HALL: I mean, since we're talking about it, that creates another problem. I think -- I frankly don't have any problem with putting it on the pavement down here. It was really only done to express a concern at one point in terms of the traffic flow. Just trying to take it off the table completely. I don't think there is a problem with traffic flow putting it on the pavement in the same area. I think -- I don't think there is an issue. So I would be happy to move it off the landscaped curb area into the immediately adjacent pavement area. I don't think there is any issue.

MATT EMENS: Making sure it is together. The spread out is not really ideal. Divided by two or -- or three and five. If it was together, I think it would be better, too.

MR. HALL: Yeah. In terms of putting it together, where? Do you have any thoughts, Chris (Kardys)?

MR. KARDYS: Yeah. We had -- we had them all together. We didn't hear from any of the customers, any of our vendors that there was any issues impeding any kind of traffic. To the point, you know, our fuel drop areas are off to this side (indicating). So our trucker always uses this entrance (indicating) to get in there to drop fuel.

Our other vendors, they will pull off to this side (indicating). Pepsi, Coke, any of our -- Lake Beverage, beer distributors, they will always pull off to this side (indicating) to deliver.

Our big grocery supply, McLane, they will always pull up towards the front because they have our biggest loads of -- dropping off. We didn't have any issues impeding any traffic flow at either location that were brought to my attention.

MR. HALL: Would there be any reason not to put all eight of them, you know, right here (indicating)?

MR. KARDYS: No, there wouldn't be because that is how we had them the last two years.

MR. HALL: Okay. Then I guess that is our thought to -- to move those five down on the pavement and move these three over adjacent so you have eight in a row adjacent to the curb.

MICHAEL NYHAN: Okay.

MR. KARDYS: And marked out so that way our vendor knows when he delivers, that is where they go, just as requested.

MICHAEL NYHAN: You could provide an updated sketch to the Building Department.

MR. HALL: Yes.

MICHAEL NYHAN: Can you put that down facing the audience so they can see the colors that you were talking about?

MR. HALL: This is the -- the locations would be in eight pallets, going along the curb right here (indicating). If anyone wants to look at this, I'm happy to pass it around.

MICHAEL NYHAN: Anything else, Paul (Wanzenried)?

MR. RETTIG: Could you put those up on the board, please?

MICHAEL NYHAN: Sure.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Hello. My name is Steve Ginovsky. I live at 19 Hubbard Drive in North Chili.

All this here is a far cry from a gas station to a grocery store to a beer-selling store.

First of all, the mulch and wood, as you would say, that is out there, it is like ten pallets wide. It's over 6 to 8 foot high. It is sitting on the inside curbing of this -- I still call it a gas station. I remember it as an AMCO, by the way.

Anyhow, with this here being put there, at that location, it is more than an eyesore.

And it's not just the gas station selling a couple cans of oil and antifreeze and window-washing material. It's an ice machine they have out there. They have the propane. Yeah, I understand you can't put that inside a building because of the -- if a fire starts, you're going to have one heck of an explosion.

But what this -- with this mulch outside and selling it, I don't think for the bottom line -- by the way, the Town of Chili will let you have mulch all you want right over here at the new Town Hall. There is a whole big pile. All you got to do is bring your own shovel and a basket or box. Or a bag. Whatever you can carry or use.

And it is a mess. I'm the person -- I will tell you, I tried speaking with someone from Hess. Got zero. I called -- I get in touch with the Town Compliance. "Oh, we have to send a letter."

I had to do a formal complaint this year. And I don't -- I have better things to do with my life. I'm 71 years old. I have lived in this Town since 1960. And I know what is going on. And taking the mulch and sticking it on that curb, that's a State right-of-way. What, are you crazy? There is a shoreline under there.

And just running it for a few months? No. That there went from March all of the way until probably about a month and a half ago and there are broken skids, plastic laying all over the place, blowing all over and it looks like garbage.

And originally when this Town gave the variance to open up this gas station, which was a Hess and a car wash -- that was the big thing -- Mr. Cross, your father, was Chairman at the time, I believe, that passed it.

I think this should not be. And there is -- it is an ugly site. And 8 foot high, and you're getting gas, you're going to worry about someone that is going to jump out and mug you and stuff at night. A 24/7 operation? Give me a break.

This is a lawless Town. What -- other residents have stated it. And I question this. To get a clarification, I got zip. "Oh, we have to call Corporate."

This is their response. It's better to ask for forgiveness than permission to do it.

And to you. Guess what? I don't like living in a dump. If I want a landfill, I will go out here -- in Riga we have a big one out there. And I think they're running out of space.

And with those statements, and about what has been happening here in this Town with selling stuff out on the sidewalk, curb -- I don't care if it is 30-inch or 6 foot, you can't get into the store.

Sorry about the -- the diaper I'm wearing, but I'm bringing it in anyhow. And I do have -- I have had the two shots by the way. With this variant, I can't tell you where that is going.

But with everything that has been going on -- and I have to go with a full complaint just to get their attention and this is the response of the Town? I would deny it flatly. No ifs, ands or buts. It looks like garbage. I don't want to live in a garbage town. Been living here since 1960. I think I have a little bit of rights. And I have been around.

Thank you very much.

MICHAEL NYHAN: Thank you, sir.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I just like to clarify something. Am I hearing from the applicants that they have already been selling mulch at these locations? Was that what I heard?

MICHAEL NYHAN: I believe.

MR. HALL: That's correct. And the --

MICHAEL NYHAN: I will get it, Steve (Hall).

Yes, that is what you heard.

MS. BORGUS: Without a proper permit?

MICHAEL NYHAN: That's correct, I believe.

MR. HALL: Mr. Wanzenried brought it to our attention it needed to be addressed and we have done that. That is what happened.

MS. BORGUS: What I heard sitting here is a lot of reasons why this Board shouldn't just automatically stamp this okay. I have not heard one good reason, any reason, I guess, that they need to do this just to keep up with the competition. That's not a reason to change our -- our -- the plan that was given to them in the beginning, which, you know, was approved.

This Town has always known what it wanted when it came to being clean and neat and this Town spends a lot of tax dollars keeping this Town picked up so we don't have a lot of junk laying around and we have enacted codes and rules so we can have the kind of a Town we want. This doesn't fit the kind of a Town we want when we're going to start giving up grass and a little bit of landscaping these -- these stations, stores, whatever you call them, have so that they can sell a product that is readily accessible, inexpensive and can be bought at a gazillion places. Now we should give up grass? I don't think so.

And if you approve this, when -- when do we see that space that has been designated going to Christmas trees? Topsoil maybe? Some bags of fertilizer? I mean, what it -- will be next if you open the door to this?

I agree with Mr. Hellaby I can go along with the propane. People need that and it can't be stored inside. And I can even see water. You know, but that's -- it's very bulky and it's hard to shelf.

But I -- I just don't see -- I just don't see mulch. It seems kind of ridiculous for this many people, the Board included, to be sitting in this room talking about anything as insignificant and ridiculous as trying to change our -- our plans and our code and the outlook we have over mulch. This is -- this thing ought to be turned down on both locations. They -- they're successful the way they are. They don't need this. As I say, I have not heard a why.

Thank you.

CHARLES RETTIG, Coldwater Road

MR. RETTIG: Good evening. Charles Rettig, Coldwater Road.

Thank you for -- Mr. Chair, for having the vendor put the drawing up. We in the audience without seeing that and being able to evaluate -- it does make a difference. Even though I know it was addressed to the Board and the Board did see it.

A couple of questions. I didn't catch -- Speedway is now owned by whom?

MICHAEL NYHAN: 711.

MR. KARDYS: 711.

MICHAEL NYHAN: 711 Corp.

MR. RETTIG: Thank you.

And the other thing I did not catch was the name of the Speedway representative here tonight, please?

MR. KARDYS: My name is Chris (Kardys).

MICHAEL NYHAN: Chris (Kardys).

MR. KARDYS: Chris Kardys. That is my last name.

MICHAEL NYHAN: Thank you.

MR. KARDYS: You're welcome.

MR. RETTIG: Addressing the comments made by the attorney for the representative, there would be no effects except to use other than seasonal products. Again, this particular store -- Speedway store did have extensive mulch out in front. They're now asking for a Special Use Permit.

They mentioned the possibility of firewood, propane. Again, the comment is, they got the foot in the door. What else?

The attorney also said this would be business as normal. Well, with the items presently that have been -- they have been selling without the Special Use Permit, that's not normal.

Markings on the sidewalk, on the macadam, that's no way to go. On the grass as mentioned, those markings can disappear. They won't be redone for ages.

And let's get to the important point. That is putting a product and pallets within a right-of-way. That is improper. That's illegal and should not be.

When we're talking about ice, an ice machine or ice box, or propane, outside a building logically, that's reasonable. Certainly more reasonable than any other product.

There have been other stores in the -- Chili that have tried to sell products outside their store in the past. I will mention one. Byrne Dairy in West Chili. And it was stipulated at that point that you could sell any product you want to, as long as it is under your roof line. There is nothing wrong with that. That's a store. That's where it is supposed to be. Then that is where it should be in this case.

So my comment is, no matter how the attorney tried to flower the product, the presentation, it just doesn't go in Chili based upon our present rules, regulations and laws. That's what we have a Town Code for. That's why we're having this meeting. And apparently this meeting is kind of after the fact. However, this Board has the jurisdiction and they should exercise it according to the way it has been exercised for every other gas station and such convenience store on the corner selling gas as their major product and this should be no exception.

Thank you.

BONNIE CRAWFORD, 1442 Davis Road

MS. CRAWFORD: Bonnie Crawford, 1442 Davis Road.

I am just having some difficulty with having this out, because I thought at one Planning meeting that we were trying to get the landscaping more so it looks more kind of like a village. I don't remember if it was Mavis Tire, but not to have a lot of stuff and I found that on those islands that a lot of times the landscaping is not kept up with the bushes and the grass and -- and riding my bike around there, it is very pleasant when you see more landscaping as opposed to products out there. So if they could put it back towards their store, you know, I think that would be more appropriate.

MICHAEL NYHAN: Any other comments or questions?

Michael Nyhan made a motion to close the Public Hearing portion of this application, and John Hellaby seconded the motion. The Board unanimously approved the motion.

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

MICHAEL NYHAN: Additional discussion?

DAVID CROSS: I guess if this was a new site plan, it just seems like we would probably put a condition there be no outdoor storage of material. Thinking back, you know, to the Mobil station on Scottsville Road in the last couple of years we did that. The gas station that just went in across from Byrne Dairy in West Chili -- I don't know the name of it -- right at the north -- the east corner of Chili and Union.

So that -- it is kind of where we have been recently, and I kind of find this one difficult for -- for outdoor storage. I do. 6 foot high -- it's not in the right-of-way. That is inaccurate. But close to the right-of-way. And if they can keep the product closer up towards the building, I think that would be much more appropriate. Okay to have propane and ice outside, as well.

MICHAEL NYHAN: It is the chips out front in the curb?

DAVID CROSS: That far out in front of the building, yeah.

ERIC STOWE: To comment on that, this is a new provision in the code that was recently adopted by the Town Board to make it a specially permitted use for outdoor sales, not outdoor storage. But this was in the code revision specifically for that purpose, to allow the Planning Board to look at the location where the outdoor sales would be taking place and have this happen as opposed to just people starting to sell outside. So it is a specially permitted use to allow outdoor sales, but the location you -- you guys can determine.

Also, as Mr. Emens commented, we have had discussion about the sales close to the building and the sales out by the road. I just want to make sure you guys in your resolution are clear which ones we're talking about. As opposed to a blanket outdoor sales permitted.

MICHAEL NYHAN: Okay.

GLENN HYDE: My issue again is the mulch. It is not the activity up at the store.

MICHAEL NYHAN: Okay.

JOHN HELLABY: I agree. Like I said, it has always been about that mulch and, you know, it's -- to see it on a piece of paper, you don't get the real perspective. Because I remember all them pallets sitting down Chili Avenue down by the Gates Fire Hall and there was a lot of that down there.

Again, I don't have a problem with the ice machine -- or the Happy Ice thing and the

propane. As I said, go look at all these gas stations. They all got them. And that's the only thing you can do with it, is put it on the outside wall of the building.

But as far as that goes, I -- I -- they can't prove to me it makes a difference whether they will survive another year or not.

JOSEPH DEFENDIS: Can they take one of the parking spaces?

MICHAEL NYHAN: Along the side of the building, you mean?

JOSEPH DEFENDIS: Side or front. Do they need --

JOHN HELLABY: I still am not crazy about that. It is the sheer magnitude of it.

JOSEPH DEFENDIS: It's an allowed use.

GLENN HYDE: Maintenance of the look.

JOSEPH DEFENDIS: They might maintain it up -- more if it is up by the building than down by the road.

MICHAEL NYHAN: All right. So what I'm hearing, the outdoor sales that are up against the building --

JOSEPH DEFENDIS: Those are fine.

MICHAEL NYHAN: -- the Board doesn't have a problem with. It is the outdoor sales of the mulch out by the curb, is the sticking point; is that correct?

PAUL BLOSER: Sale of anything out by the curb.

DAVID CROSS: Yeah.

MICHAEL NYHAN: Okay. All right. Have you considered the ability to sell this or -- not even the sale of it at all, or just mulch in general? Is that what I'm hearing? Or if it was up near the store, is it something that would be more acceptable?

DAVID CROSS: If it was up near the store under a roof line. Like the conditions placed on Byrne Dairy a few years back, I think that is acceptable.

MICHAEL NYHAN: Remember, the reason those conditions were placed on those establishments, there was no provision in the code to have the outdoor sales. The code has changed. It does now permit it. Now we're looking at site plan, does it fit the area.

DAVID CROSS: They were still creating a Special Use Permit to make it happen.

MICHAEL NYHAN: That is why we're here.

MATT EMENS: The other thing, too, to over-summarize, we're going from 0 to 100. We're going from no outdoor and then we grant six things in two different areas. It may be that it can't -- that that is not the responsible way to do it.

JOHN HELLABY: I'm sure Counsel would hit me over the head, but it's a real fine line between this Special Use Permit and outside storage. The way I see it now, is at what point do you say it is not storage and is actual sales? It could sit there for the next three weeks and not sell one bag of it. In my mind, that is outside storage. You can't do that.

ERIC STOWE: The thing to keep in mind is not looking at the product that is being sold and more the dimensions, right? Whether it is mulch or -- I don't care what is being sold there. They have proposed a 4 by 4 by 6, right? And it's the size and the scale, not necessarily the product in particular. That would be the better area to focus on, is the size and the scale. We have referred to it as "mulch" because that is what historically it has been, but they wouldn't necessarily be limited to mulch. It would be that size location for outdoor sales.

MR. HALL: I just wanted to respond to a few things that have come up. In terms of height and width, I mean there has been talk about some extreme heights. We made clear up here that, you know, the paved markings will determine exactly where everything is. And we have height limitations. So there is not going to be a problem with height limitations. They will be complied with.

It is not on the right-of-way. It is not in an easement area. This is Speedway's property. There is plenty of room for traffic to move through. We spoke about that. So we're not really talking about right-of-way concerns.

I think we have already established we're not giving up any grass. It is coming off the landscaping area into the pavement.

In terms of getting the foot in the door for other things, no. All we're entitled to do is what is here. We're not looking for a foot in the door. We're looking for particular products in a particular area and that's it. So this is not going to be like a Pandora's box. That's not happening. That is not what we're seeking. That is not the way we do business.

I guess just simply all I can say is Speedway is in the business of making money in an extremely competitive, low-profit margin environment. They make money selling mulch. I think that a private enterprise that is surviving out there deserves a little bit of deference in terms of what they need to sell and how much to compete. I just think that's really kind of the -- of the arena out there on the street. It is something they found out they can sell and make money, and I think what matters is they proposed to do it in the right way and keep things neat and in accordance with what dimensions and -- you know, exactly what we have laid out here, clearly in black and white. So I just think -- I have a little bit of trouble with whether they're entitled to make money selling it and whether they need it -- I don't think that is a purview of the Planning Board, with all due respect.

MATT EMENS: I would agree with that. I think the big thing that has been discussed is you're putting -- you're putting something that most likely will have a spray-painted sign on it or some kind of big sign on it in the front yard. That is a big deal. Because we go back to some of the comments that -- that we have made up here and as we work hard with signage and other things of how we -- how you're presenting your business and building in our Town, right -- and to Dorothy (Borgus)'s comments and some of the other people here tonight, um, I agree.

I'm not going to hold you back from selling mulch, but I think there may be a better place to put it. And if you could put it not in the front corner -- we have already kind of talked about where it could be moved. Maybe that one needs just a little more thought. I just -- in my experience, I think it is going to be really difficult for anyone to even -- even when we do put some of these things on here and we talk very specifically about square footages, locations and types of materials that we're agreeing to, it is still going to be pretty tough to enforce.

And, you know, I can -- I can just picture now the tractor-trailer guys shows up and the manager comes out and says, "We're supposed to have eight pallets."

"I have ten left. You're going to get ten."

There is nothing anyone in the room will do to stop that now. But putting it in the front yard, once again, on the front corner is not the best place for it.

MR. HALL: What I'm hearing is the -- is the issue here is the mulch as opposed to the sidewalk product displays. I'm not sure Chris (Kardys) at the moment can say, "Can we put mulch somewhere else?" Taking account of parking and a lot of other considerations. You know, I guess it is something that we could go back and look at.

PAUL BLOSER: I think the Chili Avenue store is going to be even tougher because you have the drive-thru.

MR. HALL: Yes.

PAUL BLOSER: Any extra space is a premium.

MR. HALL: That's what I'm saying. I'm not sure there is another place to put the mulch. It is hard to stand here and say we can put it there instead. I think it has been put in a location where it is now because it did work best.

PAUL BLOSER: My biggest problem with it is they're both the main four corners of our two towns. North Chili and Chili Center. They're the main four corners of both towns and we're storing stuff right out at the road and it's -- it's location more than anything else. I'm not as much about the product as much as I am about presentation and location of it. It is just -- it is there right in your face at our main four corners for people coming through.

MICHAEL NYHAN: So I think based on what we're hearing, Steve (Hall), if we could separate this application to approve the -- if you wanted to, to approve the items that were seasonal that are under the canopy or up against the building and if you wanted to go back and take a look at another spot for the mulch and come back just for the mulch at another time, or we could just take the application as it is and we'll move forward and we'll take a vote.

MR. HALL: No. I would say I like Plan A. There is no real issue with the rest of it. Let's just give us a second chance on the mulch. I think that is where the issues are.

MICHAEL NYHAN: Do you see any issue with that?

ERIC STOWE: Not as long as we have a clear resolution that it doesn't apply to what is depicted -- I'm looking at the Buffalo Road site plan -- but not approving the mulch on pavement, mulch on curb. It is the provision the Speedway seasonal products then current and offered.

And the other portion theoretically you would want it withdrawn at the applicant's request to re-present.

But correct me if I am wrong, Paul (Wanzenried), that is a new application?

PAUL BLOSER: Can I ask another question? Chris (Kardys), you're more in tune to the business side of this -- than you, with all due respect.

When you're getting this product, you're probably doing a mid-max on it throughout the season. What is your normal delivery load? Is it four? Is it six? Is it eight?

MR. KARDYS: Each one -- we have actually two vendors. One, they always communicate. It's usually eight. But they have -- they won't go less. They won't go more because they can only fit X amount on a truck. He does one straight shot for our locations and we're given a very specific, "You are getting eight. You are getting eight."

They won't come out for 4, 4, 4. But it's very, very specific.

PAUL BLOSER: So is that irregardless of what you have in inventory at that time?

MR. KARDYS: We would always have zero in inventory. It is a mulch product. We're not going to carry it through the winter. At this point what we don't sell through in September, we account to waste, which is very little. Usually damaged packages and we'll discard it. Pallets go away. In fact, we have a lot of customers that will want to come and grab the pallets for firewood.

PAUL BLOSER: If you have five pallets left on-site and they're coming through with ten, that is just the routine? Will you now have 15?

MR. KARDYS: They will not deliver a second load. They -- they know what our inventory is. If we show a zero inventory on it, they will call and request for a second load, but they will not deliver another load if we have current inventory.

PAUL BLOSER: Okay. So you go to zero before you will do a run?

MR. KARDYS: Correct.

PAUL BLOSER: And before you're in the next batch?

MR. KARDYS: To kind of go back, if we -- if it is August and we have five pallets left, our corporation will send down printed corrugated signs that will say "Mulch 10 for 10" and we end up blowing through the products. Sometimes we end up donating to like the local Fire Department. We have done that before, as well, if we have had -- if we have had extra mulch bags on hand.

But when it comes to the water -- water, we keep it outside during the spring, summer months. As fall goes into winter, we use that for washer fluid for our customers. Convert that.

PAUL BLOSER: Is the standard of these 4 by 4 by 6 high all of the time?



MR. KARDYS: Yes. They're pre-wrapped. One big pallet and they're dropped. We will unwrap them. Again, our signage is all printed by a vendor. We don't spray paint or draw signage. They're corrugated signage we can stick into the displays themselves or use them as yard signs in locations we choose. We try to put them in the pallets because if we put them in the yard, our vendors come through and doing the mowing, they take them off and then guess what? They don't put them back on and it becomes it blowing down the street in someone's yard. We don't want to do that.

ERIC STOWE: I think we need to be clear on what we're voting on, right?

Mr. Hall, is your client withdrawing the mulch on pavement and mulch on curb component of both applications, the Chili and the Buffalo, and asking to proceed only with the seasonal products depicted underneath the canopies on the building?

MR. HALL: We're withdrawing the mulch in both locations but keeping everything else on the table. We'll put it that way.

ERIC STOWE: Okay. Mr. Chairman, I think just with respect to that, you do want to delineate 4 feet long, 4 feet high, 2 feet wide by 4 feet long and 4 feet high which are your dimensional restrictions.

MICHAEL NYHAN: Say that again.

PAUL WANZENRIED: Seasonal products.

ERIC STOWE: The seasonal products, the dimensions that are depicted on the site plan.

MICHAEL NYHAN: Right.

ERIC STOWE: Then if you want the pavement marked with where it is permitted, just that that also be a condition.

MICHAEL NYHAN: Right. There will be nothing on the pavement. That is being withdrawn, correct?

ERIC STOWE: Unless they're putting it on the sidewalk. I was not clear if that is happening, as well.

MR. HALL: Pavement markings were only recommended for the mulch.

ERIC STOWE: I wasn't clear it was just limited to that.

MICHAEL NYHAN: It was.

MATT EMENS: I think if you stick with location and size as noted on the site plan for the other materials, you're covered.

ERIC STOWE: Yep.

PAUL WANZENRIED: But make those -- make that a condition. Put that as a condition. Okay? It has to be written as a condition. That's the only way I can enforce it down the road.

Okay? When they have got -- however many --

MATT EMENS: Two ice machines.

PAUL WANZENRIED: -- two ice machines, two things of water. I have to go there and count. Somebody will make a complaint. Mr. Ginovsky will make a complaint. It is something that I have to be able to enforce. It has to be enforceable dimensionally. Not material.

MR. HALL: If I could comment, we came up with the dimensions and we'll live with them, so obviously with no problem with that.

PAUL WANZENRIED: That's fine. I just need that on the record.

ERIC STOWE: To be clear, it also references the 3 by 4 propane and the 5 by 8 bagged ice, so just trying to capture there are one, two, three, four separate locations of outdoor sales, is my count.

Mr. Hall?

MR. HALL: We're talking about --

ERIC STOWE: This is Buffalo Road. Excuse me.

MR. HALL: Yes. We're talking about one, two, three, four.

ERIC STOWE: For Chili Ave. it's one, two, three, four, as well?

MR. HALL: Yes, that's correct. I basically say as per the plan.

ERIC STOWE: Without speaking for Mr. Wanzenried, but if we say as depicted on -- I don't see the architect -- SJ Weller map Exhibit 2 dated June 3rd, 2021, does that give you enough reference for 3371 so you can pull it and look? More for enforcement rather than writing down each of the things, if we reference the map -- as you finish up. I'm sorry.

Mr. Chairman?

MICHAEL NYHAN: All right. Could you say that again? I'm sorry. I was typing.

ERIC STOWE: If we reference on the Buffalo Road project, the SJ Weller map -- drawing Exhibit 2 issued -- or dated June 3rd, 2021, for 4371 Buffalo Road and Union -- it says "Road," but it's "Street" -- and --

MR. HALL: It is then last revised July 13th.

ERIC STOWE: With last revision date of July 13th, correct? Thank you.

Let me know when you're ready for Chili Avenue.

MICHAEL NYHAN: Well, we're hearing that separate.

ERIC STOWE: We have been bouncing back and forth, so.

MICHAEL NYHAN: I will notate it on here -- application for the sale of mulch was withdrawn at the applicant's request. All other items as outlined for seasonal sale as referenced on SD Weller sight plan Exhibit 2 dated July 13th, 2021 are part of this application.

ERIC STOWE: With last revision date of July 13th. And it's Exhibit 2 on that plan. Just so when somebody goes to pull the map, they know what they're talking about.

MICHAEL NYHAN: Any other conditions?

For conditions I have the application shall comply with all pertinent Monroe County

Development and Review Committee comments.

All previous conditions imposed by this Board that are still pertinent to the application remain in effect.

Application is subject to all required permits, inspections, code compliance regulations.

Any signage change shall comply with Town Code including obtaining sign permits.

Outdoor storage on the sidewalk must maintain a clear path on the sidewalk that meets or exceeds ADA standards, which is currently 36 inches. Clear width measured on the sidewalk surface excluding the curbing.

Application is for the -- application for the sale of mulch was withdrawn at the applicant's request. All other items as outlined for seasonal sales as referenced by SJ Weller site plan Exhibit 2, last revision dated July 13th, 2021, are part of this application.

Does that cover it?

ERIC STOWE: One more time with the SJ.

MICHAEL NYHAN: Site plan Exhibit 2, last revision dated July 13th, 2021.

ERIC STOWE: I was going to say the only permitted locations for outdoor sales are those as depicted on that.

Right, to clarify, that those locations are the only ones and those dimensions.

MICHAEL NYHAN: The only location for seasonal sales as referenced by SJ Weller site plan, Exhibit 2, last revision July 13th, 2021.

ERIC STOWE: And Paul and I -- Paul (Wanzenried) is talking, that the location, I guess, is -- correct me if I am wrong, but it -- it is the location or the dimensions of the sale? Right? They can't exceed -- you have four boxes, and it's not to exceed that. If they want to move it 2 feet down the sidewalk, as long as it meets the other conditions, does the Board care?

MICHAEL NYHAN: No. It is the dimensions for the seasonal sales.

PAUL WANZENRIED: Quantity, versus location? This is all against the building.

MICHAEL NYHAN: Okay. The application for the sale of mulch was withdrawn at the applicant's request. The dimensions for the seasonal sale as referenced SJ Weller site plan Exhibit 2, last revision dated July 13th, 2021, for part of this application.

Does that cover it so you can enforce it?

PAUL WANZENRIED: Yes.

MICHAEL NYHAN: Okay. Thank you.

PAUL WANZENRIED: Thank you.

MICHAEL NYHAN: You're welcome.

With those conditions of approval --

MATT EMENS: SEQR.

MICHAEL NYHAN: Thank you.

Michael Nyhan 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 John Hellaby seconded the motion. The Board all voted yes on the motion.

MICHAEL NYHAN: With the conditions that I have read, the application of Speedway LLC, Store 7664, 1035 7th North Street, Liverpool, NY 130880, owner; for approval of a revised site plan and special use permit to allow outdoor sales at property located at 4371 Buffalo Road in GB District.

JOHN HELLABY: Second.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Applicant shall comply with all pertinent Monroe County Development Review Committee comments.
2. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
3. Application is subject to all required permits, inspections, and code compliance regulations.
4. Any signage change shall comply with Town Code, including obtaining sign permits.
5. Outdoor storage on sidewalk must maintain a clear path on the sidewalk that meets or exceeds ADA standards, (currently 36"). Clear width measured on sidewalk surface excluding curbing.
6. Application for locations depicted as mulch sale was withdrawn at the applicant's request.
7. The dimension and locations for the seasonal sale products as referenced by S.J. Weller site plan Exhibit 2, last revision dated July 13, 2021 are approved as depicted on said site plan.

MICHAEL NYHAN: I know we took them separately, so we'll do the same thing for the Chili Avenue store. You were as specific, as I recall, on your drawing for that, as well, right?

MR. KARDYS: Yes, that's correct.

MR. HALL: Mr. Chairman, do you want me to go through the same thing with Chili Avenue?

MICHAEL NYHAN: Let me announce it. You can just say that -- say that you -- the same plans for Chili Avenue and we'll open it up to public comment.

3. Application of Speedway LLC, Store 9919, 1035 7th North Street, Liverpool, NY 13088 owner; for approval of a revised site plan and special use permit to allow outdoor sales at property located at 3152 Chili Avenue in GB District.

Stephen Hall and Chris Kardys were present to represent the application.

MICHAEL NYHAN: So the same will apply to this application. You're applying for the outdoor sales as depicted on your drawing.

MR. HALL: That's correct. Let me just change the drawing here.

MICHAEL NYHAN: For this application you're also requesting to withdraw the sale of mulch out in the parking lot?

MR. HALL: Withdrawing the application for the sale of the mulch in the front here. All of the mulch is being withdrawn and we're continuing to leave on the table our application for all of the outdoor storage of -- along the store as shown in the plan, which in this case is SJ Weller drawing EXH-1, dated June 3rd, last revised August 9th.

But the rest of the application, my comments are equally applicable to this site as they were to Buffalo Road. There is really nothing more than I can add.

So if the record could reflect that everything that I said with respect to Buffalo Road goes here. Obviously with the exception of the mulch, which is being withdrawn.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, Coldwater Road

MR. RETTIG: Charles Rettig, Coldwater Road.

On the previous application and this one, thank you for hearing the comments from the public.

I just want to make a -- insert a comment here. I know that mulch was withdrawn, as you stated, from the previous and this particular Chili Avenue location. And I did hear previously the statement by the attorney, Mr. Stephen Hall, that there was a possibility of firewood. So I would like to state mulch and firewood has, therefore, been withdrawn. I assume but maybe we can get clarification.

MICHAEL NYHAN: The firewood has not been withdrawn. It is the mulch that was out near the curbing area that has been withdrawn.

MR. RETTIG: Okay. Then was the applicant talking about potential firewood at the curbing location or close to the building?

MICHAEL NYHAN: Close to the building.

MR. RETTIG: Okay. Has the applicant gotten approval for firewood from his fire insurance for wood at that location? I assume he would have to do the same thing for propane, which normally is in a cage and is locked and a specific volume, et cetera. So I ask the question with regard to firewood, please.

MICHAEL NYHAN: That I don't know.

MR. RETTIG: So we inquire from the applicant.

MR. HALL: I will represent that Speedway has appropriate insurance coverage for its operations at the site, including the firewood and propane that it would store there.

MICHAEL NYHAN: Thank you.

MR. RETTIG: Just a comment when you're getting to firewood, you're also getting to potential insects and other things closer to the store which is selling food product, FDA-approved products. So I -- so I question the -- the validity and need for that where I think in my opinion, firewood should also be a statement that this Board -- in addition to mulch or -- or let's put it this way, will give the applicant the opportunity to state that mulch and firewood should be excluded from this particular application. That's my comment.

Okay.

MR. RETTIG: I don't know whether this Board will do it. I think they should. And it is reasonable to state such.

Again, this becomes, like I said -- I don't make any qualms about it -- it becomes a foot in the door. And I mean that. When you talk about the -- I understand what Town Attorney Eric Stowe is stating, and I assume that this is the same thing or should be the same thing with location and in dimensions and height for any -- any product which at this time, for Chili Avenue, I believe we're talking about close to the store, because they have withdrawn the mulch application. But my bottom line comment is there should be -- at the four corners of the center of Chili, there should be no outdoor storage in the center of Town.

As I heard, I believe I heard Mr. -- Mr. Paul Bloser state, we are looking at the site viewing -- in the Town of Chili. On the southeast corner, where the Wal -- Walgreens used to

be, we have a nice sign and site lighting. We have green grass. We have properties kept up. Chili Center is not a location for selling sidewalk sales. And should not be. And I think that should be adhered to because it is the center of Town. It is the nature of the example of how our Town looks or should look without any outdoor sales at that location, and I think this Board should seriously consider that.

Thank you.

MICHAEL NYHAN: Thank you.

STEVE GINOVSKY, 19 Hubbard Drive

MR. GINOVSKY: Hello again. Steve Ginovsky, 19 Hubbard Drive.

I agree with the -- with the last gentleman that spoke upon -- with the wood. You do get bugs as such and you have food. Well, I don't think you really want any bugs in your potato chips. Don't get me wrong. You know, bringing them back out and eating and having a mess. That -- that's one thing.

But the part that I was wondering, since this -- I would like to get a clarification. What -- with the withdrawal of the mulch and possibly the wood, how long does it -- is there a time period that -- that the applicant can come back to the Town Planning Board and revisit this issue? Is it going to happen every 30 days? Every six months? Or once a year? I would like to have a clarification, because that's my inference on it and I don't know what the Town Law is written. Please?

MICHAEL NYHAN: They can certainly reapply and the Board will hear it as we -- as a Public Hearing as we have this application.

MR. GINOVSKY: Is it within 30 days, 60 days, 90, or a year?

MICHAEL NYHAN: He could apply at the next meeting if he wishes to do so.

MR. GINOVSKY: Okay. Whatever he ponied up as cost of making an application, is that eaten or is that gone? Because he -- does he eat it or does the Town forfeit that expenditure?

MICHAEL NYHAN: If -- if he makes another application, he will have to pay the fee for that application.

MR. GINOVSKY: And you lose that fee; am I correct?

MICHAEL NYHAN: No. He will have to pay the fee for the application. The applicant will. It is a new application.

MR. GINOVSKY: Start all over again?

MICHAEL NYHAN: Yes.

MR. GINOVSKY: Respectfully, since I live at 19 Hubbard Drive in North Chili, if this comes up again, and I'm not made aware of it, can I kindly get a letter from the Town of Chili stating this, from this Planning Board? I'm a Town resident and I'm a Town taxpayer. I would like to get my money's worth, if you don't mind.

MICHAEL NYHAN: A public notice will be posted. You will not receive a special notice from us just to you, but a special notice will be posted as is required by our code.

MR. GINOVSKY: Also I would like to make noted to you, last Sunday, at 10:30 in the morning, that sign was not up. It was on the ground face-down in the bushes. And it was not the tractor guy cutting the grass. Thank you.

MR. HALL: Can I address the last thing? It is funny, because before the Bills game started, I went to Buffalo Road myself and other people were checking the signs. The sign was down. I should have gone during the Bills game, but I saw the sign down on Buffalo Road. I put it back up. But I can assure the Board that the signs were checked periodically. If the sign went down on Buffalo Road, it wasn't for long because it was only maybe a day or so before that someone took a look at it.

MR. RETTIG: One additional comment, if you will. And that is for Chili Center for the Chili Avenue Speedway store, um, presently, there is limited parking. Many times there are construction -- a number of construction vehicles in the lot. Anything in the way of outdoor storage near the curb, whatever it be, if it is approved for that at some time, should not be impeded because that is the way traffic flows and traffic parks in that particular location and should not be impeded.

MICHAEL NYHAN: Thank you.

Michael Nyhan made a motion to close the Public Hearing portion of this application, and John Hellaby seconded the motion. The Board unanimously approved the motion.

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

MICHAEL NYHAN: Same conditions on this as the previous one.

ERIC STOWE: With the --

MICHAEL NYHAN: With the corrections to the plan.

So the conditions of approval, applicant shall comply with all pertinent Monroe County Development Review Committee comments.

All previous conditions imposed by this Board that are still pertinent to the application remain in effect.

Application is subject to all required permits, inspections and code compliance regulations.

Any signage change shall comply with Town Code, including obtaining sign permits.

Outdoor storage on sidewalk must maintain a clear path on the sidewalk that meets or exceeds ADA standards (currently 36 inches.) Clear width measured on the sidewalk surface

excluding curbing.

Application for the sale of mulch is withdrawn at the applicant's request.

The dimension for the seasonal sales as referenced by SJ Weller site plan Exhibit 1, last revision date June 3rd, 2021, are part of this application.

ERIC STOWE: The project date was June 3rd. The last revision date was August 9th.

MICHAEL NYHAN: On Chili Avenue?

ERIC STOWE: Yes.

PAUL WANZENRIED: Yep.

MR. HALL: That's right.

MICHAEL NYHAN: The last one, application of sale of mulch withdrawn at the applicant's request.

The dimension for seasonal sales as referenced by SJ Weller site plan, Exhibit 1, last revision dated August 9th, 2021, are part of this application.

With those conditions?

JOHN HELLABY: Before you go on, I don't know how much of a stickler you want to be, but the applicant's attorney, when he came up to actually talk about this application, he said "outside storage." It's not outside storage. It is outside sales.

MR. HALL: I misspoke. If I said "storage," I meant "sales."

JOHN HELLABY: Just want to make sure the record showed that.

ERIC STOWE: Did you do SEQR on this one?

MICHAEL NYHAN: Oh, no. Thank you, again.

Michael Nyhan 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 John Hellaby seconded the motion. The Board all voted yes on the motion.

MICHAEL NYHAN: So with those conditions as stated, application of Speedway, LLC, Store 9919, 1035 7th North Street, Liverpool, NY 13088, owner; for approval of a revised site plan and special use permit to allow outdoor sales at property located at 3152 Chili Avenue in GB District

JOHN HELLABY: Second.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Applicant shall comply with all pertinent Monroe County Development Review Committee comments.
2. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
3. Application is subject to all required permits, inspections, and code compliance regulations.
4. Any signage change shall comply with Town Code, including obtaining sign permits.
5. Outdoor storage on sidewalk must maintain a clear path on the sidewalk that meets or exceeds ADA standards, (currently 36"). Clear width measured on sidewalk surface excluding curbing.
6. Application for locations depicted as mulch sale was withdrawn at the applicant's request.
7. The dimensions and locations for the seasonal sale products as referenced by S.J. Weller site plan Exhibit 1, last revision dated August 9th, 2021 are approved as depicted on said site plan.

**DISCUSSION:**

1. Application of Kings Crossing Town Homes LLC., 21 Crossbow Drive, Penfield, NY 14526 owner; for approval of Kings Crossing Phase 2, of a two lot subdivision and 41 townhome units at property located at 3355 Union Street in RM District.

MICHAEL NYHAN: Is anybody here for that application?

PAUL WANZENRIED: Nope.

MICHAEL NYHAN: Nope. That's it for the applications.

Michael Nyhan made a motion to accept and adopt the 7/13/21 Planning Board meeting minutes, and John Hellaby seconded the motion. The vote on the motion was 6 yes with 1 abstention (Michael Nyhan).

The meeting was adjourned at 8:23 p.m.