

CHILI ZONING BOARD OF APPEALS
March 28, 2023

A meeting of the Chili Zoning Board of Appeals was held on March 28, 2023 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, Philip Supernault, James Wiesner and Chairperson Adam Cummings.

ALSO PRESENT: Matthew Piston, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manager.

Chairperson Adam Cummings declared this to be a legally constituted meeting of the Chili Zoning Board of Appeals. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

ADAM CUMMINGS: Any issues on sign for the one?

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

1. Application of Brad Millet 56 Lester Street, Rochester, New York 14623, owner; for a variance to erect a garage addition of 1,024 sq. ft. (Existing garage 1,126.86 sq. ft.) (Total 2,151 sq. ft.) (1,200 sq. ft. allowed) at property located at 56 Lester Street in FPO, R-1-6 District.

Brad Millet was present to the represent the application.

MR. MILLET: I'm Brad Millet. I reside at 56 Lester Street, Rochester, New York 14624. Nothing to add as of right now.

ADAM CUMMINGS: Okay. I will just go right into Board questions.

MARK MERRY: Pretty significant increase here. What alternatives have you looked at in what you're proposing this evening?

MR. MILLET: So I'm proposing this area, an addition, because I have another property in Scottsville and looked into putting an addition on -- or garage addition there for the family, but I moved into this house and there is not enough garage space. The way the garage is now, it floods in that area. And cost-efficient wise, to build that thing up higher is going to cost more than to put the addition on the back of the building.

And the garage itself, if you look at -- if you got the survey map there --

ADAM CUMMINGS: Yes.

MR. MILLET: The garage itself is 54 foot long by 16 foot 3 inches wide. That garage itself is only about approximately 877 square foot. The framed garage that's shown on the back -- the back right of that on the drawing -- is considered a frame garage, but it's actually a shed. It's just the size of it. You have to categorize it as a shed or framed garage included in that square footage. There is a framed shed on the other side of the back property that isn't there anymore. Footprint is there, but it's collapsed so that would be going away. I would like to propose that framed garage -- that's the 12 foot by 20 foot -- to possibly see if we could turn that into a shed. I know it's a little bigger than what you guys categorize for a shed, but that way the total square footage of a new proposed addition to the garage wouldn't be as significant as it is now.

MARK MERRY: Okay. What are the chances of that, do you think?

MR. MILLET: What do you mean?

MARK MERRY: That's a pretty good chance of doing that, reducing that size, turning it?

MR. MILLET: Oh, the size of the proposed addition? Um, I mean if we could go 30 by 30. But that's the size I would like to see if we could get approved for.

MARK MERRY: And you're proposing this because you're trying to consolidate items on the property?

MR. MILLET: Trying to consolidate items on property. Stuff that was already left on the property. It was my grandfather's house that I ended up getting. So I don't know if you guys have an overhead aerial view, Google Map.

ADAM CUMMINGS: I don't have it here. I looked it up.

MR. MILLET: So if you have seen it or even stopped by and drove by the property, you will see there are at least two or three of those quick shelter up-tents and they're full of antiques, collectibles, stuff he had. And the yard itself is full of boats, lawn mowers stuff he collected and worked on. So I'm in the process -- I want to consolidate that, take down all those -- all those -- I will call them "fake structures" -- but temporary structures and consolidate everything that is worth saving and store it in the garage.

MARK MERRY: Okay. No other questions. Thank you.

FRED TROTT: I don't have any questions.

PHILIP SUPERNALT: So generally, this property is -- is used for storage?

MR. MILLET: No. I live at this property.

PHILIP SUPERNAULT: Oh, you live there?

MR. MILLET: Yes. That is my current residence.

PHILIP SUPERNAULT: I didn't actually drive by.

MR. MILLET: I haven't changed my address, but since I got the house two years ago, we have moved the family into it. My fiancée and three girls. So we currently live there. Um, so it's going to be a primary residence.

PHILIP SUPERNAULT: Okay. Just wasn't clear from the schematic.

MR. MILLET: Right. Right.

ADAM CUMMINGS: And that's a dead-end street, correct?

MR. MILLET: Dead-end. Lester is a dead-end -- both ends but dead-ends right there up to Town of Chili property.

ADAM CUMMINGS: I would add on a statement that you will need a building permit. That will be a condition of approval. But you're already working with Paul (Wanzenried) on that. So that is just a reiteration what you're doing. I don't have any other questions yet.

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. The Board unanimously approved the motion.

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

ADAM CUMMINGS: So to be clear, the temporary structure is not what we're really discussing tonight, but we are kind of discussing those tonight. Your plan is to get rid of those.

MR. MILLET: Yes. Those will all go away. The yard is going to get cleaned up. Half the boats will end up going away, all of the lawn mowers, all the junk in the backyard.

ADAM CUMMINGS: Code Enforcement will probably be checking that.

MR. MILLET: A Code Enforcement issue, but that is kind of the plan with the structure, the addition.

ADAM CUMMINGS: All right. 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 Mark Merry seconded the motion. The Board all voted yes on the motion.

James Wiesner made a motion to approve the application with a condition, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

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

1. Building permit must be obtained.

The following findings of fact were cited:

1. This property is located in an isolated area on a dead-end street with minimal visibility to public roadways and nearby properties.
2. The lot size and configuration is suitable to accommodate this larger garage structure within adversely impacting neighboring properties or requiring additional variances.

OLD BUSINESS:

1. Application of Hutton ST 21 LLC, 736 Cherry Street, Chattanooga, TN 37402, Gizzi Real Estate Holdings LLC., 3850 Buffalo Rd., Rochester, New York 14624 owner; for an Appeal of Interpretation of the Town of Chili Code 500-19 General Business permitted and Special Permitted uses, for properties located at 3249 & 3253 Chili Avenue, Rochester New York 14624 in GB District.

John Mancuso, Mr. Young and Jason Aktas were present to represent the application.

ADAM CUMMINGS: This is the one about the appeal of the interpretation of Town of Chili Code 500-19 General Business permitted uses.

MR. MANCUSO: All set. Yes. Thank you, Chairman. Good evening.

As the Board may recall, my name is John Mancuso. I'm an attorney for Weaver Mancuso and Brightman, LLC. We represent the applicant. I'm joined by Mr. Young, who is a representative of the applicant.

Also joined for the first time by Mr. Aktas who is with Stonefield Engineering, the civil engineers for the project who may follow me with some follow-up research that we have done.

So from the last meeting, just to recap, there were a couple of issues we discussed from the

Board's perspective that resulted in the tabling of the application. I think the first question was doing some research into the historical code. We hadn't seen the old code from 2004. So that was something that was being researched after the meeting.

The second area that was also looked into was some of the other car wash properties that were approved in the Town beyond the Niagara Car Wash that we discussed yesterday. So we have done some additional work on those items and so that is what I'm going to focus on tonight. I will not necessarily go back to what we talked about from the last meeting. But I'm happy to answer any questions obviously to the extent anything comes up from -- from either last time or for tonight.

So I'm going to focus on my supplemental memo that I sent in. Hopefully everybody received a copy of that. That addresses the first half of this, which is the old code. So from -- from the last meeting, the Town provided me a copy of those zoning provisions and in looking back through the code and tracing it forward, my analysis from the last meeting I believe has been confirmed based on what I saw from the code that existed back in 2004. So as I suspected, in 2004, it was a Conditional Use permitting scheme. Rather than a special permitting scheme that was used to approve the Niagara Car Wash. And the permitted uses in -- and the conditional -- Conditional Uses at that time were -- I would say in sum and substance -- very similar to what is now in the code 20 years later. There are some minor changes. I think there has been some -- a couple of additions to the permitted uses but from an overall perspective, I would say in sum a substance the General Business District hasn't really undergone much of a change in the past 20 years.

The provision that I believe was relied upon back in 2004 is the same catch-all provision that still exists today in the special permitting scheme. That was a -- 115-16(c)14. Same language effectively that existed then still exists today. Albeit now it's a special permitting scheme.

So given those circumstances, I think this -- the conclusion that should be drawn by this Board is that the code that existed when the Niagara Car Wash was adopted is effectively the same exact code that still exists today for purposes of deciding whether or not it should be a special permit versus a Use Variance.

If I look at that code -- now that I have a copy of it -- the conclusion that a car wash in the General Business District would need a Use Variance means that that decision 20 years ago was wrong. And I don't think -- obviously I'm going to give the Planning Board and the Town the benefit of the doubt that it has been applying its code consistently through time. And so that would lend me to believe that they should apply the same analysis frankly and find that the -- the same provision that is currently in the code should be utilized to allow a car wash use as a general use. That would then be subject to a special permit review and a site plan review by the Planning Board.

The second half of the analysis that I just wanted to walk through very -- very briefly was the interactivity between comprehensive planning and the zoning code. You know, one of the things that I think the Board identified was how do we view the new provision in the context of Comprehensive Plans that may have been adopted after Niagara Car Wash was approved. Because obviously plans have been adopted over time and so how does that interact with the zoning code.

So I put forth sort of a chronological series of events to sort of demonstrate what we believe the correct interpretation should be.

As of 2004, as we know, we had the catch-all provision and that was used to approve the car wash. And so we started with that proposition that a car wash as of 2004 was a conditional use. That was otherwise a permitted style use in that zoning district, not a prohibited use that would need a Use Variance.

So what occurs after 2004? We have a 2010 update to the code. Based on my reading it didn't change anything. It just simply changed the number designation from 115 to Chapter 500. Didn't change anything.

So with the exception of that and -- and the change from Conditional Use Permit to Special Use Permit, there has been no substantive change at all.

2016 obviously was an event in the Town because that's when the Chili Center Master Plan was adopted. So I think that's the first question, what does that event mean in the context of interpreting the code moving forward?

You have the plan that goes in that, as we have talked about at the last meeting -- I won't reiterate it, but effectively it looked at sub areas within Chili Center to determine what was an appropriate type of development in that area. And so how we identified it last time is -- I think the fair reading of that plan would still keep this property as General Business commercial for all intents and purposes. It doesn't appear as though that plan shifted anything meaningfully in terms of how the code was being viewed versus that -- that plan going in in 2016.

The -- the big event is -- is the Town's Board recodification of its entire zoning law. That happened in 2021. So they took everything that was on the books before they effectively repealed it and then readopted everything. Some changes, some no changes.

So as I think it is relevant to tonight's analysis, Chapter 500 and subsection (c)14, that catch-all provision that we are relying upon for purposes of the car wash was not changed. The first sentence is still identical to what it was previously. And dating back as far as 2004 when the Niagara Car Wash was adopted.

Interestingly, they jettisoned the second sentence of that subsection, which obviously only the Town Board would be able to speak as to why that sentence was removed. But I think a fair

reading of the code is that it's simply reiterating that the Planning Board is supposed to look at whether or not the character of the use is substantially similar to what the lists are in the permitted uses in that zoning district. And as I alluded to at the beginning of my presentation, my reading of the permitted uses -- if you just look at them side by side, I don't see much meaningful change from one to the other. And so if you apply the Town law concepts of what the Town Board is supposed to look at when it adopts a code as compared to its Comprehensive Plan, you're always supposed to act consistently with the plan. That is the charge of the Town Board when it adopts zoning legislation, to make sure it is acting consistently.

And so my interpretation would be that because they didn't change anything, I think the Town Board's intent was to allow that district to simply exist as it always existed historically. The uses that were allowed over the past couple of decades would just continue to be the types of uses that the Board was anticipating would be allowed in the General Business District. Because you don't see any drastic shift between code amendments and between Comprehensive Plan updates. Which does happen. Obviously in some communities when rezoning is occurring, when drastic changes in zoning district designations are happening, you can see that Boards are trying to shift the type of development that may exist in parts of its community. I don't see that based on the evidence that the Town Board has adopted over the last couple of decades.

And I think that the most recent Master Plan Update in 2022 sort of confirms that for me. Because they acknowledge the amendments that had been done a year before that. They acknowledge the studies that were undertaken in prior plans and they didn't seek to amend any aspect of the code. So we're not here today looking at something that has been changed because of the Master Plan that was adopted last year.

We don't see a rezoning of this parcel into a different zoning district which would also be evidence obviously that they saw the Comprehensive Planning as a step to change the designation of this parcel to have something different.

So from beginning to end, I see no difference legally speaking from the code and from the Town's plans that would lead me to believe that the analysis of this Town back in 2004 in approving a car wash should really be any different legally speaking in 2023 for purposes of -- of the applicant's car wash on this property.

So from -- from that vantage point, I think the analysis is simply to conclude that the use from a general perspective would be allowed in a General Business District under (c)14, rather than requiring a Use Variance.

Now, that doesn't mean we're going to be allowed to build it. As we talked about the last time, we are mindful of the Comprehensive Plans and -- and the things that the plans are speaking to in terms of developments in 2023. We just believe that is sort of analysis that would be done by the Planning Board, as we look at the site design element and other features of a car wash.

The charge tonight is simply to look at an abstract use. Is a car wash something that is permitted or not in that zoning district? So that is really the charge of this Board tonight and we would be looking to -- again, allow -- to have the Board determine that we can proceed under a Special Use Permit scheme.

And so with that, I will ask if the Board has any questions of me. I would -- otherwise, I will turn it over for just a brief discussion on some of the research that we did on the other car washes in the Town.

ADAM CUMMINGS: Anybody want any -- questions pertaining to this -- this part of the presentation? Not getting into too many details, but any specific questions related to his analysis on where it is?

I will say, that -- that second sentence I agree is unique they took it out. This is my speculation -- I suspect as I have seen with many municipalities, they don't want the Board to have that responsibility so they turned it into an administrative action which then puts it to the Building Department or Code Enforcement to make that call, which is partially why we're here right now. Because instead of the Planning Board making that determination of whether it's the same general character as the above permitted uses, it falls to Paul (Wanzenried). That's just my speculation.

MR. MANCUSO: The only caveat I would say is I don't disagree with the proposition certainly that the Building and Planning Department and Code Enforcement Officer is essentially the other half of the coin as to who interprets the code; the Zoning Board being other. Collectively you work together to administer that.

I will say the only thing I would hesitate to say is that -- whether there would be some inconsistency between Planning deciding whether it's of the same character and then the Planning Board having to decide whether it's of similar character. Obviously somewhat -- it doesn't use synonymous language, and so another plausible explanation is that they noticed there was somewhat of a discrepancy in those two words and they wanted to simplify the analysis. Is it similar or not of a use in that district. Rather than asking is it similar and then asking is it the same in the next sentence.

Again, I'm speculating, but old codes tend to have a lot of ambiguities and you try to clean those up over time.

ADAM CUMMINGS: I would say as far as I know -- once the engineer speaks to it, but the minutes that have been -- that I have reviewed through it included the car washes which are now both Speedways, which is Buffalo Road and Chili Ave. The one at the time that was Exxon Mobil at Chili Ave. is now a Dunkin' Donuts/Speedway and car wash.

The other ones are both on Buffalo Road. One is part of the Speedway and the other one is

the LaserWash that is part of the -- I call it the old Perry's Subdivision, but I believe it was called the John Deere Subdivision back then. It's the one in front of the IGA -- the Jake's Pub. So those are the only ones that I'm aware of other than Niagara, in the Town.

With the exception of one that used to be there on Scottsville Road, which was an Exxon Mobil, which is now an abandoned convenience store. So.

No questions?

Go ahead, sir.

MR. AKTAS: Good evening. My name is Jason Aktas, civil engineer with Stonefield Engineering.

So yeah, just adding to that a little bit, we did research on the Dunkin' Donuts/Speedway car wash along Chili Avenue. So this one was approved back in 1990. It was part of the -- a Conditional Use approval as well as the service station and the subdivision.

So reading through those minutes, there was really a lack of questions in terms of the use for the actual car wash. It had more so to do with the actual site plan layout and the actual subdivision taking place.

And then looking forward to 2006 for the LaserWash, along Buffalo Road, this was the same idea. It also involved a subdivision, but there was really a lack of questions in terms of the use that it would fall under. It did get the Conditional Use Permit, as well.

ADAM CUMMINGS: Yeah. I found the same thing. Going back to 1992, um, for Chili Ave. um, Speedway, all of them -- at the Planning Board level, did not see much talk about the use. There was a lot of talk about noise impacts, traffic impacts, lighting impacts, neighbor impacts and every one of them instituted a stepping system of the Conditional Use Permit. A couple of them were one-year permits and then they had to come back. They limited the amount of hours that they could operate until they proved there were no complaints and then it would go from one year or two years to five years to ten years. That seemed to be what I saw in the discussions in the minutes, as well.

JAMES WIESNER: So you're saying --

ADAM CUMMINGS: I'm saying.

JAMES WIESNER: -- all those other smaller car washes were all done under Conditional Use Permit?

ADAM CUMMINGS: Correct. The Conditional Use Permit which is now called a Special Use Permit.

JAMES WIESNER: So they followed that procedure to go to the next step.

ADAM CUMMINGS: Right. Once again, there wasn't much discussion in terms of the use. It didn't fall under the list, so they obviously knew it had to be a Conditional Use because it wasn't on any list. But once again, there was no real discussion on the use part. Was just the procedure it's not on the list, let's make a Conditional Use and now we're different -- at a different juncture here in the Town.

PHILIP SUPERNAULT: Has anyone been able -- I haven't. Has anyone been able to find a -- a definition of Conditional Use as applied back then? I'm just asking. I -- I wasn't able to.

ADAM CUMMINGS: I haven't.

MR. MANCUSO: No.

PAUL WANZENRIED: You could follow Mr. Mancuso's analogy.

ADAM CUMMINGS: There was no definition. It was the --

PAUL WANZENRIED: A Conditional Use is what we call a Special Use today.

PHILIP SUPERNAULT: But we do have a Special Use Permit definition today and it does read -- and you cited it quite often in your rebuttal and you pulled from it -- same general character, et cetera, et cetera. But the -- the -- the special use -- special permitted use as defined -- it's a use which is deemed presumptively allowable within a given zoning district, but which is potentially incompatible with other uses, and therefore, is subject to special standards and conditions set forth in such use subject to approval by the authorized Board. So I just wanted to make sure that we hear the entire thing.

MR. MANCUSO: Yes.

PHILIP SUPERNAULT: We just don't want to assume that "Hey, we can apply this and everything is great." It --

MR. MANCUSO: Yes. I mean -- I understand -- I -- I follow what you are saying. And that is effectively the State Law driven definition of what a special use is under New York Law. So Town Law -- New York State Town Law defines special uses.

PHILIP SUPERNAULT: And so does the Town of Chili, because I just read from the Town of Chili's Code.

MR. MANCUSO: Exactly. Those two are consistent with each other. So essentially what the law -- what the law looks at a special permit like is essentially it is a permitted use. It says that -- the term of art is tantamount to a permitted use, but it recognizes -- to your point, it recognizes that there are certain unique characteristics of some of these uses that would necessitate allowing a municipality to look at it. From a zoning standpoint, perhaps it needs conditions, perhaps it need more planning associated with that particular use, rather than just simply me going to the Building Department, pulling a building permit to build a building if it was a permitted use all together.

So it wouldn't be another level of approval. So the law permits a municipality to sort of implement a little bit higher of a standard that -- it is still permitted as the law would treat it. However, there is -- with conditions effectively.

PHILIP SUPERNAULT: Is that because of potential incompatibility of other uses?

MR. MANCUSO: Correct. Correct. Yes. Not a use -- a Use Variance on the other hand is entirely prohibited all together. So it is by law incompatible under all circumstances with the district that it would be designated in.

The special use exception, um, would treat it as a permitted use, but if there is a unique situation, the Board could obviously decide at that stage of this review that there is something unique that obviously needs to be changed, mitigated, the project may need to be designed in a certain way to alleviate that incompatibility. Because not all properties may be one-size-fits-all with respect to a special permitted use or you have to engineer it in a specific way.

ADAM CUMMINGS: So for instance, the example of that would be instead of 24/7 operation of this, if we thought it would be incompatible with a nearby residential zone, it would need to have a restriction on the hours of operation and days of operation that would be an example. It can only run Monday through Friday, 8 a.m. through 5 p.m. As an example.

PHILIP SUPERNAULT: And as part of that, we would then consider --

ADAM CUMMINGS: That would be Planning Board. Not us.

PHILIP SUPERNAULT: Right. Right. And also the -- the appropriate Board would probably look at what physically surrounds that area and decide whether, for example, a car wash works well. It is -- sitting next to a -- a park area.

ADAM CUMMINGS: Right.

PHILIP SUPERNAULT: I mean that something they might.

ADAM CUMMINGS: Or it doesn't work.

PHILIP SUPERNAULT: Right. Right. That -- that's a piece -- the potentially incompatible.

ADAM CUMMINGS: Which would institute whatever restrictions or conditions they needed to put on.

MR. MANCUSO: Right. And that is our burden to carry and we hope to be able to make that application obviously to engage in that analysis in front of the Planning Board. That is essentially what we're asking for. I will also -- to close the loop on the definition, my understanding -- and the Town Attorney can certainly correct me -- but the Conditional Use scheme is essentially the same type of analysis. So just as the Board looked at it from a -- this is a permitted use with conditions, trying to look at hours of operation and other things, it's really the same type of analysis. Just as a Conditional Use might be incompatible 20 years ago, they would look at sort of the same factors.

It's just the law sort of evolved over time and Conditional Uses got replaced with Special Permitted Uses.

PHILIP SUPERNAULT: I can't speak to that and I don't know if I would go where you're going there because I read through those minutes time and time again and I -- I don't see that taking place. And since I don't have -- I don't see that level of thought that you just took us through. I don't see that reflected in the minutes nor do I see a definition.

MR. MANCUSO: Right. And historically it probably wouldn't just have existed as a matter of course. I was speaking more just in the abstract. As a matter of State Law, the way the law of New York would look at a Conditional Use 20 years ago, is how the law sort of looks at a Special Use today. But codes have evolved. They have become more sophisticated. They clear up definitions so things that were implied or things that were defined by courts or other things 20 years ago now have made their way into statutes. They have made their way into local codes really to give better direction and guidance to applicants and Boards that are looking at things in 2023 rather than leaving it open to interpretation and having to go look at the case law to try to define it.

So it is really more of an evolution of planning, which is the reason why the new codes, I think, have more definitions than they used to.

PHILIP SUPERNAULT: How do you square that with equating the two then? If you say that -- you -- you -- you're describing a scenario where -- we -- excuse me -- we would become more sophisticated, we know more about the environment, we have better instruments, we have better studies now. So I -- I have trouble squaring that with a conditional permit 30 years ago equals special permitted use now. In other words, this will be a crazy scenario, but 60 years ago we allowed landfills next to housing developments in certain parts of the State. I grew up in one. That would never happen now. Allowable then. Not allowable now. So I think -- and again, that's -- that's --

MR. MANCUSO: An extreme example obviously, but point taken.

Obviously I guess the question for me would be the why? Is it -- is it a function of use definitions? Is it a function of environmental issues? Is it a combination of factors? I mean obviously the regulation of landfills is such a more robust area of law in terms of the State and local approvals that would be needed to do something like that. From this vantage point of just a car wash or just any business use generically, we don't necessarily have to limit it to a car wash necessarily. But zoning tools as -- as they evolved in New York State became statutes. So courts were defining these things or simply by usage and custom over time as municipalities were engaging in planning, they created uniform statutes to drive this. Conditional Uses were effectively substantively just replaced with a special permitting scheme that the State of New York adopted as a unified front in New York.

But my understanding of that scheme is simply that it is no different substantively -- subject, however, to what the local municipality may be doing to regulate the use. And what I mean by "regulate the use," is I mean two things. One is the specifics of what you're talking about. There might be more sophisticated land use tools and environmental reviews in 2023 that

if I were to apply to the Planning Board today, for a special permit, the standards I might be subjected to might be different than what Niagara Car Wash was subjected to 20 years ago in getting a Conditional Use Permit. That question, however, is yet to be answered because we have not applied to the Planning Board to go through the SEQR review, to go through the other characteristics of a special permitting review.

Tonight's exercise is putting all that aside, the planning elements -- is just the use. The actual use of a -- of a parcel in a General Business District, is it permitted with a special permit or it is not permitted? And that's where I say it's the same. The -- the concept of -- of Conditional Use permits and Special Use Permits from a use perspective only is identical. The engineering that goes behind building the building, I will agree with you, land use tools and planning and engineering have evolved in the last two decades and so what standards we are applying today will not be the same standards that were applied 12 years ago when they went in there to build that car wash.

Whether it's stormwater management, whether it's traffic analysis, whether it's lighting. Obviously, we have a lot of different technology that exists now that will drive that process. But kind of cart before the horse the way I look at it, we'll get there and hope to get there if the Board will hopefully allow us to apply.

PAUL WANZENRIED: Can you -- I do have one question. The bottom --

ADAM CUMMINGS: Can you pull your mike down?

PAUL WANZENRIED: Sorry. On the bottom of page 3.

ADAM CUMMINGS: Which document?

PAUL WANZENRIED: Of Mr. Mancuso's --

ADAM CUMMINGS: The application or the supplemental --

PAUL WANZENRIED: -- memorandum of March 23rd.

MR. MANCUSO: I'm there.

ADAM CUMMINGS: Or March 24th?

PAUL WANZENRIED: Or March 24th. Sorry, 2023.

ADAM CUMMINGS: Yep.

PAUL WANZENRIED: If you go to page 3, the last paragraph.

MR. MANCUSO: Yes.

PAUL WANZENRIED: If a car wash in a GB District was in clear conflict with the Chili Center Master Plan, the Town Board would have amended the permitted and special uses under the Town Law zoning law when it readopted the zoning code. So are you saying that if there was a conflict, we should have stated car washes are not permitted? Because that's what that statement says to me.

MR. MANCUSO: Yeah. My -- my intention in that is from a general proposition, that if the Chili Center Master Plan represented sort of a shift in the uses, that would have been allowed in the General Business District. Car washes included. Because we had car washes that existed in the General Business District when that plan was being done. Right? Niagara already existed at that point.

So my point is that if the Town Board felt as though the uses that were permitted were -- were somehow supposed to be changed, in the General Business District, because the Master Plan represented an evolution of -- of -- of that corridor, then what I would have expected would have been modifying a permitted use, modifying the special permitted use, either striking things that are no longer compatible or changing the scope of that.

Car washes were a definition, but it's not -- they were not -- nothing was prohibited. So in my reading of this, the Chili Center Master Plan simply doesn't reflect that the Town Board intended to really change the overall use designations of that -- of that area. Otherwise, you would have seen more of a change.

PAUL WANZENRIED: Does it alter your explanation in the fact that neither the Niagara or the Speedway Car Washes are within the Chili Center Master Plan? Partial to which we speak of is in the Chili Center Master Plan.

MR. MANCUSO: Can you -- can you repeat that? I'm sorry. I'm not following.

PAUL WANZENRIED: Sure.

Does it alter your explanation the fact that the Chili -- the parcel to which we speak of --

MR. MANCUSO: Yep.

PAUL WANZENRIED: -- or are referring to is in the Chili Center Master Plan? The two parcels of the Niagara Car Wash and the Speedway, both are existing car washes -- they are outside the Chili Center Master Plan. They're adjacent to. They're not in the Chili Center Master Plan.

Does that alter your explanation at all? You're -- you're giving me the generalities.

MR. MANCUSO: I could be wrong, but I thought the Chili Center Master Plan included -- it includes many parcels that surround this particular parcel. I'm talking just generic map designations. I could be wrong but I thought -- somebody correct me if I am incorrect, but I thought that plan doesn't encompass -- the Chili Center area which I thought encompassed not just our parcel but everything surrounding it. I thought the Niagara Car Wash across the street was in that same general area. Am I mistaken in that regard?

PAUL WANZENRIED: That is correct. You are mistaken.

MR. MANCUSO: So then to answer your question, um, I don't think it changes the analysis vis-à-vis whether the code permits a car wash use in a General Business District because that district is still uniform between the two. And -- and I will say that the Chili Center Master Plan didn't change the commercial nature of the designation of this parcel. It is still showing

up -- as far as I can see, it is still red.

PAUL WANZENRIED: Still GB.

MR. MANCUSO: Still GB. So I think from my standpoint it wouldn't necessarily reflect a shift as I'm analyzing it.

ADAM CUMMINGS: So the zoning district -- not -- but the zoning designation is still remaining the same, even in the Master Plan. The Chili Center Master Plan, as opposed to the land use plan at the Town. Is that what I'm hearing?

PAUL WANZENRIED: Yes. Zoning district is still the same. It is General Business.

ADAM CUMMINGS: Okay.

MR. MANCUSO: And it -- I thought it was notable to me that the General Business District, as a general proposition in the Town, is actually quite small in comparison to the geographic area. It really doesn't cover a lot of the Town's footprint. It is focused to Chili Center and then there is -- I believe there is another pocket that is west -- on the west side of the Town, if I'm not mistaken.

PAUL WANZENRIED: GB.

MR. MANCUSO: GB doesn't seem to carry a wide footprint. It seems to be focused in --

PAUL WANZENRIED: No. There is actually three -- three sections.

North Chili, there's Scottsville Road and then the Town core, which would be Chili Center.

ADAM CUMMINGS: I will say in terms of the Chili Center Master Plan, whether it's in or out of it, point of the Chili Center Master Plan, I point to Taco Bell as a monument to that one. As we are trying to make it -- parking in back, building in front, pedestrian friendly. I know I have Board members that share that sentiment. And almost making it like a village. Not to say we're a village, but that type of a downtown frontage aspect of it. Just wanted to point it out, that is how I view the Chili Center Master Plan and what we're trying to do. Make it cohesive and -- in terms of the uses that are there. We have the park that is there. We have a nice mixed use of retail car washes and -- and a car wash, I guess, if you want to call it even -- if it is outside of it slightly, which neither is. I just wanted to point that out for our Chili Center Master Plan, is it different than what we have for a plan for say Roberts Wesleyan or Scottsville Road with what we have with the airport and 390?

MR. MANCUSO: So if I could elaborate on that, Chairman. I think that's a good example of using the planning process to -- to design a project that is consistent with that plan. So if I just put car washes aside for a moment and pick something on the list like a bank, that's a permitted use, so we don't need to get any variances whatsoever. We just go to the Planning Board to get a site plan approval. I could design two banks on a parcel in the General Business District, one that conflicts with the Chili Center Master Plan and one that doesn't. Depending on whether I take into account the types and features and elements that that plan is speaking to.

If I decide to stick the bank on the front and put parking in the back, if I decide to eliminate any sidewalk, no screening, no landscaping, no nothing. I mean one would probably tell me that is in conflict with that plan.

ADAM CUMMINGS: Correct.

MR. MANCUSO: If I take it into consideration in the planning phase, I could easily design a bank that would be entirely consistent with what that plan is speaking to. So obviously we need to take that plan into account if we were to design a car wash. Otherwise obviously the Planning Board is going to tell me and tell the applicant we think your design conflicts with the Master Plan.

ADAM CUMMINGS: Right. And our area requirements.

MR. MANCUSO: Right.

ADAM CUMMINGS: Even if you need to vary from that, you will be back to us for variances.

MR. MANCUSO: Precisely. Precisely. Yes.

ADAM CUMMINGS: Side Table? Just one question, Paul (Wanzenried)?

PAUL WANZENRIED: Sorry.

JAMES WIESNER: You know, I have to admit, I -- there is kind of a number of dynamics going on here. I feel like it's this Board's prerogative to review this from a code standpoint and not from a land use standpoint.

ADAM CUMMINGS: Right.

JAMES WIESNER: Because the Planning Board does -- it's up to us to interpret the code and he's saying and you're saying that this is the way we have always handled car washes in the Town, which is a Special Use Permit or a Conditional Use Permit. That is what I see, really what our focus is here. It's really not upon us to decide what the use of this land should be. That is up to the Planning Board. Our decision is -- is he in the right -- does he get to go any further? Does he get to go to the next step, which is the Planning Board, based on our decision tonight, and then he still hasn't gone through the total hurdle of getting approval for that site.

ADAM CUMMINGS: Right.

JAMES WIESNER: Because it will be a Planning decision at that point and they have a much -- they're much more invested in the plans and interpretation of the plan. So I see us just interpreting the code tonight and not going -- there has been a lot of discussion that's gone beyond that.

ADAM CUMMINGS: And the compatibility of the Master Plan is part of our decision, but --

JAMES WIESNER: I mean we interpret the code. The way it has always happened in the past is a Special Use Permit, Conditional Use Permit, call it what you want, moves it to the next

step which is the Planning Board and the Planning Board gets to make the decision on the use of that particular land, based on what they feel the Town wants in that area.

So I just feel that our role is much -- very narrow compared to what the next step is, which is the actual use of the land. I mean I -- you may all have opinions on what the use of that land should or shouldn't be, but I don't feel that is what our role is tonight.

ADAM CUMMINGS: Agreed. We're really focusing on that part of the code, Section 500-19, number 9, specifically that says uses of a similar character. And our decision of -- are we going to -- are we deciding the limiting list of -- or the definition of what the word "similar character" is or not? In the past, the way I have seen it, there wasn't really an analysis done of that.

JAMES WIESNER: There is precedence -- this is always the way it has been handled in the Town.

ADAM CUMMINGS: Right. And the way it was done --

JAMES WIESNER: The conditions have been changed.

ADAM CUMMINGS: With the conditions. It would be similar to if we wanted -- and I'm just throwing an example -- another -- we can go with a landfill, but a landfill could never go on a site like this. But for instance, a contentious one could be an indoor shooting range. Just as an example. We're not here to talk about an indoor shooting range. We're talking about it is not on the list, but is it a similar character or are we defining a similar character that could be allowed there? So that is how I feel, as well. We're looking at the code and are we going to -- how much are we limiting the list? Because this is -- I like -- the quote, it is a catch-all. It's a generic statement in there to leave it open-ended so that somebody can't accuse the Town of being prescriptively restrictive of a specific business that's coming in.

FRED TROTT: But don't we also look at what the Master Plan had envisioned for that area? Isn't that a big factor, even beyond what you have there?

ADAM CUMMINGS: Yes. And no. Is the way I see it. Because how would you equate it to? Are you going to take -- because the Master Plan doesn't say specifically what we're going to use these parcels for. It just says how we want them to look. How we want to interact. That's it. I -- you could make the case of it's an automated car wash with only vehicles going in. I -- you could make that, that it is only prone to vehicular traffic and we're trying to make -- keep a cohesive pedestrian friendly one and that may not jive with this because there is no pedestrian friendly going to it, unless somebody decides to get out of their car and walk from there to a neighboring facility. Which once again, the Planning Board would make them put in such restrictions or amenities.

JAMES WIESNER: If they were to go to the Planning Board, there would probably be a variance for front yard parking.

ADAM CUMMINGS: If they had to do front yard parking.

JAMES WIESNER: This is like the first step of many before they would ever even get approval for this site.

ADAM CUMMINGS: And once again, it is not just a car wash. If they came in with a different use on it -- and it wasn't on that list and Paul (Wanzenried) had to make a determination, he would be at the same juncture.

PHILIP SUPERNAULT: So is our decision limited? So I'm looking at the applicant -- the application. And basically it's an appeal, right?

ADAM CUMMINGS: So decision said it was prohibited and not eligible for a Special Use Permit. So -- so --

PHILIP SUPERNAULT: So -- so they want relief from that?

ADAM CUMMINGS: Right. They want an interpretation of if they are actually allowed to -- under the special permit, or if we are in agreement with the opinion -- or the interpretation that was already made and we say "Yes. You are not on a special permitted use allowance."

PHILIP SUPERNAULT: If we do --

ADAM CUMMINGS: And that would go to any other car washes that came into Town.

PHILIP SUPERNAULT: So say -- that property is all for sale right now, pretty much there. So say somebody wants to take a shot and throw another -- put in place another car wash adjacent to this one.

ADAM CUMMINGS: In the GB Zone, right?

PHILIP SUPERNAULT: It would then not be a special -- it would be a special permitted use.

ADAM CUMMINGS: Any other parcel in the GB would not fall -- if you wanted to put in a car wash -- would be a prohibited use in the GB Zone.

PHILIP SUPERNAULT: Even though we grant this one.

ADAM CUMMINGS: No. No. I'm saying if you agreed with the interpretation.

PHILIP SUPERNAULT: It would be a special permitted use based on our decision here.

ADAM CUMMINGS: Correct. If we overrule Paul (Wanzenried)'s interpretation, it means it goes to the Special Use Permit of whichever parcel comes in in the GB District.

PHILIP SUPERNAULT: And so, therefore, also, if somebody else also applied -- so -- so are one and two -- if we approve one, we approve -- if we give relief from one, we give relief from two or do you treat them separately? Because that -- is that because for another car wash, you could use the argument, well, we're consistent with the Master Plan. Chili Center Master Plan.

ADAM CUMMINGS: Well, not only the Master Plan. The argument they're making is they're piggybacking on Niagara's Conditional Use permitting as being allowed under it. The

difference on this one is that it is in the Chili Center Master Plan and we're evaluating that -- that -- the -- whether it merits enough weight to be in consideration to prohibit it.

But, Counsel, correct me if I am wrong, there -- this applies to the GB District. If we -- if we deem car washes to be a prohibited use and not allowed to have a Special Use Permit, even outside of Chili Center Master Plan, it would still be a -- car washes would be prohibited if they're in the GB District unless we change the zoning code for General Business.

MATTHEW PISTON: Correct.

PHILIP SUPERNAULT: But Number 2 doesn't -- Number 2 refers to the Chili Center Master Plan.

ADAM CUMMINGS: Which you're referring to is the Code Enforcement Officer's decision, is that it's not consistent with the Chili Center Master Plan or Comprehensive Master Plan. So that's kind of separate. That is one of his reasons of why he is saying that it's not a permitted use or a special permitted use.

MARK MERRY: So -- so, Jim (Wiesner), thinks you're focused on code.

ADAM CUMMINGS: Yep.

MARK MERRY: And I keep hearing when you're talking -- you're focused on use.

ADAM CUMMINGS: They're one and the same. Because it says uses of a similar character.

MARK MERRY: So use does commit to?

ADAM CUMMINGS: Correct. But --

MARK MERRY: Fred (Trott)'s question. Because of similar character.

ADAM CUMMINGS: Right.

But in terms of specific into the Chili Center Master Plan, it's got to go beyond that if we're talking about use because it's in a zoning district. It's -- because if we're going to catch it all under the Chili Center Master Plan community document, that's going to have consequences or effects to areas that are outside of the Chili Center Master Plan, is the point I'm trying to make. And that's because it's all in the GB Zone.

FRED TROTT: But we're saying that the Chili Center Master Plan is a separate document.

ADAM CUMMINGS: It's a separate document, but it's still the zoning designation. We either have to rezone the parcels that are within the Master Plan -- the Chili Center Master Plan and make them different than the ones that are outside of it, or we have to change the language in -- which is not our call -- is in the General Business District. Because once again -- I'm just saying this scenario, if we uphold the decision that says that it is restricted -- that is it not a special permitted use or a permitted use, that is not restricted to just the Chili Center Master Plan parcels. Or the parcels within that Chili Center Master Plan. It's anyone that has a GB -- could be in North Chili. It could be on Scottsville Road. It's wherever we have a GB parcel.

Is that clear?

MARK MERRY: I think to Jim (Wiesner)'s point, Fred (Trott), it's up to the Planning Board to take this a step further.

ADAM CUMMINGS: Correct.

PHILIP SUPERNAULT: Could you repeat that? I couldn't hear your question.

MARK MERRY: I think that Jim (Wiesner)'s point, it's up to the Planning Board to get to the next step.

ADAM CUMMINGS: For the conditions and the restrictions.

MARK MERRY: Right.

ADAM CUMMINGS: And the compliance with our Master Plan. Is that -- is that accurate, Jim (Wiesner)?

JAMES WIESNER: That's correct.

PHILIP SUPERNAULT: So again, let me ask. If we -- if the -- if the language is changed, that means from this point on, a -- a car wash is a permitted use in the General Business District?

ADAM CUMMINGS: Correct.

MATTHEW PISTON: No. No. No. Special --

ADAM CUMMINGS: It's a special use.

PHILIP SUPERNAULT: Special permitted use on the list.

ADAM CUMMINGS: No. It doesn't go on the list. The list doesn't change.

PAUL WANZENRIED: It means that I no longer can deny them. I would have to allow them as special permitted uses.

PHILIP SUPERNAULT: So they wouldn't come in front of us?

PAUL WANZENRIED: Probably not.

ADAM CUMMINGS: Unless for an area variance.

PHILIP SUPERNAULT: Probably not.

ADAM CUMMINGS: The only reason they would then come to us -- that the other part of this -- if it gets denied, more than likely they would apply for a Use Variance and be back here to try to go for a Use Variance. And that's just a hypothetical.

PHILIP SUPERNAULT: So then help me, because you are talking about use. The applicant is talking about use also.

ADAM CUMMINGS: Yes. Because you're still looking at -- uses of similar character is really what the decision is based off of.

PHILIP SUPERNAULT: So the applicant -- so the applicant wrote number 2. The applicant's proposed use is not consistent with the Chili Center Master Plan or 2030 Comprehensive Master Plan.

MR. MANCUSO: That was the -- that was me -- that was me asking to overturn that

conclusion. That's the conclusion of the Code Enforcement Officer.

PHILIP SUPERNAULT: So that is -- so the Chili Center Master Plan is being -- is being singled out there.

ADAM CUMMINGS: By Paul (Wanzenried), as part of his decision and justification of why he made the decision.

PHILIP SUPERNAULT: And they're asking for relief from that.

MR. MANCUSO: Correct. I agree with the Chairman's characterization. I did it because it was -- it seemed it was the justification for the characterization of the use being prohibited. I don't know that I would have necessarily characterized it as like a separate relief as much as it is just --

ADAM CUMMINGS: Justification.

MR. MANCUSO: It's just the justification. So I think the use is -- a special permit use is consistent with the Master Plan to allow those types of uses to be reviewed by the Planning Board. That is simply -- that's my simple summary of the point.

PHILIP SUPERNAULT: So a second car wash could be eligible for a special permitted use in the Chili Center Master Plan?

PAUL WANZENRIED: If they wanted --

PHILIP SUPERNAULT: It wouldn't be inconsistent, right?

PAUL WANZENRIED: That's correct.

MR. MANCUSO: From the use perspective. Now, whether the Planning Board would allow -- that could apply -- that rationale -- like could you pick -- I will just pick something. Could you put 17 hotels in the same -- in the -- in the Chili Center area? At some point I would suspect that the Planning Board would say "Well, wait a second. Maybe 1 or 2, but 17 special permits, you know, that's going to be a compatibility issue. That's part of the Planning Board's then decision to decide whether a special permit requiring that specific uniqueness would then look at that.

ADAM CUMMINGS: Right. And likewise, if we're talking about code changes, if such changes come in, the Town Board would most likely reevaluate the list of permit uses and that list is subject to change, too. As if some new amenity is wanted, they would change the list and say these are permitted ones. It didn't use to fall off the list. And in my experience, a lot of those come from -- those ones that get Special Use Permits, if you don't need to condition them any further, then they go on to the permitted use list.

MARK MERRY: So just for others, what happens tonight if we rule in favor of the applicant? It goes to the Planning Board?

ADAM CUMMINGS: It goes to the Planning Board.

MARK MERRY: They deny it. They're not going to permit it.

ADAM CUMMINGS: That's a -- well, they would do an analysis. I'm not sure they can deny the permit.

PAUL WANZENRIED: It's not --

ADAM CUMMINGS: It's not a permit.

PAUL WANZENRIED: No. It is a Special Use Permit, but...

ADAM CUMMINGS: They would put the conditions on.

PAUL WANZENRIED: Special Use Permit and site plan will run in conjunction and it's going to run through the courses there. If they get approvals, I think is what you're looking for, Mark (Merry) -- the word "approvals" -- if they get the approvals or the Planning Board doesn't approve it for some factor, whether it be a SEQR element in terms of traffic or -- I don't know. Who knows.

ADAM CUMMINGS: Could be environmental impact due to --

MARK MERRY: Planning Board nixes it.

PAUL WANZENRIED: Right. Could be anything.

MARK MERRY: They could come back to us for a Special Use Permit?

ADAM CUMMINGS: No.

PAUL WANZENRIED: All the applicant tonight is really looking to do is to move toward -- to go to the Planning Board.

MARK MERRY: Understood.

ADAM CUMMINGS: So only the Planning Board can issue or -- evaluate and I guess issue special permits. So -- so it's not really that they're issuing a permit. It is that the permitted -- the permitted list -- those are already there. So they're, in essence, already permitting it.

Now they're doing the analysis of the land use, the dimensions, the impacts to everything. That is what Paul (Wanzenried) is saying. The SEQR impacts. The cumulative impact to the community, the financial impact, the electrical impact.

PAUL WANZENRIED: Just a grouping that requires more in-depth scrutiny.

ADAM CUMMINGS: And -- and then -- then we don't have -- we do not have the discretion or the delegated duty from the Town Board to issue Special Use Permits. But -- the Zoning Board in Chili doesn't have that.

So --

PHILIP SUPERNAULT: They could grant it without a special permit.

ADAM CUMMINGS: No.

PAUL WANZENRIED: No.

ADAM CUMMINGS: Because it's not on the list.

PAUL WANZENRIED: Because they have to -- the applicant, Phil (Supernault), is going

to turn around tomorrow and make a Planning Board application for a Special Use Permit for a car wash at that parcel.

MR. MANCUSO: Right.

PAUL WANZENRIED: You're also going to apply for a site plan. It goes through, you know, the -- the myriad of -- what is the word I'm looking for? Not qualifications.

MR. MANCUSO: Factors?

PAUL WANZENRIED: Factors, yeah.

ADAM CUMMINGS: So what could happen if they skipped a step, though, if they applied for a site plan thinking they were on the list, Paul (Wanzenried) would reject that and say no, you can't just go to a site plan application. You would have to have that accompanied with -- or a Special Use Permit application has to accompany your site plan application.

MR. MANCUSO: Right.

MARK MERRY: Thanks, Paul (Wanzenried).

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: That cleared it up.

JAMES WIESNER: If they keep the parking out in front, they either have to move it or they got to come back to us again.

ADAM CUMMINGS: Right. To variances which would be land area variances.

JAMES WIESNER: So any one of those could imperil the project in itself.

ADAM CUMMINGS: Yes. Or change it. Once again, they have to mitigate it. It could -- it will be influx if it doesn't move forward. It is subject to the review and the restrictions that go through the Planning Board phase of things. But this isn't -- once again, this is -- specific car washes, but this use is of similar character, no longer going to the Planning Board to determine if it needs a special permitted use that is probably going to come up several times in the future. Not just car washes.

I don't have anything else to add. I think since I see Mr. Rettig here, I will open up the Public Hearing. We did open and close it last week.

Counsel, is there any reason I shouldn't open the Public Hearing?

MATTHEW PISTON: I'm -- it's closed.

ADAM CUMMINGS: Right. I like to give the ability --

MATTHEW PISTON: Your call. I -- I mean --

ADAM CUMMINGS: We don't really have to. We have beaten this horse to death.

MARK MERRY: I think so.

ADAM CUMMINGS: Yeah, I'm not going to reopen it. I take it back. We don't need to tonight. It is just an appeal for interpretation, nor is there SEQR done tonight, because that is not the action we have to do tonight.

So once again, this is about the appeal of interpretation of the Town Code 500-19. And that's that uses of similar character but not specifically listed in the subsection and subsection B must apply to the Planning Board for a Special Use Permit and whether or not the car wash in or not in the Chili Center Master Plan -- I will just call it out since we discussed it -- that's our decision tonight. And since I don't have to do SEQR --

FRED TROTT: So I guess what would be for them to get a Special Use Permit?

ADAM CUMMINGS: A yes vote would allow them to apply for a Special Use Permit.

MARK MERRY: To the Planning Board.

ADAM CUMMINGS: To the Planning Board.

A no vote would not. And once again, that is specific to them. Broadening it is anybody in the General Business District that has a parcel that is in that red, anywhere in Town, if they want to put a car wash in, they would be prohibited if it was a no. If it was a yes, then it goes to Planning Board for Special Use Permit.

All right. I will move on with -- moving on with the motion to adopt this -- not even the application. I will just move to the Board vote.

DECISION: Unanimously approved by a vote of 5 yes with the following findings of fact having been cited:

It was decided that the past decisions and absence of car wash facilities on the permitted or special use permit lists did not prohibit such types of facilities since the Town Code 500-19(C)(9) - General Business District allows for uses not specifically listed, subject to a Special Use Permit from the Planning Board. Additionally, it was decided that prohibiting car wash facilities within the Chili Center Master Plan Area is not an appropriate exclusionary decision. Instead, the Board noted that the General Business Designation applies to numerous other parcels within the Town that fall outside the boundaries of the Chili Center Master Plan Area and that a determination to prohibit car wash facilities in the General Business District would also prohibit such uses in those areas too. Therefore, it was determined that the most appropriate course of action was to continue to rely on the Special Use Permit Process for this situation, and other similar situations, to appropriate control land uses within the Town and maintain suitable compatibilities between properties and uses.

ADAM CUMMINGS: So the findings on that one is -- is really the -- in my opinion, it's the fact that it is the General Business District and the ambiguity that is in there.

Anyone else have something to add on that?

FRED TROTT: Well, I -- I don't see this as part of the Chili Center Master Plan, but I understand what we voted on. So that would be the reason for my yes vote. I disagree that it's part of the Master Plan. Looking at things it went through and what -- I was part of the Master Plan and I don't see this as a pedestrian friendly, village-looking environment to move forward.

ADAM CUMMINGS: Potentially. Because they could change their application and make it in such a way --

FRED TROTT: Yes.

ADAM CUMMINGS: We won't know until it goes through the Planning Board.

FRED TROTT: Yes.

ADAM CUMMINGS: But I think that's a helpful hint of what we're looking for.

JAMES WIESNER: Sometimes you can only control development. You can't stop it.

ADAM CUMMINGS: All right.

MARK MERRY: Don't tell David Dunning that.

ADAM CUMMINGS: Any questions on the minutes? If not, I would ask for a motion to accept and approve the minutes from the last month.

PHILIP SUPERNAULT: So moved.

The Board voted 4 yes with 1 abstention (James Wiesner) on the motion.

ADAM CUMMINGS: I make a motion to adjourn. I would like to point out that we are going to stay for a one-hour training but the meeting is adjourned.

The meeting ended at 8:08 p.m.