

CHILI ZONING BOARD OF APPEALS

November 22, 2005

A meeting of the Chili Zoning Board of Appeals was held on November 22, 2005 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 Beverly Griebel.

PRESENT: Gerry Hendrickson, Michael Martin, Peter Widener, Jeffery Perkins, Dan Melville, Richard Perry and Chairperson Beverly Griebel.

ALSO PRESENT: Daniel Kress, Director of Planning, Zoning & Development;
Keith O'Toole, Assistant Counsel for the Town.

Beverly Griebel declared this to be a legally constituted meeting of the Chili Zoning Board of Appeals. She explained the meeting's procedures and introduced the Board and front table. She announced the fire safety exits. The Pledge of Allegiance was cited.

BEVERLY GRIEBEL: Before we move on, we'll go through, for the Board here, and check on signs. Application 1, Buckingham Properties?

GERRY HENDRICKSON: No problem.

The Board agreed to hear the application.

BEVERLY GRIEBEL: That had been tabled from last month for failure to post the required signs.

Application 2, Debbi Martini? I was okay with that.

The Board agreed to hear the application.

BEVERLY GRIEBEL: Number 3, John Nau? Anyone have a problem?

The Board agreed to hear the application.

BEVERLY GRIEBEL: Number 4, Davis Harris, Harris & Company?

The Board agreed to hear the application.

BEVERLY GRIEBEL: Okay. Number 5, Carolyn Jackson? Any problem with that?

The Board agreed to hear the application.

BEVERLY GRIEBEL: Number 6, Dragica Mikic. Probably slaughtered that name. Sorry if I did. Any problems with that?

The Board agreed to hear the application.

BEVERLY GRIEBEL: Okay. Number 7, application of 1436 Management, Incorporated on Scottsville Road. Any problems with that?

The Board agreed to hear the application.

Keith O'Toole arrived.

BEVERLY GRIEBEL: Number 8, Passero Associates for the Zuber property?

GERRY HENDRICKSON: No problem.

BEVERLY GRIEBEL: I had some problems with that. It shows a street going off directly opposite Clay Road. I didn't see any signs right in that area. Did anybody?

GERRY HENDRICKSON: There was one right next to the house there, in that lot there. There was a sign there. One sign there. The next one was up farther.

PETER WIDENER: There were three signs total, and they were at the house, and the lot to the north and then south of the tracks.

BEVERLY GRIEBEL: Well, south of the tracks, that -- that isn't even relevant to this application.

PETER WIDENER: But that is where one of the signs were.

BEVERLY GRIEBEL: That is what confused me.

Well, I looked for one right across Clay Road, because apparently that is going to go across the street there on Archer. What is the Board's feeling on that? Is that sufficient?

GERRY HENDRICKSON: We'll hear it.

BEVERLY GRIEBEL: Anyone object to it? Okay.

The Board agreed to hear the application.

BEVERLY GRIEBEL: We'll proceed. That is another record, isn't it?

1. Application of Buckingham Properties, 1 S. Washington Street, Rochester, New York 14614, property owner: COMIDA; for variance to erect a 15' x 4' and 6' x 3' double-faced freestanding sign to be 10' from front lot line (15' req.) at property located at 100 Beaver Road in L.I & R.B. zone.

Aaron Malbone was present to represent the application.

MR. MALBONE: Good evening. Basically we have purchased the old Case Hoyt building on Beaver Road. They had an existing sign out by the street. All we really want to do is re-skin it with the Home Trends logo on the sign. That is really it. It is just there. We just want to reface it, so to speak.

BEVERLY GRIEBEL: Is the same sign going to stay there that is there?

MR. MALBONE: Yes.

BEVERLY GRIEBEL: You will just add another one that has the warehousing below that?

MR. MALBONE: Yes.

BEVERLY GRIEBEL: Nothing is moving?

MR. MALBONE: No. It was all there when we purchased the building.

RICHARD PERRY: Can we have your name for the record?

MR. MALBONE: Aaron Malbone; A-a-r-o-n, M-a-l-b-o-n-e.

BEVERLY GRIEBEL: What is your function? What do you do?

MR. MALBONE: Project Manager with Buckingham Properties.

BEVERLY GRIEBEL: Thank you.

GERRY HENDRICKSON: Do you have your street number on the sign?

MR. MALBONE: No, we don't.

GERRY HENDRICKSON: I think it would be nice if it was there. When people go by, they could look at the number.

BEVERLY GRIEBEL: We like people to put the street number on there, because it is so difficult to find properties, so hopefully overtime, it will be there.

DAN MELVILLE: It is shown on here.

BEVERLY GRIEBEL: Okay. That is there?

MR. MALBONE: On the bottom.

BEVERLY GRIEBEL: Right on Home Trends. Okay.

PETER WIDENER: Home Trends Catalogues, 100 Beaver Road.

MR. MALBONE: I apologize. They must have recently added it. I know it wasn't there before.

PETER WIDENER: Is this sign already there?

MR. MALBONE: Yes.

BEVERLY GRIEBEL: The Home Trends is, but --

BEVERLY GRIEBEL: M & E is not. They're asking for approval for it which sometimes things are done in a reverse way.

PETER WIDENER: Thank you.

BEVERLY GRIEBEL: Is that the only other business in there with you? Are there more businesses?

MR. MALBONE: We are looking to sublease the space, but not right now.

BEVERLY GRIEBEL: That would mean another sign?

MR. MALBONE: No. M & E is an off-shoot of Home Trends. It is a separate entity, but it would be in the same building. We will not divide it at all. They would take the whole facility.

BEVERLY GRIEBEL: So we are not looking for other people renting or leasing space from you?

MR. MALBONE: Not over there, no.

DANIEL KRESS: Sign permits are going to have to be obtained for both of the signs. I want the applicant understanding that getting approval tonight doesn't mean that permits are still required.

BEVERLY GRIEBEL: The letter they get in the mail will specify that?

DANIEL KRESS: Yes, it does.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GARY JOHNSON, 65 West Forest Drive

MR. JOHNSON: I live at 65 West Forest Drive, J-o-h-n-s-o-n. I am speaking on behalf of my mother. She lives across the street from Home Trends. When Case Hoyt originally purchased that property, there was a 50 foot from the center of the road allotment for future road considerations. There was an open forum meeting roughly a month ago and it is a matter of public record that basically that 50 foot allotment still stands. If someone sees, they will see they can't put a sign -- it is asking for a variance to put the sign 10 feet from the road, and it is 15 foot required, but if you look at the public record, it has already been established that basically the road study has a 50 foot allotment for future considerations, for widening the road, or passing lanes, or whatever, what have you. So if this gets approved, you're circumventing what is already a matter of public record. And I believe it is a State road.

DAN MELVILLE: It is not going to be 10 feet from the road. It is 10 feet from the property line, which is not the road.

MR. JOHNSON: What I am saying, if you look, and if you take a measurement of the existing sign, it doesn't fall within that 50 foot margin. It is already closer than that. So please, someone, go backwards and do your homework and check.

BEVERLY GRIEBEL: Well, they're asking for this sign to be left where it is, whatever the dimensions are. Obviously, if they widen that road and take a portion, the sign would have to be moved in the future.

MR. JOHNSON: But they're asking for a variance. It is actually for the sign to be closer than the 15 foot. I'm not sure what it is now, but it is already -- it is already out of the -- it is already too close, is what he is trying to tell you. That existing sign is already too close from the 50 foot allotment that has been established. That is back when '68, '69.

And again, I was speaking to someone in that open forum. They pulled out the book, with the public record and showed me the documentation, and if that is not good enough, I do have an existing map of the layout, with all that called out on the blueprint.

BEVERLY GRIEBEL: Mr. Kress, Keith O'Toole, can you enlighten us on any of that?

KEITH O'TOOLE: I haven't seen the gentleman's proofs. I haven't -- as Dan (Melville) had indicated, there is a difference between the pavement and the right-of-way line, which is actually property line. We measure off the property line. And frankly, even if there was a highway reservation that was 1,000 miles wide, we still measure off the property line.

PETER WIDENER: But we are being asked to vote on something that has already been allotted. Is that -- I'm having trouble with that in my mind right now. If we have allotted a 50 foot right-of-way previously and now we are saying we can put a sign in there --

KEITH O'TOOLE: I have never seen a highway reservation 50 feet wide. Usually they're seven or so feet wide. But even so, reservation or not, that does not prohibit anything. That is just saying in the future we are thinking about widening and that is where we would go, if we do it.

PETER WIDENER: If we do it, then the sign would have to be removed.

KEITH O'TOOLE: If it winds up in the right-of-way, yes.

PETER WIDENER: I see.

BEVERLY GRIEBEL: So that would be a future problem for --

KEITH O'TOOLE: If D.O.T. were to widen the road so wide that it would go over the sign area, then D.O.T. would remove the sign themselves.

BEVERLY GRIEBEL: They would mow it down unless the applicant removes it first and retrieves it, or moves it or whatever.

KEITH O'TOOLE: That was correct.

PETER WIDENER: Occupants of the property would have to be aware of that.

KEITH O'TOOLE: Oh, yes, everyone would get notice and their property would be

condemned and they would get their very small check in the mail.

BEVERLY GRIEBEL: That doesn't happen overnight.

KEITH O'TOOLE: No, it is not.

BEVERLY GRIEBEL: It is usually a long procedure.

PETER WIDENER: He would have to remove the sign by condemnation if the road expanded that way.

KEITH O'TOOLE: Yes. That would be D.O.T.'s problem, not ours.

BEVERLY GRIEBEL: If the applicant didn't move it first. Which I think they would do.

MR. MALBONE: Definitely.

BEVERLY GRIEBEL: If it was worthwhile to move.

MR. JOHNSON: Instead of good money after bad, it might be good to look at that instance before upgrading this sign so somebody doesn't have to pay for it twice.

BEVERLY GRIEBEL: The sign is already there except for the addition they want to put.

DAN MELVILLE: It has already been approved years ago.

BEVERLY GRIEBEL: They just want an addition to it now.

MR. JOHNSON: I'm just reading this, and they want to move it 10 foot closer to the road.

BEVERLY GRIEBEL: They want to leave it where it is.

MR. JOHNSON: That is what he said verbally, but that is not what it says on the paper.

MR. MALBONE: The sign is not moving.

DAN MELVILLE: The sign is not moving. It is right where it has been.

BEVERLY GRIEBEL: How long has the sign been up there?

MR. MALBONE: It was there when we purchased the building.

BEVERLY GRIEBEL: You just changed the logo.

MR. MALBONE: Yes. It said Case Hoyt.

BEVERLY GRIEBEL: So that goes way back.

MR. MALBONE: However long Case Hoyt was there.

PETER WIDENER: Can you refresh my memory? Is the sign lit?

MR. MALBONE: It wasn't. I saw some gentleman out there yesterday afternoon. The tenant might be making it illuminated.

PETER WIDENER: I would like to know before I vote yeah or nay on that. How long would it be lit?

MR. MALBONE: Just the night hours, from five to ten, I think it was. They were thinking about doing it. I'm not sure -- we gave them the okay to do it if they wanted to. They were going to get back to us to see if they were going to.

BEVERLY GRIEBEL: So it is presently not lit?

MR. MALBONE: Not yet. To my knowledge.

DAN MELVILLE: It was lit prior.

BEVERLY GRIEBEL: It was?

MR. MALBONE: There was some damage to the sign. There had to be considerable work done to it to get it working again.

PETER WIDENER: So you are asking for it to be lit from five in the evening to ten in the evening?

MR. MALBONE: Possibly, yes. It depends -- I don't if the tenants wants to pay to have that done or not yet. That is what I am saying.

PETER WIDENER: If it goes on -- I will have -- with those unknowns, I will have a hard time voting on this.

BEVERLY GRIEBEL: Well, it doesn't say anything about lighting. Side table, would that have to be something that they get approval for in the future if they want it lit?

DANIEL KRESS: Internally illuminated signs are permitted by the code book. The signs, lights have to be turned off after the business has ceased operations for the evening at whatever time it might be.

BEVERLY GRIEBEL: Would they need to come back to the Board to get it lit?

DANIEL KRESS: No, ma'am.

BEVERLY GRIEBEL: Okay. So that is something they can do if they choose to.

Well, sir, in the back, I don't know if that answers your question or not, but I don't think that this Board can delve any further into that aspect. The sign has been there for a long time.

MR. JOHNSON: Again, I'm going on the way it was written, not by what he said. They're asking for a variance for freestanding sign to be 10 feet from the lot line, not 15. You're reading it. If you approve it, it allows him to move the sign closer to the road.

DAN MELVILLE: No, you don't understand what the lot line is, and the edge of the road. The lot line is from the easement, I believe; isn't that correct?

KEITH O'TOOLE: Basically --

DAN MELVILLE: Where the --

KEITH O'TOOLE: Basically what you have is you have a strip of land, and within the strip of land you drop your pavement which is much narrower. We are measuring the full width, the strip of land. As far as the 10 versus 15 feet, my understanding what is going on, is since they're changing the sign copy, they are effectively negating its preexisting status, its grandfathered status, so what they need to do is reapprove it in its current location, 10 feet off the edge of the property, which is -- which, in essence, is reapproving exactly where it is, and all you're doing is changing the message on the sign.

DAN MELVILLE: But the State owns a certain amount of land on each side of that road; is that correct, whatever that is?

KEITH O'TOOLE: No. They own -- let's be clear. The right-of-way, they own the whole right-of-way, and somewhere in the right-of-way, often in the center, but not always, is the pavement. So if they own the right-of-way, they own everything from the middle.

DAN MELVILLE: His property line starts beyond that right-of-way?

KEITH O'TOOLE: No. His property line starts at the right-of-way. That is the common boundary.

DAN MELVILLE: Wherever the right-of-way ends is where the property line is.

KEITH O'TOOLE: The pavement is irrelevant, just as the location of a house is irrelevant.

DAN MELVILLE: So if they have a 50 foot right-of-way there, that property line starts at the edge of that right-of-way?

KEITH O'TOOLE: That is correct.

MR. JOHNSON: It is 50 feet from the center of the road.

KEITH O'TOOLE: No, it's not.

MR. JOHNSON: That is the way the documentation reads.

KEITH O'TOOLE: I don't know what the documentation is you are referring to, but the width of the road is the width of the road.

BEVERLY GRIEBEL: Is the -- there is the road, and then the curbs, and --

KEITH O'TOOLE: Has nothing to do with the road itself. It has nothing to do with the pavement. It has nothing to do with the concrete. It is just land. And you have this strip of land, whatever is built in between the two lines, is owned by the State, and the edge of that strip of land starts other people's land. The common boundary is the point over which -- off of which we are measuring the location of the sign, so here is the common boundary (indicating). 10 feet back. That is where the sign is. When it is supposed to be 15 by default. That is why they're here for the variance.

BEVERLY GRIEBEL: They have a diagram here with surveyor pegs and all of that noted on here, so that has all been surveyed to find out what they own, and they want it --

KEITH O'TOOLE: We frankly don't care whether they're right or wrong. All we are doing is giving them a permit to allow them to have a sign 10 feet off the property line. If they're wrong, that is their problem, not ours.

BEVERLY GRIEBEL: Okay. Thank you.

MICHAEL MARTIN: If it was still the Case Hoyt sign, they wouldn't be here, because it had been approved. All they did was paint it to change the words on it?

KEITH O'TOOLE: That was correct.

BEVERLY GRIEBEL: Now they want to increase the signage on it.

MICHAEL MARTIN: And add a sign.

PETER WIDENER: They will not be moving it?

MICHAEL MARTIN: No.

BEVERLY GRIEBEL: No.

PETER WIDENER: I don't see how they could move it forward because they have already -- the water -- part of the construction of the sign is sitting right on the waterline.

MICHAEL MARTIN: They didn't build the sign. The sign was there.

PETER WIDENER: But I'm saying they cannot move it forward. I think that is what their concern is (indicating). It can't come forward.

KEITH O'TOOLE: And were they to do so, the County Water Authority at their leisure would plow it under.

PETER WIDENER: It looks like at their leisure, according to this picture, unless that is a

wrong hydrant in there.

BEVERLY GRIEBEL: Well, I don't think they will move it anyway. That is kind -- there is landscaping that goes forward of that.

It is a sign that was there. They're adding to it.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I am a little confused. I go by this sign a lot of times, and I never -- I know Home Trends has been there, but is the sign underneath added?

BEVERLY GRIEBEL: That's what they're asking to add tonight.

MS. BORGUS: And is it already there?

BEVERLY GRIEBEL: No.

MS. BORGUS: Not there. This is an artist rendering?

MR. MALBONE: Yes.

BEVERLY GRIEBEL: Okay. They're asking approval. I know many times we get these after the fact, that it is already up and they're asking to keep it up, but --

MS. BORGUS: It -- not that it has anything to do with this decision per se, but it kind of bothers me that Buckingham Properties tells people to go ahead and alter a sign, the lighting. They -- they never inquire. You know, I think they have to learn that there are rules in Chili. I have dealt with Buckingham Properties in -- in my working life, and as a tenant of theirs, in a particular building I managed, and I know they didn't give me or the people I worked for one inch. So I think they have got to understand in Chili that is the way it is, too. Thank you.

The Public Hearing was closed for this application at this time.

BEVERLY GRIEBEL: This was sent to the Monroe County Planning Department and came back as a local matter.

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Jeffery Perkins seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with no conditions, and Jeffery Perkins seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with no conditions, and the following finding of fact was cited:

1. Applicant described need for additional signage.

Note: A sign permit is required for this sign.

2. Application of Debbi Martini, owner; 5 Corinne Lane, North Chili, New York 14514 for variance to allow the total square footage of garage area, including a new 16' x 30' addition to garage to be 1,134 sq. ft. (900 sq. ft. allowed) at property located at 5 Corinne Lane in R-1-15 zone.

Debbi Martini was present to represent the application.

MS. MARTINI: Hi.

DAN MELVILLE: Name for the record?

MS. MARTINI: Debbi Martini.

BEVERLY GRIEBEL: Do you work for a government agency?

MS. MARTINI: No. One thing I wanted to mention before we get too far, if possible.

When I received this letter in the mail -- this is stating 16 by 20. All of the paperwork I supplied to you, it is 16 by 30, and I did call the day I -- of receiving this and was told you would be amending this at the meeting.

BEVERLY GRIEBEL: Okay. Yes. Your application clearly says 16 by 30.

MS. MARTINI: Correct. So this is a typo in the notice.

BEVERLY GRIEBEL: Okay. In transferring it to the agenda.

MS. MARTINI: Correct. The square footage is correct. Just the dimensions of the 16 by 20. It is actually 16 by 30.

BEVERLY GRIEBEL: So the square footage reflects that --

MS. MARTINI: The 1134 is correct in total square footage.

MICHAEL MARTIN: That is the important thing.

BEVERLY GRIEBEL: Right. Okay.

Why do you need a larger garage?

MS. MARTINI: The main reason, I have a 24 foot boat that I pay a lot of money to have it in docking during the summer and storage in the winter, that if we can just keep in the garage and bring it out, I will be saving a lot of money in the long run. We currently had it on the side of the garage this summer, and from the looks, I would like to put it inside something.

BEVERLY GRIEBEL: You get tired of looking at it.

MS. MARTINI: Yes. In addition to that, we have a shed in the back corner of our property that is -- needs to come down. It is rotting out. We are not going to be replacing that shed, if this gets approved.

BEVERLY GRIEBEL: Because you will have more storage in the garage for those things?

MS. MARTINI: Correct.

BEVERLY GRIEBEL: And it looks like there is enough -- they left a lot of room between your lot and the next lot, so there is room to put it there.

MS. MARTINI: Yes.

BEVERLY GRIEBEL: You're lucky.

DAN MELVILLE: That will match the house and everything, the siding?

MS. MARTINI: Yes. The drawings we have, it is the same color siding. In fact, we are using the same manufacturer to order the roofing, the siding, everything on it.

DAN MELVILLE: Concrete floor in there?

MS. MARTINI: Absolutely.

DAN MELVILLE: Not using it for a business or anything like that?

MS. MARTINI: Nope. Nope.

PETER WIDENER: I'm catching up. Is that a one-story or two-story garage? I'm looking at your plans here.

MS. MARTINI: One-story.

BEVERLY GRIEBEL: If anyone in the audience wants to look at diagrams at any time, feel free to walk over.

PETER WIDENER: Will that have attic space or storage space up in the rafters?

MS. MARTINI: I don't believe so because of the size. It is difficult to get rafters strong enough to do anything over the top. We would have to do a lot of work. At this point, we would say no.

PETER WIDENER: Will the boat fit in it?

MS. MARTINI: Yes, in this dimension it will.

PETER WIDENER: No cathedral ceiling?

MS. MARTINI: No.

JEFFREY PERKINS: What is the plan with the driveway?

MS. MARTINI: I already have an extension right now. Next to the garage right now is rock, not even grass. We have been parking the boat there. The driveway won't change at all. Because it already comes out.

JEFFREY PERKINS: You will not extend the curb cut at the road or anything?

MS. MARTINI: No, no.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing was closed for this application at this time.

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Gerry Hendrickson seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with no conditions, and Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with no conditions, and the following finding of fact was cited:

1. Applicant described need for a larger garage.

Note: A building permit is required prior to construction.

3. Application of John Nau, owner; 7 Mapleton Drive, North Chili, New York 14514 for renewal of conditional use permit to allow an office in home for musical instrument repairs at property located a 7 Mapleton Drive in R-1-15 zone.

John Nau was present to represent the application.

BEVERLY GRIEBEL: This is a renewal from five years ago.

MR. NAU: Good evening. I'm John Nau.

BEVERLY GRIEBEL: Now, this says you have up to five customers per day?

MR. NAU: Correct. Some days it is none. Some days five.

BEVERLY GRIEBEL: How many in a week?

MR. NAU: I do quite a bit of my business for other stores in the city, so it is kind of limited the amount of walk-up business. So in a given week, a really busy week might be 25 people. The last few weeks it has been on the order of five or six per week.

BEVERLY GRIEBEL: And they just drop off an instrument for you?

MR. NAU: Drop off. I will call them when it is done. They will come pick it up.

BEVERLY GRIEBEL: So they don't leave them there. They just drop it off.

MR. NAU: There is very little. It is usually a five-minute transaction.

BEVERLY GRIEBEL: What kind of instruments do you repair?

MR. NAU: It is basically guitars and bases. I also work on amplifiers. I work on PA equipment.

BEVERLY GRIEBEL: I think I recall when you were in here before there were complaints from the neighbors that there was noise and the amplifiers.

MR. NAU: I had one neighbor who was unhappy. I have taken a lot of precautions since then. There -- it was stipulated by the Board that I followed as far as, you know, containing the noise within the premises. I have built some apparatus that maintains the noise -- you know, sound proofing. I also have letters from all my immediate neighbors voicing their approval of this.

BEVERLY GRIEBEL: If you can bring these forward.

You did build a sound proof room to work on some of these louder instruments?

MR. NAU: That was correct.

BEVERLY GRIEBEL: This is signed William Wolski. "Musical repair business is not a disturbance." From 11 Mapleton Drive.

Paul Selke, 3 Mapleton Drive. "He has run business several years. During that time I cannot recollect there have been any problems or incidents associated with the operation of that business."

Another one, Albert Kreis, K-r-e-i-s, 9 Mapleton Drive, no objection to that.

Fred VanVleck. "Been a neighbor for many years. Considerate and helpful. No adverse impact on the neighborhood. No objection to the business being extended."

Robert Begley from 15 Mapleton Drive. "John and family are great neighbors. And it's a quiet operation." It -- other details in here. I'm just picking out the meat of it.

You collect kids from the school bus and things like that.

Lyn Lembaris, 10 Mapleton Drive. She is supporting your permit for the home business. Neighbor for six years. Never been annoyed by it. Live across the street. And very quiet while working.

We'll pass those down for the record.

That was the main complaint that they had, or somebody had at the time.

MR. NAU: Again, it was one neighbor. And I have basically worked with them to make sure that he was happy.

BEVERLY GRIEBEL: So you did sound proof areas?

MR. NAU: Yes.

DAN MELVILLE: Plus since that time there has been a noise ordinance passed, too.

BEVERLY GRIEBEL: Mr. Kress, have you had any complaints?

DANIEL KRESS: No.

BEVERLY GRIEBEL: That's good.

If there were complaints, they might not have come to you. They might have come to the Building Department.

BEVERLY GRIEBEL: I thought I recollected the complaints or the one complaint from before.

MR. NAU: The first year I was here, there was a complaint and that's when you had given me a one-year variance. When I came back the following year for a five-year variance, there were no complaints.

BEVERLY GRIEBEL: No problems. Okay.

MR. NAU: I had taken care of all that in the first year.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing was closed for this application at this time.

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Peter Widener seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with the following conditions, and Richard Perry seconded the motion. All Board members were in favor of the motion.

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

1. Granted for a period of five (5) years.
 2. No on-premises advertising.
 3. No on-street parking pertaining to the business.
 4. Hours of operation as per application.
 5. No outside employees.
 6. Noisy activity is not to be done in the garage unless the door is closed.
 7. Instrument tuning/testing to be done in a sound proof room.
4. Application of David Harris, Harris & Co., owner; 11 Chestnut Ridge Road, Rochester, New York 14624 for variance to erect an addition to office building to be 66' from front lot line (75' req.) and 46.8' from side lot line (75' req. abutting Chili Avenue) at property located at 11 Chestnut Ridge Road in N.B. zone.

Carl Schoenthal was present to represent the application.

BEVERLY GRIEBEL: This went to the Monroe County Department of Planning and received airport review approval.

MR. SCHOENTHAL: Good evening. Carl Schoenthal with the MRB Group. Consulting engineer.

BEVERLY GRIEBEL: This did go to the Planning Board, and it came back with several notations, mainly dealing with the Planning Board, but then to obtain the variances --

MR. SCHOENTHAL: Correct.

BEVERLY GRIEBEL: -- that you needed here.

Now, the addition -- can you point out on the map where those variances are? I'm trying to -- figure them out.

MR. SCHOENTHAL: What is illustrated here in orange is the proposed addition. The existing building is a two-story frame house that fronts onto Fenton Road, which used to be Chestnut Ridge Road. The lot that we are dealing with here has quite a bit of green space, and a

very small side yard. As a result of the -- of the zoning code requirement for 75 feet of a front, and a front, any development or addition put on this building enters both of those 75 yard setbacks, and those two setbacks are shown on the site plan itself. If you were to look at a 75 foot setback from what would be more theoretical the right-of-way here, there would not be an issue on this side. Everything is going to be accessing off Fenton Road. No curb cuts proposed at this location on Chili Avenue.

So we have looked at a couple three different alternatives for this building addition. Really the only way to add on would be into this area here (indicating). There is, I believe, a zero side setback, allowable.

However, to be able to provide adequate parking and circulation onto the site, we really can't develop this area (indicating). So it is really a pretty difficult condition. We are trying to do as much as we can, but considering all of the green space that is currently road right-of-way, we have no other options.

BEVERLY GRIEBEL: And you have some sloping ground in there that is a tough spot to add onto.

MR. SCHOENTHAL: We are proposing a retaining wall to be able to take up some of those grading issues that we are looking at with the site plan.

BEVERLY GRIEBEL: It is quite a grade down to Chili Avenue.

MR. SCHOENTHAL: Right.

JEFFREY PERKINS: I see what he is trying to do. The retaining wall, is that what this line that looks like there are small black rectangles on it?

MR. SCHOENTHAL: That is a silt fence. The retaining wall is a barrier between the two parking lots which will follow this location here (indicating). And the reason for the lower lot and the upper lot is to provide at-grade access for employees at the lower level and customers at the upper level.

BEVERLY GRIEBEL: I guess it required quite a bit of moving things around to get something that was suitable for that lot. It is a big lot, yet -- with all of the slopes, it is hard to hit everything on there.

MR. SCHOENTHAL: Right. Right.

JEFFREY PERKINS: What is the building going to be used for?

MR. SCHOENTHAL: It's an accounting office. So the downstairs is employee use, storage, and I guess there will be some exercise equipment for the employees, things like that downstairs, a changing room. It is a growing business, so they're looking to take an existing building and really put a lot of investment into it.

BEVERLY GRIEBEL: It is interesting that Mr. Harris was there before it was Murphy & Harris and now he is going back as Harris & Company. So it has been an accounting office for as long as I can remember. A long time.

PETER WIDENER: I have some questions. Are -- on the construction, or the building of the parking lot, are you encroaching on any allotments or right-of-ways, easements at all?

MR. SCHOENTHAL: No. There is a County reservation for highway purposes. I don't know if it is shown our your drawing. It a very small sliver down in this corner (indicating). It is a 40 foot requirement from the County.

BEVERLY GRIEBEL: It does show in small print here.

MR. SCHOENTHAL: Yes. In the lower left-hand corner.

PETER WIDENER: From the center of the road?

MR. SCHOENTHAL: Center of the road.

PETER WIDENER: Sometimes I get mixed up on that.

Basically what we are looking at is for the addition on the building, and not your parking lots?

MR. SCHOENTHAL: Correct.

PETER WIDENER: No other questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing was closed for this application at this time.

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Gerry Hendrickson seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with no conditions, and Gerry Hendrickson seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with no conditions, and the following finding of fact was cited:

1. This is the most logical placement for the addition on this site.

Note: A building permit is required prior to the construction.

5. Application of Carolyn Jackson, owner; 648 Beahan road, Rochester, New York 14624 for variance to allow total square footage of utility shed area, including a new 16' x 24' two-story utility shed to be 768' sq. ft. (180 sq. ft. allowed), variance for new shed to be 16' high (12' allowed) at property located at 648 Beahan Road in RA-10 zone.

Carolyn Jackson was present to represent the application.

MS. JACKSON: I'm Carolyn Jackson.

BEVERLY GRIEBEL: This went to Monroe County Development and the site is located within the Greater Rochester International Airport area for permit approval. This application has been reviewed for airport considerations and has been granted airport approval. I hope so.

PETER WIDENER: No lights on the top of it?

(Laughter.)

MS. JACKSON: I have a letter and I'm sure you do, too, of approval?

BEVERLY GRIEBEL: Yes. Why do you need the extra shed there?

MS. JACKSON: Well, I haven't used my garage in 15 years because there is so much stuff in there. We have two riding lawn mowers, push mowers, ATV, lots of Christmas stuff. We just need the room. Garden tools. Junk mainly.

We want to get a lot of stuff put away for the winter that has not been able to be in an area enclosed, so we saw these at one of the farm markets and thought, that would be great. So this is what we are doing.

BEVERLY GRIEBEL: Is there storage on the second level?

MS. JACKSON: That is where the storage mainly will be. The bottom will be the lawn mower and the ATV and things like that.

BEVERLY GRIEBEL: Now, I'm trying to remember. How high is your house? Is that a two-story house?

MS. JACKSON: It is not. It is a one level. A ranch.

BEVERLY GRIEBEL: How high is it?

MS. JACKSON: I have no clue. How high are those things?

BEVERLY GRIEBEL: Because an accessory structure cannot be higher than the highest point of the house, measured from the ground level.

DAN MELVILLE: It is a two-story house?

MS. JACKSON: It's not. It's a ranch.

DAN MELVILLE: Might have a problem.

MS. JACKSON: It is not close to the house, though.

BEVERLY GRIEBEL: It doesn't matter. An accessory structure cannot be taller than the house, when you measure from the ground up on each structure.

MS. JACKSON: I see.

BEVERLY GRIEBEL: So that -- you may not be able to do that.

Side table, do we have her get some measurements and come back?

DANIEL KRESS: Measurement we have been provided with is 16 feet which is clearly more than the 12 foot height limit, so I would conclude that the applicant needs two variances, one for the size, and one for the height.

BEVERLY GRIEBEL: Okay. But that wasn't advertised for the height.

DAN MELVILLE: Yes, it was.

MICHAEL MARTIN: Yes. It is one of the variances requested.

BEVERLY GRIEBEL: 16 feet high, 12 feet allowed. But the --

DANIEL KRESS: Doesn't matter. It is more than 12 feet.

RICHARD PERRY: We have two factors. It is more than the 12 feet. That is Item 1. Item 2 is that any out structures are not supposed to be taller than the highest point of the house.

DANIEL KRESS: If the house is less than 12 feet high, it is still more than 12 feet higher than the house. If the house is more than 12 feet high, it is still more than 12 feet for the required variance. The height limitation does not actually mention the height of the house. It just says 12 feet.

BEVERLY GRIEBEL: The what doesn't mention 12 feet?

DANIEL KRESS: The RA zone height limitation just says accessory structure shall be no more than 12 feet high. It doesn't mention the height of the house.

BEVERLY GRIEBEL: Oh, so it doesn't fall into the residential -- no, that is residential. RA.

DANIEL KRESS: It is not written exactly the same as some of the other residential districts. It does not mention the height of the house.

BEVERLY GRIEBEL: Okay. So it doesn't have to comply like the others in strictly residential areas?

KEITH O'TOOLE: You have to keep in mind, it is Rural Agricultural, so if they want to have a barn, that is quite tall, even though your house is not quite so tall.

BEVERLY GRIEBEL: Okay. So she doesn't fall into that category, she can't be higher than the house?

KEITH O'TOOLE: No.

MS. JACKSON: Thank you, guys.

PETER WIDENER: How many acres do you have, ma'am?

MS. JACKSON: Two.

BEVERLY GRIEBEL: Now, this is going to be in the back. You're going to put the shed in the back?

MS. JACKSON: Yes.

BEVERLY GRIEBEL: Behind the pool?

MS. JACKSON: Yes. I don't even think you can see it from the street. I'm not sure, of course, but I -- it is going to be so far back, that I really believe it is going to be nice. It is not, you know, an unsightly looking barn or shed.

BEVERLY GRIEBEL: Now, any other questions? I don't know if we're skipping around.

RICHARD PERRY: Will you have electricity?

MS. JACKSON: Not now. It's too expensive to do any of that kind of stuff. Maybe in the future, but right now, we can't do that.

DAN MELVILLE: Will you park cars in there?

MS. JACKSON: No. The downstairs wouldn't be that large, I don't think so -- well, I don't know. I guess you could, but that's really -- we have a two-car garage. That is why we are getting anything out of that garage, so I can use my garage as parking.

BEVERLY GRIEBEL: You want the cars in the garage.

MS. JACKSON: I want the cars -- just like you were saying earlier, there is just -- a two-car garage really is not enough.

PETER WIDENER: Your purpose is mostly storage?

MS. JACKSON: Yes.

PETER WIDENER: No livestock?

MS. JACKSON: Oh, Lord, no. Please.

PETER WIDENER: Two acres. You could have a chicken farm.

MS. JACKSON: Not hardly. I'm not a farmer.

PETER WIDENER: Who is the contractor who is going to build this for you?

MS. JACKSON: It is right there in your papers. Duro Sheds (phonetic).

PETER WIDENER: Are they local? It says West Main Street Road?

MS. JACKSON: They're in Rochester, Batavia and somewhere else, too.

PETER WIDENER: Upstate New York. Okay.

JEFFREY PERKINS: What is the floor decking material? OSB?

MICHAEL MARTIN: Press board. OSB is press board.

JEFFREY PERKINS: No full-sized tractors will be in there?

MS. JACKSON: One -- they're lawn mowers, but they're on the tractor size. We have an ATV.

JEFFREY PERKINS: Not a full-size tractor?

MS. JACKSON: No. They're just large lawn mowers.

GERRY HENDRICKSON: No questions. I know what she is trying to do and I think it will be great.

MS. JACKSON: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

TERESA JUDD, 669 Beahan Road

MS. JUDD: I'm a neighbor of Carolyn's. Teresa Judd, 669 Beahan Road, across the street. J-u-d-d.

MS. JUDD: We have a -- ours is a barn, an actual barn, much bigger than this, two-story we built about 15 years ago. A next door neighbor has an even larger garage type thing with a flat roof thing that has been there for a lot longer. My mother has a barn that has been there for years. The yards are very long. People have big lawn mowers, rototillers, weed whackers, push mowers, a lot of equipment to store. So that's why people are putting up sheds or big garages, to store everything in. There is no problem with it that I know of.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just a couple questions. I was wondering how this math works out. 16 by 24, times 2, I don't believe is 798.

KEITH O'TOOLE: 768.

MS. BORGUS: Yes. Math lessons are needed in the Building Department.

MS. JACKSON: Yes, it was the Building Department that figured it out. Which were wonderful. They were very kind. They helped me a lot.

MS. BORGUS: Even if they can't multiply.

The other thing I would like to ask, if this is a two-story shed, are there stairs in here?

MS. JACKSON: There are stairs inside.

MS. BORGUS: Thank you.

PETER WIDENER: One other question. You are the owner of the property?

MS. JACKSON: Yes.

PETER WIDENER: I know there is a lot of State land in that area.

MS. JACKSON: There is State land, but that is our property.

The Public Hearing was closed for this application at this time.

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Jeffery Perkins seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with no conditions, and Peter Widener seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 7 yes with no conditions, and the following findings of fact were cited:

1. Will be in keeping with the neighborhood.
2. Applicant described need for additional storage.

Note: A building permit is required prior to construction.

6. Application of Dragica Mikic, owner; 77 Archer Road, Rochester, New York 14624 for conditional use permit to allow a bakery business in home at property located at 77 Archer Road in R-1-15 zone.

Dragica Mikic was present to represent the application.

BEVERLY GRIEBEL: Now, I have got several names on here. The applicant, that's you?

MS. MIKIC: Yes.

BEVERLY GRIEBEL: Dragica Mikic, is that how you pronounce it?

MS. MIKIC: Yes.

BEVERLY GRIEBEL: You're the owner?

MS. MIKIC: Yes.

BEVERLY GRIEBEL: The signature of the applicant, is that your signature at the bottom?

MS. MIKIC: I think so.

MICHAEL MARTIN: Looks like it.

BEVERLY GRIEBEL: Okay. You signed this?

MS. MIKIC: Yes.

BEVERLY GRIEBEL: It looked a little different.

MICHAEL MARTIN: Accent mark over the C, that is why.

BEVERLY GRIEBEL: Okay. You want to do this in your home?

MS. MIKIC: Yes.

BEVERLY GRIEBEL: Where do you do this? Do you have a second kitchen in the basement?

MS. MIKIC: No. I have a -- I was talking to a lady in the Department of Agriculture and she told me if I want to do wholesale, I can do it in my own kitchen.

BEVERLY GRIEBEL: As long as you have the double sink?

MS. MIKIC: Double sink, and a little -- I can't do much, you know -- kind of limited baking. I -- if I want to do retail or anything else, then I would need to have a professional kitchen done.

BEVERLY GRIEBEL: So you are just starting out?

MS. MIKIC: Just starting out, and trying it out, yes. Wholesale.

BEVERLY GRIEBEL: Sweet Memories.

You want to bake desserts, cakes, cookies, brownies, bread rolls, wholesale marketing to restaurants, stores, or the farmers market?

MS. MIKIC: Yes.

BEVERLY GRIEBEL: So you wouldn't have customers coming to your house?

MS. MIKIC: No, not really. That would be retail.

BEVERLY GRIEBEL: Right.

DAN MELVILLE: Do you -- are you operating under a d/b/a right now?

MS. MIKIC: I'm not.

BEVERLY GRIEBEL: Sweet Memories?

MS. MIKIC: No, I'm not yet.

DAN MELVILLE: Is that a name you made up?

MS. MIKIC: Yes.

DAN MELVILLE: You have not registered that name?

MS. MIKIC: Can I change if I want to? They suggested it, but I --

DAN MELVILLE: You have not applied for any kind of licenses, like the Health Department?

MS. MIKIC: Health Department, no. I don't need. If I want retail, then I need from Health Department.

DAN MELVILLE: I don't know. If I thought -- anything you're doing for public you would --

MS. MIKIC: I did take the course, and in any case, I wanted to know. I wanted to learn precaution and everything. I did take a course last week, but I don't need license from Health Department actually.

BEVERLY GRIEBEL: You don't need it for the wholesale?

MS. MIKIC: No.

RICHARD PERRY: I did notice on here that you say that you have two family vehicles, but you're talking about -- oh, okay. Just about the number that can be parked there. You don't anticipate people -- the wholesale people coming to you, or are you going to deliver to the wholesaler?

MS. MIKIC: Probably me. I would deliver probably.

RICHARD PERRY: You would deliver?

MS. MIKIC: Yes.

RICHARD PERRY: I don't have any other questions.

PETER WIDENER: You're the only employee?

MS. MIKIC: Yes, for now. If business goes, then you know it will expand, but for now, I would be alone.

BEVERLY GRIEBEL: Well, this -- if this is granted, we would grant it with no outside

employees. It could be a family member that helps you, but no outside person would be able to do that.

MS. MIKIC: No. Even one person, if I need? Let's say I need help, can I have one or two people -- one person for help?

BEVERLY GRIEBEL: If you want to do that, we could change that to one person outside the family can help you. Do you want to do that?

MS. MIKIC: Yeah. Probably. If I have, you know --

RICHARD PERRY: If it takes off for you.

MS. MIKIC: Yes.

BEVERLY GRIEBEL: We can change that to one.

MS. MIKIC: Okay.

BEVERLY GRIEBEL: We can do that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing was closed for this application at this time.

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Jeffery Perkins seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with the following conditions, and Peter Widener seconded the motion. All Board members were in favor of the motion.

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

1. Granted for a period of one year.
2. No on-premises advertising.
3. No on-street parking pertaining to the business.
4. Hours of operation as per application.
5. One outside employee.
6. Applicant to obtain and maintain any required State and local licenses.

The following finding of fact was cited:

1. The home office is a customary home occupation.
7. Application of 1436 Management Inc., owner; c/o Geoffrey Alan & Associates, 1260 Scottsville Road, Rochester, New York 14624 for variance to allow existing addition to be 56' from front lot line (75' req.) at property located at 1436 Scottsville Road in G.B. zone.

Geoff Considine was present to represent the application.

BEVERLY GRIEBEL: This went for airport review approval and it was approved.

MR. CONSIDINE: Good evening. My name is Geoffrey Considine, the design consultants for this. We have collaborated with Bob Avery Engineering for the site work on the project.

I would like to take this opportunity, by the way, to wish everybody on the Board a Happy Thanksgiving.

We are representing, of course, 1436 Management, which is the Evans family for the former Spector waste business.

As you are aware -- probably well aware, there are issues with the property at this juncture. However, we are working with the Town, Mr. Kress and various others to resolve some of those issues. But we are certainly professional enough, all of us, to notice we are working with spirited issues and we'll focus on the variance here.

We're expecting here, by the way -- and we'll just pass this around. This is what that looks like. You have --

BEVERLY GRIEBEL: We have it.

MR. CONSIDINE: Okay.

BEVERLY GRIEBEL: It is essentially a bay window, that can bump out.

BEVERLY GRIEBEL: Kind of a bay window?

MR. CONSIDINE: Correct. As you know, they have -- the Evans family has spent considerable money in the rehab of this parcel at this juncture. I'm assuming everybody on the Board has been to the site and seen it.

PETER WIDENER: I know it well.

MR. CONSIDINE: I know it has been a thorn in the Town's side for a lot of years.

But the reason that we actually put this in -- the rendering will not show this actually. We came up with a different design initially, but, again, this is aesthetically to improve the look of the building now.

Now, it also has a functional component in the reason we didn't do it flush with the building is because it allows them to actually be able to observe their parcel. As you know, they have a used car operation there. There is also a plethora of buses that pull in and out because they have a service contract with Trailways, so there is a fair amount of buses as depicted on the site plan. So there needs to be control of the traffic for safety factor, for ingress and egress out of there.

This allows them to actually have a 4 foot bump-out to view the parcel and control some of the activity that comes in, because as you know, customers come in and park arbitrarily wherever they want, even though there is customer parking, handicapped parking delineated on the parcel.

Again, the more aesthetically pleasing the building looks like, the more it will attract customers. They want to come to a nice looking place for business.

Now, what we are asking you to consider, we all realize in 1958, there was a variance granted -- or 1973, excuse me, for a 58 foot setback. I asked Bob Avery last week to come by and verify the dimension. It will be 55.5 feet from the right-of-way, and Bob (Avery) confirmed that the other day.

We are requesting a 4 foot variance, relief from that. In other words, it will come out 4 feet from the existing wall, and it is 8 foot, 8 inches approximately above the ground. So it really does not encroach on the right-of-way. It doesn't impede on traffic. It has no issue with respect to the movement of the vehicles on the parcel itself.

BEVERLY GRIEBEL: There is nothing that is going to hit it as it goes by?

MR. CONSIDINE: Correct. It is high enough above the ground not to cause any difficulty there.

The adjacent building on the eave side, the old gas station is actually 54 foot from the right-of-way. This is this building to the east here (indicating). It is actually indeed closer to the right-of-way than this proposed bump-out (indicating) would be.

BEVERLY GRIEBEL: I think it probably started much further back and they kept widening Scottsville Road.

MR. CONSIDINE: Yes, ma'am, I'm sure it did.

So I know that you request information from the audience, and all though they couldn't be here, I do have two letters of support for this particular parcel. And I -- I will just give them to the Board. Joe Benson wrote a letter as well.

BEVERLY GRIEBEL: He is across the street.

MR. CONSIDINE: Across. And Fleet Pride is across the street. If you don't mind, I will just take a quick second to read.

Mr. Considine read the letter of support into the record.

MR. CONSIDINE: There are two letters here I will submit to the Board so you can see there is some support from the adjacent neighbors.

Mr. Considine submitted a copies of the letters to the Board. The letters will be on file with the Building Department.

BEVERLY GRIEBEL: Joe Benson has no problem with the operation of the used car repair. "Done remarkable job of improving the location."

So that is good. It does look a lot better.

MR. CONSIDINE: We would like to reiterate this will not affect any component of any access to the parcel, any egress to the parcel. It is a relatively minor effect on the property in terms -- it is a pretty minimal addition to this parcel, but aesthetically it would appeal --

BEVERLY GRIEBEL: How long ago was this built?

MR. CONSIDINE: This building?

BEVERLY GRIEBEL: No, this bay window kind of thing.

MR. CONSIDINE: We -- that is an issue we have. It was built about a month ago.

BEVERLY GRIEBEL: A month ago.

MR. CONSIDINE: And they neglected -- or couple months ago and they neglected to get a building permit. That is another thing we have to address after the fact. We certainly appreciate the attention of the Board, and if there are any questions, I would be more than happy to answer them.

RICHARD PERRY: The height from the ground, you say, that doesn't put it in peril for anything pulling in or out, but you're dealing with buses higher than 8 foot 8. Trucks in there are certainly taller than that. I think you do have a very real risk of somebody -- because it is not the most generous amount of space there. Somebody pulling in or pulling around thing, and taking out, you know, your -- your bay window.

MR. CONSIDINE: I will address that, Mr. Perry. The -- the only thing I can say in deference to that, the entrance is here (indicating). And the -- and the actual bump-out, if you will, is over on this side, so all of the traffic flow is here (indicating). This part of the bay (indicating) is not servicing the buses. This other side (indicating) of the building to the east is. So that would minimize or mitigate some of the potential for hitting that -- for hitting that window.

RICHARD PERRY: I still think there is a liability there, but if that is what you're willing to live with, that is fine.

BEVERLY GRIEBEL: You just don't want to be that person up there in that little office.

MR. CONSIDINE: Nobody will be sitting up there, Mr. Perry. I think they would have time to move out of the way.

RICHARD PERRY: A couple concrete pillars down on the ground --

MR. CONSIDINE: Pretty high bollards, that would be for sure.

JEFFREY PERKINS: I agree with Mr. Perry. If you could do something underneath that, from the -- from the safety concern, whether bollards or landscape type thing.

MR. CONSIDINE: Or curbing, for instance?

RICHARD PERRY: A couple of posts.

BEVERLY GRIEBEL: So they won't get too close to that building and hit it.

RICHARD PERRY: So they would have to take out the posts before they got the bay.

MR. CONSIDINE: The potential person who is watching the traffic. I'm sure that could be...

BEVERLY GRIEBEL: Easily done.

RICHARD PERRY: At close quarters like that, you know, I'm -- the other fear is the people aren't going to be paying attention to what is overhead. And that they wouldn't even see it.

MR. CONSIDINE: For the bus you mean, or --

RICHARD PERRY: Bus or truck, whatever it happens to be in there.

BEVERLY GRIEBEL: I assume we can make that a condition, if they add ground level protection to keep vehicles away from this area.

KEITH O'TOOLE: That is a little vague. You want to be very specific about what you want.

BEVERLY GRIEBEL: What do you advise we should put?

KEITH O'TOOLE: Board's pleasure. Two options have been discussed, or a combination of curbing, bollards. Typically those bollards are concrete filled. I would be very specific as to the number of bollards, the height of bollards, the same thing as to the curbing, as well.

RICHARD PERRY: Curbing won't stop somebody from going over it.

MR. CONSIDINE: I agree.

RICHARD PERRY: The others should be outward of the right and left edges of this, by, you know, at least half a foot.

MR. CONSIDINE: That is the more safe approach, because a curb could be run over, whereas a bollard will get the attention of the bus driver. We have done enough projects we have used bollards on industrial buildings.

JEFFREY PERKINS: And landscaped wall that is 36 inches high, and --

BEVERLY GRIEBEL: But a hedge can be driven through.

JEFFREY PERKINS: No, a timber log, with some earthen material, with some nice landscaping, and it is something from – preventing a substantial vehicle from driving under it.

RICHARD PERRY: Well, you have a doorway beneath it, so Jeff (Perkins) is right.

MR. CONSIDINE: There is handicapped space there. I think I would defer to Mr. Perry and say a bollard may be the most pragmatic. There is very little room really in between the right-of-way, because as Scottsville Road has encroached and encroached, there is very little room between the road and the building, so I think the bollard is probably the most pragmatic recourse.

RICHARD PERRY: The least expensive.

JEFFREY PERKINS: For that matter, as you mentioned, there is a door and the swinging of the door, you may want to have it so that the door swings open, it is more or less protected by maybe up to three bollards. One on the --

RICHARD PERRY: You really wouldn't need that, because it is going to be out 4 feet. I doubt seriously the door is, you know -- it is not 4 foot.

JEFFREY PERKINS: Right. Whatever seems --

MR. CONSIDINE: It would be just slightly outboard of the actual width of the aperture of the window. So I'm sure that could be accomplished.

KEITH O'TOOLE: Perhaps the gentleman can tell us the dimensions, the specifications of the bollards he is proposing, the height, the width of the galvanized pipe and so on.

MR. CONSIDINE: We could supply a drawing.

KEITH O'TOOLE: Perhaps we can make it -- unless you have very specific ideas, perhaps we can make it subject to the Building Department approval.

RICHARD PERRY: Yes. That makes sense.

BEVERLY GRIEBEL: The design. The design specs subject to Building Department approval.

MR. CONSIDINE: We'll get together with Mr. Kress.

DANIEL KRESS: Only other comment. The applicant should be aware I will need -- since this work is done without a permit, I haven't had a chance to review the structure, so I will need a structural drawing.

MR. CONSIDINE: We realize that was a condition of the Board, so we -- so -- this is chicken and egg. Once this Board renders their decision, if it is on the positive side, the next step would be to provide Mr. Kress with a stamped drawing of the actual structure and get a building permit, and Mr. Kress, of course, would certify that the construction was consistent with his requirements.

BEVERLY GRIEBEL: Should we put that as a condition, too?

KEITH O'TOOLE: Yes.

BEVERLY GRIEBEL: Structural drawing, that is per the Planning Board request. To Building Department.

BEVERLY GRIEBEL: Any other comments from the side table?

MR. CONSIDINE: This was the original rendering that was done for the parcel. Landscaping has been done. The paving has been done. I won't protract the Board. Originally the window looked like this, a flush window, but again, discussing the functionality of it, they bumped it out so that they could have some visibility into the parcel, so -- and the banding is still to be done. Originally designed to be -- you can see -- if you have been to the site, you can see a burgundy color. Eventually all this (phonetic) will be burgundy banding all around the property. Again, with the interest of upgrading the parcel, overall.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing was closed for this application at this time.

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Peter Widener seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with the following conditions, and Peter Widener seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 6 yes to 1 no (Michael Martin) with the following conditions:

1. The design specifications of the bollards subject to Building Department approval.
2. Structural drawing, per code enforcement request, to be submitted to the Building Department.

The following finding of fact was cited:

1. With the proposed protection, the observation window will be safer.
8. Application of Passero Associates, 100 Liberty Pole Way, Rochester, New York 14624, property owner: V. Zuber; for variance to allow a 40' - 50' front setback per plan submitted for proposed Archer Meadows Subdivision at property located at a portion of 177 Archer Road in R-1-15 zone.

Brian Donald was present to represent the application.

BEVERLY GRIEBEL: This has been to the Planning Board. It went to Monroe County Planning and came back as a local matter. If anyone want to look at the diagram, feel free to walk over.

MR. DONALD: Thank you.

My name is Brian Donald. I'm with Passero Associates, and I'm here on behalf of Perl Development, who is the developer for the Archer Meadows Subdivision.

The subdivision itself consists of 90 lots on 48 acres of lands. They're single-family lots, and it is zoned R-1-15. It is located on the west side of Archer Road, directly across from Clay Hill. What we are requesting tonight is -- we are asking that the front setbacks -- that this Board allow them to be staggered in 5 foot increments between 40 and 50 foot, as we have shown on our plans and as has been requested by the Planning Board.

The Town's code requires 60 foot, and as part of the initial review process, we have been to several conceptual meetings, and we did receive a preliminary approval at last month's meeting. We arrived at the plan you see here.

The Planning Board in their preliminary approval mentioned the staggered setbacks and mentioned they felt rather than write a letter, the preliminary approval itself would speak of their support of the staggered setbacks.

The reasons for staggering the setbacks, there are a few of them. In the design of the subdivision, we have lots that are of different depths. The lots along the north edge of the subdivision, which is up on the map over there, are -- they're about 160 foot deep. The lots along the south edge of the subdivision are 180 foot plus. I think the shortest one is 180 foot. The shorter front setbacks will allow the rear yards to be larger and hopefully eliminate some of the nuisance variances that come up in other subdivisions. It will give people larger rear yards and allow them to, you know, put a shed or other accessory structure in their backyard and still have yard to use, while -- while being within their setbacks.

The other thing it does, is along the south edge of the project, it keeps those homes just a little bit further away from the railroad track. The staggering, sort of -- it is nice for aesthetics of the project, and that is why instead of just asking for a blanket 50 foot or 40 foot setbacks, we are staggering them. They go from 40 to 45 to 50, back down to 45, and so on. And that is -- that has -- that has all been shown on our approved preliminary plans.

Impacts. There really aren't negative impacts to this. It -- the entire neighborhood will be consistent. It will be -- the setbacks, like I said, are between 40 and 50 foot, and a 40 foot setback really gives you -- it gives you plenty of room to park several cars. 40 foot from the right-of-way is 57 ½ foot from the gutter, which is plenty of room to park three cars.

Most of these homes will be single-family, three and four bedroom that will have two-car garages. Our shortest setback allows for six cars in the driveway.

To close out, we are on next month's Planning Board agenda for final approval of our Phase 1. Again, we are requesting just a setback -- setback variances for the -- for the entire subdivision.

BEVERLY GRIEBEL: This is directly across from Clay Hill?

MR. DONALD: Correct.

BEVERLY GRIEBEL: I did see something from the Planning Board, I guess there might be a traffic light put in there?

MR. DONALD: Um, no.

BEVERLY GRIEBEL: Signal device?

MR. DONALD: No. We did align the intersections, which is good traffic planning, but there is no -- let me clarify that. The comment regarding the signaling devices is -- if you look at the subdivision, it's shaped like a figure 8, and we have went back and forth with our office, the Planning Board, the Town's Engineer, and the Traffic Safety Committee as to how that intersection will be handled.

BEVERLY GRIEBEL: Oh, the internal intersection?

MR. DONALD: The internal intersection. We know there will need to be some control there. It is really the Town's Highway Department -- they have the last call on that. The Board felt they wanted that in their approval.

BEVERLY GRIEBEL: That is the one.

MR. DONALD: It is not for Archer Road, no.

BEVERLY GRIEBEL: What is the newest thing now, these (indicating).

MR. DONALD: Um, the roundabouts?

BEVERLY GRIEBEL: Roundabouts, yes. I don't think we want one in there.

Now, these lots are -- well, most of them are 90 feet wide.

MR. DONALD: Correct.

BEVERLY GRIEBEL: Some of them are shorter than that.

MR. DONALD: Our shortest lot is about 160 foot. Um, which gives us the -- you know, the minimum 15,000 square foot, which is about a third of an acre. Most of our -- most of our lots are deeper than those. The ones along the north property line are 160 foot deep.

BEVERLY GRIEBEL: So this is already at R-1-15.

MR. DONALD: That is correct.

BEVERLY GRIEBEL: That has changed the zoning on it?

MR. DONALD: No. It has always been R-1-15. South of the tracks is zoned difficulty, but that is our existing zoning. All our lots are in compliance, so -- with the R-1-15 zone.

BEVERLY GRIEBEL: Now, there is one vacant parcel. Is that where the Zuber residence is now?

MR. DONALD: Yes. That is the 90th lot.

BEVERLY GRIEBEL: Is that going to stay?

MR. DONALD: Yes. So there are will be 89 new lots and Zuber's residence will be number 90.

BEVERLY GRIEBEL: Okay. And the barn will be gone.

MR. DONALD: The barn will be gone.

BEVERLY GRIEBEL: Since they don't use it any more there.

MR. DONALD: Right. They don't use it any more. It is actually in really good shape. I think somebody is going to take it down and use it elsewhere.

BEVERLY GRIEBEL: Okay. I was just kind of curious of the actual configuration.. That is why that is a big lot, because that house is going to stay?

MR. DONALD: Exactly. As part of the land deal with this, Mr. Zuber wanted a certain size lot.

BEVERLY GRIEBEL: I don't know if that big tree will stay.

MR. DONALD: There are a couple big trees, but his lot -- I won't say the trees delineate his lots, but --

BEVERLY GRIEBEL: There is one in the front yard with the corn table there.

MR. DONALD: I know. I used to buy corn there, myself. I grew up not too far.

BEVERLY GRIEBEL: You don't know if that one will stay?

MR. DONALD: In front of the house?

BEVERLY GRIEBEL: It is kind of south of the house.

MR. DONALD: Just south of the house, next to the driveway? I think -- I believe that will stay.

BEVERLY GRIEBEL: That circular driveway will stay.

MR. DONALD: I believe so.

BEVERLY GRIEBEL: That will be nice. Not that I would have any say in that.

This is similar to the one built off Red Bud, where they moved the houses forward to allow

more backyard area.

DAN MELVILLE: That is very common now.

MR. DONALD: We designed that subdivision with 50 foot front setbacks.

BEVERLY GRIEBEL: We approved that one.

It gives more backyard if people want a pool or a deck.

MR. DONALD: Yes, or they can put a shed and still have usable yard.

KEITH O'TOOLE: Just one comment. For clarification purposes, the Planning Board did not direct the applicant to achieve these particular setbacks. Their only concern was to have the houses staggered. Nothing further.

BEVERLY GRIEBEL: Staggered.

At whatever setback they picked out, to have them staggered.

KEITH O'TOOLE: For whatever setback they could get approved.

DANIEL KRESS: One other point that bears clarification. I want to know what I will be looking for when I'm issuing building permits. It is not clear to me how many of these houses will have which setbacks. I think the Board needs to either get the applicant to specify or the Board needs to specify in its decision whether all houses shall be no less than 40 feet from the front line, or whether a certain number of these houses should be 40 and a certain other number should be 45 and a certain other number should be 50. We don't have numbers specified for each and every one of these lots. So I think you just want to be careful what you're approving.

DAN MELVILLE: Can you specify each lot?

MR. DONALD: Yes. We can -- I guess one way we can handle that is -- and Keith (O'Toole), correct me if I am wrong, we can issue the approval based on the setbacks as shown on the plan, and we could follow that up by quantifying the number of 40, 45, and 50 foot setbacks.

KEITH O'TOOLE: What would be simpler is you have some typical setbacks called out. Perhaps for each and every lot, call out the setback you want, and that be the plan that the Planning Board approves and that will be the reference point for code enforcement.

MICHAEL MARTIN: Like a list with lot number, 40, 45, 50.

MR. DONALD: We can label it on each lot.

BEVERLY GRIEBEL: But to stagger them, it would mean that it would be a different setback on adjacent properties.

MR. DONALD: Correct.

BEVERLY GRIEBEL: Is what you would want us to do?

KEITH O'TOOLE: What is the question?

BEVERLY GRIEBEL: To have different setbacks on adjacent properties?

DAN MELVILLE: Do we need that information before we approve it?

KEITH O'TOOLE: That is not the concern. The Planning Board is directing them to stagger. They will sort it out from a planning point of view. All Mr. Kress needs is specificity. He needs to know which lots have which setbacks.

MICHAEL MARTIN: Just a simple list with a lot number and setback is sufficient?

KEITH O'TOOLE: It has to be shown on the plan. You could show a matrix, on each lot, however you want to do it so long as it is done.

RICHARD PERRY: As long as we approve it with the proviso that is a supplied --

DAN MELVILLE: Can we approve it before it is supplied?

KEITH O'TOOLE: I don't see it as an issue. The real issue before you is alternate setback, somewhere between 40 and what is the -- 45 and 50, is that good? And if you're good with that, we'll allow the Planning Board to sort out the mix if you have no objection.

DAN MELVILLE: Okay.

BEVERLY GRIEBEL: It is hard to differentiate, because they don't have specific house plans yet?

DANIEL KRESS: My concern is otherwise you will end up with every other house at 40 feet which defeats the purpose we are attempting to get here.

BEVERLY GRIEBEL: They must be staggered.

MICHAEL MARTIN: That --

DANIEL KRESS: I don't know what that means.

MICHAEL MARTIN: So have the stagger specifically delineated.

DANIEL KRESS: Then I think I know what that means.

MR. DONALD: That is fine. We have shown it on the plans already. It is not a problem to quantify.

DAN MELVILLE: And our approval would probably be that the setbacks are no less than

40 feet, and staggered, per Planning Board recommendations or something like that.

MICHAEL MARTIN: But the exact setback be delineated for each parcel. I think that is what we are after.

BEVERLY GRIEBEL: For each parcel on return to the Planning Board.

MICHAEL MARTIN: Or be provided to the Building Department.

BEVERLY GRIEBEL: Different setbacks on adjacent houses?

MICHAEL MARTIN: That is Planning Board.

DAN MELVILLE: Might be a slight setback as it goes down the road.

RICHARD PERRY: Looks like they have it staggered basically by --

BEVERLY GRIEBEL: These are sketch drawings.

RICHARD PERRY: Each lot will be staggered by at least 5 feet?

MICHAEL MARTIN: That is Planning Board.

RICHARD PERRY: Oh, yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GARY JOHNSON, 65 West Forest Drive

MR. JOHNSON: Gary Johnson, 65 West Forest Drive, speaking on behalf of my mother once again. She lives on Beaver Road.

The question and comment are what impact will this have on the already saturated and unresolved drainage issues for this housing tract? Currently the drainage from this track, proposed track would go underneath the railroad tracks. There is a pipe underneath the tracks heading south, and it would head diagonally southeast which is currently flooding my mother's farm. I have written a letter to this Board over a year ago asking for a resolve to this issue and basically received a letter from the Town's engineer -- actually a letter got mailed to my mother to "the Jacksons," not "the Johnsons," saying there is not a problem.

DAN MELVILLE: That is actually not our issue here.

BEVERLY GRIEBEL: It is a Planning Board issue.

MR. JOHNSON: The letter was addressed to the Zoning Board, the Planning Board -- I had written the letter to pretty much ten different people, ten different boards. I never really received a response back from the Zoning Board, like I said.

BEVERLY GRIEBEL: But that is not a Zoning Board issue, sir.

MR. JOHNSON: My question again, and my comment is, what impact will this have on the current saturated and unresolved drainage issue from what --

BEVERLY GRIEBEL: I don't know.

DAN MELVILLE: It is not our issue. We are only hearing setbacks.

BEVERLY GRIEBEL: It is just the setbacks.

MR. JOHNSON: I beg to differ, because you brought up the point of trees and barns and -- so you opened up the discussion to other issues.

BEVERLY GRIEBEL: I just asked if the current tree would stay.

MR. JOHNSON: I'm asking if the drainage issue is resolved.

DAN MELVILLE: We don't know.

BEVERLY GRIEBEL: We don't have any idea. I also could not tell them to keep that big tree there.

MR. JOHNSON: That is my question. Is the drainage going to be resolved, and you're saying it is not the Zoning Board's issue, but you bring --

BEVERLY GRIEBEL: That is a Planning Board issue. It is something you need to discuss with the Planning Board.

MR. JOHNSON: I have brought it up to a number of other boards and people and the Highway Department and again, with this proposed housing tract, going in, the flooding is getting worse because of the Vistas, but this is a new tract, and if you're -- you know, going to approve it, there are other issues that need to be resolved first.

BEVERLY GRIEBEL: Well, if we approve this setback, it doesn't mean that they have blanket approval to put the backhoe in tomorrow. I mean, they have other issues they have to resolve at the Planning Board.

MR. JOHNSON: That was correct.

BEVERLY GRIEBEL: Have you talked with the Drainage Committee?

MR. JOHNSON: Yes, I have. I have made an appearance before the Drainage Committee. That is actually where I started with Joe Carr and the Drainage Committee, then the Planning

Board, writing letters to the Zoning Board and the Planning Board. Not receiving any response back. And again, it has been a year. And I'm – really would like a response in either case, at least an acknowledging you received my letter.

BEVERLY GRIEBEL: Well, I didn't receive any letter.

MR. JOHNSON: Okay.

BEVERLY GRIEBEL: So I -- I don't know, but there -- there is nothing this Board can do about drainage issues. We have a very narrow scope in this. It is just the setbacks of this.

DAN MELVILLE: We just deal with variances and things like that.

MR. JOHNSON: Okay.

PETER WIDENER: There is an issue of drainage?

DAN MELVILLE: That is not our issue.

MR. JOHNSON: I went to the Planning Board and they said, "I don't have clout." Now I would have to go to the -- you're telling me one doesn't have authority over the other but either is not willing to make a judgment --

BEVERLY GRIEBEL: It is a site plan issue, and that is something to be taken up by the Planning Board.

KEITH O'TOOLE: The Planning Board never directed anyone to come to this Board to discuss drainage issues. The setback issues are before this Board and they're appropriately before this Board. Certainly any engineering questions, including drainage, traffic and so on, are only within the jurisdiction of the Planning Board, and certainly the gentleman should consult with the Town Engineer and the Planning Board, and those are the most appropriate contacts on those issues.

BEVERLY GRIEBEL: Thank you.

The Public Hearing was closed for this application at this time.

Beverly Griebel made a motion to declare the Board lead agency for SEQR, made a determination of no significant environmental impact, based on the testimony and the material presented at this hearing, and Michael Martin seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with the following condition, and Richard Perry seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 5 yes to 2 no (Peter Widener, Jeffery Perkins) with the following condition:

1. Front setbacks no less than 40' but exact setback to be determined for each parcel and to be provided to both the Building Department and Planning Board.

The following findings of fact were cited:

1. Variance will allow larger back yard area.
2. Staggered front setbacks will allow visual interest.
3. Variances won't detract from the neighborhood.

The meeting ended at 9:15 p.m.