

CHILI ZONING BOARD OF APPEALS
February 25, 2014

A meeting of the Chili Zoning Board was held on February 25, 2014 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: Robert Mulcahy, Michael Nyhan, Fred Trott, James Wiesner and Chairperson Adam Cummings.

ALSO PRESENT: Michael Jones, Assistant Town Counsel; Ed Shero, Building & Plumbing Inspector

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

ADAM CUMMINGS: Any issues on the signs? The Board indicated they had no problem with the notification signs.

1. Application of Lifetime Assistance, Inc. c/o Dennis Brown, 425 Paul Road, Rochester, New York 14624 for variance to allow existing pavilion to be 52.4' from east side lot line and existing shed to be 42.6' from east side lot line (60' required) for both due to corner lot) at property located at 425 Paul Road in LI zone.

Robert Avery and Dennis Brown were present to represent the application.

MR. ROBERT AVERY: Robert Avery, land surveyor. I'm here with representative from Lifetime Assistance, the applicant, Dennis Brown. Just a little background on this application as to why we are here. Lifetime Assistance, Incorporated hired a contractor to construct a pavilion in the garden fenced-in area on the east side of their facility on Paul Road at the corner of Trade Court.

As part of that, regular contract was prepared and signed by both parties and in the contract, it indicated that the contractor was required to obtain all permitting from the local permitting agencies prior to building and get the proper documents at completion. That never happened. The -- the pavilion was constructed. It was constructed in -- the Town, at that time, notified Lifetime Assistance that they would not only have to appear in front of the Planning Board for site plan approval but to obtain a variance because the pavilion that was constructed is less than 60 feet from the westerly right-of-way with Trade Court.

So we did go in front of the Chili Planning Board on December 10th and received preliminary and final approval from them for site plan. And we're before you at this point.

As indicated by Chairman, we're here to take care of also a shed that is within that fenced in garden area that is also not 60 feet from the side property line to the east. The shed is 42.6 feet from Trade Court; 60 required. The pavilion is 52.4; 60 required.

Um, we went through the standard -- the standards that are required in the State of New York when it comes to Zoning applications, and that was completed and filled in on the application -- on the application form itself. If you want me to, I can run down any of that if you would like.

ADAM CUMMINGS: No, I don't think that will be necessary.

MR. ROBERT AVERY: Tried to answer all of the three -- it's the three items that have to be answered in a zoning application. So we feel that we covered just about all of those.

One thing with this, of course, the main thing to point out it's not really in a residential area. This is zoned LI. There are residences on the north side of Paul Road, but they're located 400 feet away from this structure itself and likely not visible to -- to any of them, really. In fact, it's not quite visible even if you were to drive your vehicle down Trade Court because it's located 7 to 8 feet higher than the pavement down there. You would have to be looking up out of the car in order to see it. And, of course, the wood fence does block it so if you do see anything, you're just seeing the top roof of that pavilion. I think Dennis (Brown) can get in a little bit -- explain the purpose of why they wanted to construct that in the first place, Dennis (Brown).

MR. BROWN: Sure. We use that particular area for Special Use Permit -- especially in Upstate New York, only three seasons of the year. And what we do is -- there is a picnic table out there. We have raised garden beds in there. The people who go to our day services program go out there to work in the raised garden. They may do some arts and crafts at the picnic table and it's a way to get outside and enjoy the outdoors. And with a pavilion in place, that allows it to be used more often than it would otherwise.

MR. ROBERT AVERY: And one of the items I brought up as far as location, was there any other area that could be facilitated by the -- by the applicant for the location of this, and we had answered that there wasn't, because it's directly off the classroom hallway where the clientele

would -- would exit. It is -- security is somewhat of an issue with individuals that go to LAI and there wasn't room in front with the parking lot, and the back was not convenient at all because that's off the light manufacturing or assembly part of the -- of the business in the back, like (indiscernible) industries, so, that is really the only spot that they could put it. The west side of the building is also parking lot and the vehicle service garage.

JAMES WIESNER: When did you say it was built, just a couple years ago?

MR. BROWN: It was built in November of 2012.

JAMES WIESNER: Just over a year?

MR. BROWN: Just over a year.

JAMES WIESNER: Has there been any complaints on it?

ED SHERO: No complaints. I was the one who discovered it, though.

MICHAEL NYHAN: Were there any other remedies such as maybe trying to shield it with shrubbery researched or any kind of vegetation to shield it?

MR. BROWN: There is shrubbery in that location. I'm not sure exactly -- I know I trimmed it, but there is some shrubbery.

MR. ROBERT AVERY: There is some shrubbery on the outside perimeter of the fence. I haven't shown it. I think there are bushes near the four corners of the fenced-in area, to my recollection.

MICHAEL NYHAN: I saw that there were some there now. Is there any additional planned for that area? Is that -- what is there right now is what it is going to be it?

MR. BROWN: We hadn't thought of it. It is certainly something we could -- we could pursue.

MICHAEL NYHAN: The open pavilion, is that 20 by 16 foot building, correct?

MR. ROBERT AVERY: Yes.

MICHAEL NYHAN: Shed built at the same time?

MR. ROBERT AVERY: The shed, I think, was there earlier. Earlier they were storing their tools, hoes and so on and so forth they would need for the gardening aspect out there for tool storage.

MICHAEL NYHAN: Okay. I don't have any more questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

ADAM CUMMINGS: Did you want to have any conditions about the landscaping of any sort?

MICHAEL NYHAN: They have it by the fence now. What does anybody think about that?

ROBERT MULCAHY: Doesn't make a difference to me.

JAMES WIESNER: I've driven by there 100 times and didn't notice.

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

ADAM CUMMINGS: Building permit for the shed, before we close this one up?

ED SHERO: A permit is not required for the shed.

ADAM CUMMINGS: Not for the shed, for the pavilion.

MR. BROWN: We have filled a building permit for the Town and it's pending, um, the Planning Committee and the Zoning Committee's approval.

ADAM CUMMINGS: Okay. So we're just going to list that one down as needing a building permit for the pavilion.

Robert Mulcahy made a motion to approve the application with the following condition, and Fred Trott 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 for the pavilion will need to be obtained from the Building Department.

The following finding of fact was cited:

1. The application is not significant in nature nor will it have a negative impact on neighboring properties or the environment since the property is surrounded by commercial buildings and is very distant and reasonably shielded from the viewsheds of the residential properties located on the

north side of Paul Road.

2. Application of Mr. and Mrs. Sean McCormack, owner; 4310 Union Street, North Chili, New York 14514 for variance to allow existing agricultural barn to be 45' from side lot line (100' req.) at property located at 4310 Union Street in AC zone.

Sean and Sandra McCormack were present to represent the application.

MS. MCCORMACK: Sandra McCormack, 4310 Union Street.

MR. MCCORMACK: Sean McCormack, 4310 Union Street.

ADAM CUMMINGS: If you could just describe your project and the application. Well, it is existing, so it is not really a project.

MS. MCCORMACK: We're here tonight to request a variance to the side property line setback from 100 feet to 45 feet for an existing building that currently houses three horses and is an integral part of our horse riding and boarding facility. The building has a poured concrete floor and was in existence when we purchased the property eight years ago. We're the third owners of this -- of 4310 Union Street. We have been told by neighbors that the structure was actually built by the original owner somewhere probably around 1990 when the house was built and that it was built for the purpose of housing red-tailed hawks.

When we purchased the property in 2006, the building was, in fact, still filled with bird droppings. So I guess it really was used for red-tailed hawks. We now use it as a barn. To tear down that building and rebuild within the 100 foot setback would be cost prohibitive. We're at the top of a hill. The building is on the back side off the crest of the hill. There are no houses on the property adjacent to where that building is located. That -- that neighboring property is owned by the Monroe County Water Authority and is occupied by a large water tower and cell phone tower and the rest of that Water Authority property is open fields.

So again we're asking for a variance for that existing building.

MICHAEL NYHAN: Is this the cedar color building that was just to the --

MS. MCCORMACK: No.

MICHAEL NYHAN: It wasn't.

MS. MCCORMACK: No. That's a run in shed that we bought, an Amish shed. That's in the front. And that's -- that's not within the setback.

MICHAEL NYHAN: Okay. Currently this is a barn type structure that is housing the horses behind the house?

MS. MCCORMACK: Yes.

MR. MCCORMACK: It has a poured floor, foundation. Even drainage.

MICHAEL NYHAN: Electricity?

MS. MCCORMACK: Yes. It had electricity when we moved in.

MICHAEL NYHAN: Okay. No more questions.

ROBERT MULCAHY: How many acres do you own up there?

MS. MCCORMACK: 20.

ROBERT MULCAHY: 20.

FRED TROTT: This is the red building closest to the Water Authority, correct?

MS. MCCORMACK: Yes.

MR. MCCORMACK: Correct.

FRED TROTT: The neighbor behind you, that is also a horse farm, down the hill?

MS. MCCORMACK: No. There is GVEC horse -- the clinic.

FRED TROTT: The clinic.

MS. MCCORMACK: Actually, I don't think their property comes all of the way to ours. There's a lot of farms. I don't know the name of the farm, who is directly behind us. I think he actually owns behind GVEC, as well.

FRED TROTT: Okay. There is also a horse farm, equestrian place. Is there another one --

MR. MCCORMACK: Up the road.

FRED TROTT: If you're going from Chili Scottsville Road.

MR. MCCORMACK: Up the road from us on Union Street, two, three doors down from us is -- is --

MS. MCCORMACK: Wideners.

MR. MCCORMACK: -- Wideners, and I think they have four or five horses. Maybe more.

MS. MCCORMACK: That is not adjacent to our property, no.

FRED TROTT: Okay. That's all.

ADAM CUMMINGS: We have received a complaint from the neighbor for the smell of horse manure, and the Planning Board, from what I saw on the record, has placed a condition on the Special Use Permit that you initiate an odor control procedure for accumulated manure on the property.

Do you understand that?

MS. MCCORMACK: Well, we did -- first of all, we don't have a large manure pile. We have only got a barn with three stalls. After that Special Use Permit, we -- the one small area where we do accumulate some manure temporarily we moved farther back down the -- the hill. We bought a manure spreader and, you know, my neighbor came over -- well, we encountered him in the Water Authority property one day when he was hunting and he mentioned that again.

And I really questioned the validity of that statement. Our house is literally, you can see,

in the middle of -- we're surrounded by the pastures. Our bedroom window is less than 50 feet from the pastures. And, you know, we regularly, um, move that manure and I -- I just have to say I question the validity of that statement. Their house is literally more than 1000 feet away from the one small area that we do accumulate some manure.

MR. MCCORMACK: Where we accumulate it is on the back side of the hill, and -- and so barometrically for the smell to go up and over the hill, through the pine trees, through the Water Authority property all of the way back down again is very unlikely. The prevailing winds come from the north and the west which would push it past us at least 85 percent of the time. You have other horse owners in the area. Two doors down is Wideners.

The farmers spray slurry in the fields across the way. So there is agricultural smells all around us.

ADAM CUMMINGS: I understand. We just like to minimize how many complaints we do receive here, so if you can continue with your management plan and minimize that potential coming from yours, in all likelihood it could come from the others.

MR. MCCORMACK: We spread it. And every two weeks I level and flatten it and turn it over so -- in order to control the smell the best we can.

FRED TROTT: I can say I have been up there numerous times and -- at the Water Authority. I work for the radio center. We have a tower up there. I never smell it.

MR. MCCORMACK: Thank you.

FRED TROTT: We actually enjoy the horses. It gives us a little break.

ADAM CUMMINGS: Water towers aren't exciting?

FRED TROTT: No. Radio towers aren't either. (Laughter.)

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Just to back up on the time when this was built, was there a permit issued for this building at the time?

ADAM CUMMINGS: I believe by our records it is classified an agricultural barn and does not require a building permit.

MS. BORGUS: I see. So there was no plan submitted or anything?

ADAM CUMMINGS: I don't believe so.

MS. BORGUS: Well, I can see how it happened. Excuse me. Excuse me. Um, but I can see this happening again in the future, too. I mean, if -- if it's -- if it was -- no plan was needed, no permit was need, I can see this repeating itself, especially with the number of people in Town now raising horses and buying larger pieces of property.

So maybe that is something the Building Department should -- you know, should consider taking up with the Town administration since we're redoing the zoning law. It might be something that needs to be -- a hole that needs to be plugged.

Thank you.

Robert Mulcahy made a motion to close the Public Hearing portion of this application and James Wiesner seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

MICHAEL NYHAN: As I understand it, there no permit that is required and this has already been approved by the Planning Board and this is just a setback now for the Special Use Permit.

ADAM CUMMINGS: Correct. They were granted a Special Use Permit. They reviewed that and on that Special Use Permit --

FRED TROTT: Reviewed every two years.

ADAM CUMMINGS: It is going to be reviewed every two years. It is up for renewal May 2014, and on that the Planning Board asked for a conditional -- for that odor control.

MICHAEL NYHAN: Okay. Thank you.

JAMES WIESNER: This has been outstanding for a while then.

ADAM CUMMINGS: Yes.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

Robert Mulcahy made a motion to approve the application with no conditions, and Michael Nyhan seconded the motion. All Board members were in favor of the motion.

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

1. The application is not significant in nature nor will it have a negative impact on neighboring properties or the environment as the barn is barely

visible from the surrounding properties with the exception of the Monroe County Water Authority properties, which contain a large above ground storage tank.

3. Application of Mr. and Mrs. Eric Dillenbeck, owner; 13 Brook Valley Drive, Rochester, New York 14624 for variance to erect an addition to house to be 47' from rear lot line (50' req.) at property located at 13 Brook Valley Drive in R-1-20 zone.

Eric Dillenbeck was present to represent the application.

MR. DILLENBECK: Eric Dillenbeck. I reside at 13 Brook Valley Drive. Just as a little bit of background, we are asking to put an addition onto our house to -- for my in-laws. Actually, my parents. They are elderly and we have decided to actually take them into our home and -- for this construction, it will be for two bedrooms and for a bathroom. There will be no kitchen or kitchenette. It is just the -- two bedrooms and a bath. The new construction is primarily for a bedroom and for the bathroom. Some of the existing build will be remodeled to be the second bedroom.

The approximate new build is about 440 square feet. It's on the western edge of the property. We did work with an architect that really paid a lot of attention to the roof line and to the positioning of the windows to try to meet our needs with respect to the -- the bedrooms and the handicapped bathroom. But at the same time to be aesthetically pleasing. So with different variations, the -- they almost -- they all actually would require heating into the setback, but the option that we have selected would be the one that's going to be 47 feet, so we wouldn't encroach on that 50 foot setback by 3 feet.

We have talked with all of the neighbors in the area that are adjacent to the property, in the August through October timeframe. Nobody had expressed a concern.

We -- what makes it complicated is this is a curved lot, so we don't really have a true backyard or true side yard. So -- so working with the vary -- this is considered -- I think both lot lines are considered rear lot lines and that is what forces some of the issue with respect to the 50 foot setback.

With that, is there any questions?

ADAM CUMMINGS: Just to show you're trying to minimize it -- it's a weird angle for your 3 foot variance request. Was there any evaluations by the architect to possibly make the square footage smaller?

MR. DILLENBECK: Well, he tried, and actually, with the internal -- the one window that's -- of the current sunroom, it was really trying to maintain a nice visual appearance as you come around that bend, with respect to the one window and then the window that would be in the existing building, to actually come over further would have really, um -- would have caused a lot more change on that side of the house. So that was one of the aspects he really wanted, to maintain the roof lines and the -- the look from the westerly face.

ADAM CUMMINGS: Okay. But in terms of the -- because I see on that side of it, you have got the restroom with the shower and you have got the bedroom with the closet. Taking out the window line and roof lines and such with the architecture, functionally do you -- is that needed especially for the accessibility?

MR. DILLENBECK: Um --

ADAM CUMMINGS: For the walk -- is that a walk in --

MR. DILLENBECK: For the handicapped, he wanted to make a lot of that maneuverability inside the halls and the bedrooms. My father doesn't need a wheelchair yet, but he has Parkinson's, so we're trying to plan for the future when he will likely need a wheelchair.

ADAM CUMMINGS: That is to make it more ADA compliant.

MR. DILLENBECK: Yes.

ADAM CUMMINGS: Americans with Disability Act. Thank you.

MICHAEL NYHAN: Notes indicate you're working with an architect for the design of the structure?

MR. DILLENBECK: Yes.

MICHAEL NYHAN: I assume you will match the windows, roof lines?

MR. DILLENBECK: Yes.

MICHAEL NYHAN: The siding, roof materials, et cetera?

MR. DILLENBECK: Yep.

MICHAEL NYHAN: I don't have any other questions.

JAMES WIESNER: I don't have any questions. It looks pretty well illustrated. Fairly easy to understand what is happening here.

ADAM CUMMINGS: We did have a couple other comments. The survey map, current survey map that we received does not show the in-ground swimming pool, the deck or the gazebo, and we would like that to be updated.

MR. DILLENBECK: Okay. How do you -- how do you update that?

ADAM CUMMINGS: They're not shown.

MR. DILLENBECK: Oh, you mean in this I should have hand-drawn them in?

ADAM CUMMINGS: Yes.

MR. DILLENBECK: Okay.

ADAM CUMMINGS: You will need a building permit for this addition, and actually, I would like to hear -- any comments from the side table?

MR. JONES: Nothing at this time.

ADAM CUMMINGS: Nothing?

ED SHERO: Nothing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JOHN MCINTOSH, 16 Brook Valley Drive

MR. MCINTOSH: John McIntosh. I'm directly across from Dillenbecks at 16 Brook Valley Drive and I just wanted to speak in favor of Eric and Marge's project. Great neighbors and, you know, we're -- we're delighted to have them expand their house and invest in the community and the neighborhood and the State, and I think we should all be happy that they're willing to do that. And couldn't ask more of neighbors.

Thank you.

MR. DILLENBECK: Thanks, John.

ADAM CUMMINGS: Thank you.

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

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

MICHAEL NYHAN: One last question. The deck on the rear of the house, that gazebo will remain where it is, correct? It will not moved as a result of the --

MR. DILLENBECK: That's correct.

FRED TROTT: They will have permits for them.

ED SHERO: Yes.

JAMES WIESNER: They're all within the proper setbacks obviously.

ED SHERO: Yes.

MR. DILLENBECK: There was a variance for the deck. That was back in '90 -- it's in the application.

JAMES WIESNER: I see it now.

MICHAEL NYHAN: Deck and gazebo.

ADAM CUMMINGS: So with the conditions on this one, I would like to put in our materials of construction, siding, roofing, trim, doors, windows, colors to match that of the main dwelling, the main structure. Building permit will be required as second condition.

JAMES WIESNER: Updated.

ADAM CUMMINGS: Updated survey map showing those additional structures, the in-ground pool, the deck and the gazebo.

Ed (Shero), would you like to see measurements, separation, especially with the in-ground pool?

ED SHERO: For applying for a building permit, yes.

ADAM CUMMINGS: So just take --

ED SHERO: If I remember right, the swimming pool is on the right-hand side of the property.

MR. DILLENBECK: Yes. On the east side. The building will be on the west side.

ADAM CUMMINGS: Right. I understand. For an updated -- an updated plat map.

ED SHERO: Yes.

ADAM CUMMINGS: Would you like a surveyor sent out there or would you like him to measure it?

ED SHERO: I think you can do it by measurement.

ADAM CUMMINGS: If you can just measure it and mark down the dimensions separating those structures from neighboring structures, the main house, et cetera.

MR. DILLENBECK: Yep. Should I actually bring that back to the Building Office?

ADAM CUMMINGS: Yes. That will be part of your building permit.

MR. DILLENBECK: Okay.

ADAM CUMMINGS: One last question for you, Ed (Shero). Are we requiring stamped architectural drawings for additions like this?

ED SHERO: Yes. This would exceed the limit.

ADAM CUMMINGS: So that's the other -- not thinking we need to put it down as a condition. It's just part of the building permit application, correct?

ED SHERO: It would be required.

ADAM CUMMINGS: Right. So with that we have the two conditions, the building permit and the materials of construction to match.

JAMES WIESNER: Updated plot plan.

ADAM CUMMINGS: And the third one, the updated -- we'll call it a plat showing these additional structures. I won't call it a survey plat, to be correct.

Anyone have any other ones?

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 Robert Mulcahy seconded the motion. The

Board all voted yes on the motion.

James Wiesner made a motion to approve the application with the following conditions, and Robert Mulcahy seconded the motion. All Board members were in favor of the motion.

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

1. Building permit will need to be obtained from the Building Department.
2. Building materials shall be consistent with the existing main structure and details shall be submitted to the Building Department prior to construction.
3. An updated site map/plat showing the in-ground pool, deck, and gazebo displaying measured distances from each of these structures to each and the main house shall be submitted to the Building Department.

The following finding of fact was cited:

1. The application is not significant in nature nor will it have a negative impact on neighboring properties or the environment as the architectural design for this addition will compliment the existing structure. The variance requested was minimal in nature and helps to provide American Disabilities Act (ADA) dimensional requirements that are being incorporated into the design of this home addition to accommodate individuals with disabilities.
4. Application of Shoppes of Hillsboro II, Inc. owner; 3333 NE 32nd Avenue Apartment 1401, Fort Lauderdale, FL 33308 for variance to allow existing building to be 39' high (35' allowed) at property located at 1300 Scottsville Road in GB zone.

Robert Brenner was present to represent the application.

MR. BRENNER: Hi. Good evening. My name is Robert Brenner. I'm an attorney with Nixon, Peabody in Downtown Rochester here on behalf of the applicant Shoppes of Hillsboro II, Incorporated. Shoppes of Hillsboro hasn't been -- I refer to them in short -- is the fee owner of the existing commercial being at 1300 Scottsville Road, which you may be familiar with houses the RG&E Operations Center.

They're -- RG&E is under lease arrangement with the fee owner of the property. As part of the fee owner's purchase of the property and, you know, the financing related in connection there with, they engaged a property zoning report company that normally produces those reports. They're out of market. They had obtained some information online. They had asked Building Department staff for certain records. They have reviewed those records and they had found some inconsistencies in some of the approval documents and some of the notes on those documents.

So in consultation with the Building Department, we were advised to clean up the file. We were advised to submit an area variance application for the height of the existing building which, as you will see in tab C of the application materials we submitted on a survey prepared by Erdman Anthony last dated December 19 of 2013, um, there is a maximum height of approximately 38.8' at the peak of the entranceway on the north side of the property. That height is measured from finished first floor level. So that's a few feet in excess of the maximum permitted height in the GB zoning. I believe it is Code 500-19, sub D, sub 8.

It's worth noting that in the file there is a Certificate of Occupancy for this building, and that Certificate of Occupancy notes, um, that the building is in compliance with zoning as of its date in 2004. In discussing that with the Plumbing and Building Inspector, he said there was some ambiguity based on that Certificate of Occupancy based on some of the plan notes that are in the archives of the Building Department.

So to clear that all of that up for the Board, we submitted the variance application that is before you.

As part of the submission we submitted we have the cover letter. We also have the Town supplied application behind tab A. Um, we expounded upon the traditional area variance standards under New York Town Law and responded to each in detail in Exhibit B.

Um, and based on all of the responses, as you well know, the five factor balances test for an area variance requires -- it doesn't require that every element be met, but here we believe we meet all five elements and that we are entitled to an area variance for the existing condition of the existing building of 1300 Scottsville Road, which, by the way, has been in existence for roughly -- it's well over ten years. I believe the building was completed at the tail end of 2003, 2004. That's when that Certificate of Occupancy was -- was in existence.

Um, as a matter of procedure, given the location of the building and the requirements of New York law, we referred the application to County Planning, working with the Town to do so. We received a comment letter back from County Planning, Renee Kessler (phonetic), letter of County Planning responded. And that letter is dated February 5, 2014. The County issued a positive recommendation relating to our area variance application, and airport approval was also

granted in connection with an area variance application as we have submitted it.

In addition, as a matter of procedure, we posted three public notice signs as were required by Town staff. They were posted on Scottsville Road, Widener Road and Airpark Drive. Um, and they were posted ten days in advance of this evening. And I have photos if you would like to see it.

With that being said, I can expand on the individual standards if you would like or I'm happy to address any questions you may have at this time.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Robert Mulcahy made a motion to close the Public Hearing portion of this application and Michael Nyhan seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

JAMES WIESNER: Just trying to visually eye it up with the American Tire warehouse. It looks about the same height.

The Board discussed the application.

ADAM CUMMINGS: Would be cost prohibitive.

ROBERT MULCAHY: Yes, it would be.

ADAM CUMMINGS: I don't have anything further to add to the discussion. I don't see a need for any conditions on that.

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 Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

Michael Nyhan made a motion to approve the application with no conditions, and Robert Mulcahy seconded the motion. All Board members were in favor of the motion.

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

1. The application is not significant in nature nor will it have a negative impact on neighboring properties since several of the neighboring properties have structures of similar height. Additionally, the requested variance will not result in increased pollution, noise, vibration, traffic, or population density, nor will it create additional demands on governmental services.

The 12/17/13 Zoning Board minutes were approved.

The meeting ended at 7:41 p.m.