

CHILI ZONING BOARD OF APPEALS
October 22, 2024

A meeting of the Chili Zoning Board of Appeals was held on October 22, 2024 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Adam Cummings.

PRESENT: Mark Merry, Fred Trott, Philip Supernault, James Wiesner and Chairperson Adam Cummings.

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

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

ADAM CUMMINGS: Any issues with the signs, Board members?

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

1. Application of Dil Mugew, 1015 Crittenden Road, Rochester, New York 14623, applicant; Ganga B. Chhetri, 101 Christina Drive, North Chili, New York 14514 owner; for a variance to A) house livestock (chickens) on .29 acres (5 acres required); B) housing of livestock to be 20'-0" from North (rear) and 10'-0" from East (side) property lines (200 ft from any lot line required) at the property located at 101 Christina Drive. R-1-15 District.

Ganga Chhetri and Dil Mugew were present to represent the application.

MR. CHHETRI: Good evening, everybody. I don't know how to speak.

ADAM CUMMINGS: That's okay.

MR. CHHETRI: I never come to these meetings. I -- I keep chickens for -- for the kids. My mom is sick -- has a mental sickness and this maybe help her. Sometimes she goes into there and see the chickens at times. But I got this -- my neighbors --

ADAM CUMMINGS: So that's the letter of support that was submitted for your neighbors on the -- on the neighboring properties at 97 and 105 Christina Drive. Looks like David and Christina Johnson and Curtis and Katherine Flesch?

MR. CHHETRI: Yes.

ADAM CUMMINGS: We did receive that.

So what you're looking for is you have already had chickens on the property?

MR. CHHETRI: Yes.

ADAM CUMMINGS: And then this picture that is up here -- I will zoom in. So this is where the fenced-in coop is and it's 6 feet by 4 feet?

MR. CHHETRI: Yes. Just making -- right now, I would like fence, but I don't know -- maybe I have to move the fence maybe. I don't have idea.

ADAM CUMMINGS: Okay. It is clear of -- what our code does require is that -- is that clear on -- was that explained to you that you're supposed to have five acres and you have less than half an acre?

MR. CHHETRI: Yes. But I never know it before. So I just -- being -- before I keep the bonus and their eggs -- they start crying -- keep something. And I told them I would have chickens.

So I just bring it and keep it and maybe somebody complain about it, so I -- then the Inspector come to my home and he told me, "You are not able to keep the chickens in your home."

So I came here and I filled out the applications and everything.

ADAM CUMMINGS: And then the secondary reason you're here is because there is supposed to be -- housing of any type of livestock is supposed to be a certain distance away, which is 200 feet from each of the lot lines. I'm just -- I just want to make sure that you understand what the code says and why you're here asking for the relief.

You have it 20 feet from the back and 10 feet from the side. So it's -- you're asking to reduce it from 200 feet to 20 and 200 feet to 10. I just want to make sure that is clear for you.

That's accurate what you're looking for?

MR. CHHETRI: Yes. I -- I am not understanding everything, but --

ADAM CUMMINGS: If you want someone to come up to the podium, you're more than welcome to have them come up and assist you. You don't have to. You don't have to. I'm just offering it up.

Mark Merry arrived.

FRED TROTT: Now, in your application here, you have -- I'm just trying to understand --

you're saying that you have the chickens for your mother to keep her -- is it for a mental health? Or is it --

MR. CHHETRI: Yes. Like a mental health. She is taking medicines. It's like -- taking mental medications and it -- she is just old so I don't want to keep her inside all of the time. So like --

MR. MUGEW: She can go out and play with the chickens. We cannot keep the dog and the cat because of the allergies. And --

ADAM CUMMINGS: Could you -- could you just identify yourself so that the stenographer can get it?

MR. MUGEW: I'm Dil Mugew and friend of him.

ADAM CUMMINGS: As you were saying, she has allergies to cats and dogs so you're looking for a different type of animal.

MR. CHHETRI: It is for -- for anything like that. Not for the other thing. We just keep it for the place for her to live and we -- we asked our neighbors, too, and they did not complain.

ADAM CUMMINGS: Okay. Yeah. We have the letter for that.

FRED TROTT: So is it -- I just want to make sure. Was this like -- did a doctor recommend this for your mother to --

MR. MUGEW: She tried to play outside. She is 80 years old and just -- just want to go outside and play something with -- with -- in the daytime, she -- the kids are in school and nobody is there. And maybe she would be -- we think -- we -- we think chickens might help her --

FRED TROTT: Keep her busy.

MR. MUGEW: -- keep her busy.

FRED TROTT: Keep her mind --

MR. MUGEW: If there is nothing, she will be like sitting one place or sometimes other places she can't go and not ride. So sometimes lost. If there's chickens, she is always there.

FRED TROTT: How many chickens do you have?

MR. MUGEW: We go --

MR. CHHETRI: Six.

MR. MUGEW: Target. They did not allow us to buy one or two. They have a program like you need to buy six. Six. So we buy six. Six and now -- it's like six -- six or more.

ADAM CUMMINGS: So you have six chickens. Okay.

FRED TROTT: Are they all hens?

MR. MUGEW: All hens.

FRED TROTT: Okay. I don't have any other questions.

Side Table, anything to add?

MATTHEW PISTON: I think it should be asked whether or not the chickens are specially trained.

ADAM CUMMINGS: Are these chickens specially trained for any specific purpose?

MR. MUGEW: They come to hand. Eat from hand. We can call them and they -- they will come to the hand and eat. Like that. And the mom always would sit there and they come around everybody.

ADAM CUMMINGS: But they weren't trained to be specific service to your mom? Or to you?

MR. MUGEW: No, no. Not trained.

JAMES WIESNER: So how did this end up here? Because there is no complaint from what I can see by the front page. But --

ADAM CUMMINGS: Let me ask Paul (Wanzenried).

Paul (Wanzenried), was this due to a complaint or routine inspection of the neighborhood?

PAUL WANZENRIED: No. Complaint.

ADAM CUMMINGS: Complaint. So this was prompted by a complaint. Good question.

MARK MERRY: What is the nature of the complaint?

PHILIP SUPERNAULT: What is the question?

ADAM CUMMINGS: Can you elaborate on the complaint we received? More details of the complaint?

PAUL WANZENRIED: Other than the resident sent in a complaint that said they have chickens at 101 Christina Drive. That's all it takes.

JAMES WIESNER: So you have not cited them at all?

PAUL WANZENRIED: We consider this as working towards some sort of compliance. I won't -- I won't -- this is an avenue that they're entitled to to get a variance. If they get the variance, then you're basically allowing them to keep chickens. If they don't get the variance, they have to get rid of the chickens and the complaint is resolved.

ADAM CUMMINGS: Okay.

MARK MERRY: So as far as imposing any type of condition, I think in the past we have -- we have got --

ADAM CUMMINGS: We considered limiting the amount of chickens.

MARK MERRY: And excluding roosters?

ADAM CUMMINGS: Yes.

MARK MERRY: So that would fall under the same --

ADAM CUMMINGS: Yes.

PHILIP SUPERNAULT: If this is -- as they say -- tied to the wellbeing of a person, if the person whose wellbeing is being considered moves or is no longer there --

ADAM CUMMINGS: So that is the -- I will jump in front of that one. So this is considering a variance that sticks with the land. There is no real consideration of who the owner is. The personal impact of this. This is about a variance being tied to that land. Because the next owner -- this stays with the property. The next owner could have six chickens. No roosters and four chickens or whatever is decided upon.

So yes, it's not -- and especially a case where it is non-medically provided or supported, um, it -- it is just written in the application.

PHILIP SUPERNAULT: May I ask, have you had any issues with varmints attacking the chickens or trying to get at the chickens?

MR. MUGEW: No. Nothing.

ADAM CUMMINGS: I do have to open up the Public Hearing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Philip Supernault made a motion to close the Public Hearing portion of this application, and Fred Trott seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: Before we move on for a vote, one condition of approval is -- Mr. Merry just said -- is one condition would be that roosters are prohibited. No roosters allowed at all. Only hens.

MR. MUGEW: We don't have them.

ADAM CUMMINGS: Which you're already meeting, but I just wanted to make sure to document that.

And I also want to point out once again for these -- this specific variance, this goes for everybody that is here. The point of why you're here is -- as Mr. Wanzenried just said, you have an avenue of relief against the Town Code that may prohibit something on your property. You're coming to us asking for relief. We did not write the Town Code. We do not write the Town Code. We are just asked to provide relief to it.

But once again, the Town Code is passed and it is up to you as the applicants to plead your case of why you think it's -- it's a relief that is needed and that it's as minimal as possible.

So for instance, on yours where it's five acres, you're less than one. That -- that's a pretty big change. 200 feet and you're at 20 and 10. Just wanted to point out, those are specifically what we're talking about here.

Any questions on that?

MARK MERRY: Have we established the -- the approximate location of these persons that have signed?

ADAM CUMMINGS: Yes. They are the neighboring houses. Adjacent on both sides.

MARK MERRY: So one other condition then. If this were to pass, would we be limiting that to six or less? If they have six now?

ADAM CUMMINGS: We could. Or we could change the number to be a different number. If the Board so chooses to.

Two, four. I think we had a discussion ages ago that Ag & Markets lists their recommendation as being a minimum of six.

So you're proposing a condition of approval to be no more than six?

MARK MERRY: I am.

ADAM CUMMINGS: No more than six hens are allowed.

SANDRA HEWLETT: Can I just have clarification on the gentleman with the red hat's name?

ADAM CUMMINGS: His name --

SANDRA HEWLETT: It was the one -- yeah, I just didn't hear him say it. I just want to make sure.

ADAM CUMMINGS: I said it on the introduction.

The two gentlemen present representing the application stated their names.

ADAM CUMMINGS: Two conditions I have are roosters are prohibited and no more than six hens allowed.

FRED TROTT: Can we -- could we also put in the code that -- them to not be replaced?

ADAM CUMMINGS: No. Because this is sticking with the land to allow chickens to be there. Not the same chickens for their lifespan and then it goes away. We don't set it for the lifespan of an animal. We set it for the land permanent.

FRED TROTT: I'm just wondering if maybe we could limit it to no more than six, but cannot -- saying as you have to get six to -- if I'm correct, in order to buy chickens -- chicks, you have to buy six at a time?

MR. MUGEW: Yeah.

FRED TROTT: So what I'm saying is --

ADAM CUMMINGS: You're saying to not let them get 12 or 18 or 24?

FRED TROTT: No. To say that they can't replace --

ADAM CUMMINGS: That is not up to us.

PHILIP SUPERNAULT: Looking for attrition?

FRED TROTT: Yes.

ADAM CUMMINGS: No.

FRED TROTT: Just throwing it out there. I didn't know if -- you know, it is like the hair salon on Chili Avenue.

ADAM CUMMINGS: Yep. Is it clear on those conditions? Once again, we have not voted yet to say "yes" or "no," but those would be conditions if a "yes" vote did happen.

Is that clear on those conditions that would have to be met?

MR. MUGEW: Yeah.

ADAM CUMMINGS: Any other discussions?

PAUL WANZENRIED: Can I ask why the property owner is not here?

ADAM CUMMINGS: We can't -- can you pull it down?

You asked why the property owner isn't here?

PAUL WANZENRIED: That's correct.

ADAM CUMMINGS: Actually, I thought one of them was here.

MR. MUGEW: He is. He is the property owner.

ADAM CUMMINGS: Yeah, that's what I thought. The red cap is the property owner.

That is what Sandy (Hewlett) just asked.

JAMES WIESNER: I thought it was Ganga.

So your mom -- you own the property. Your mom lives there?

MR. CHHETRI: Yeah.

ADAM CUMMINGS: So do you live there?

MR. MUGEW: Yes.

ADAM CUMMINGS: Okay.

Good?

PAUL WANZENRIED: Yes, sir.

ADAM CUMMINGS: All right.

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 --

ADAM CUMMINGS: I will lean on you, Matt (Piston). I'm leaning towards an Unlisted Action. Or should it be Type II because it's on a single-family residence?

MATTHEW PISTON: I was leaning towards Unlisted, as well.

ADAM CUMMINGS: I will stick with Unlisted. It doesn't harm us to do that. I just --

MATTHEW PISTON: Just because of the potential environmental that could go along with it.

ADAM CUMMINGS: Right.

-- an Unlisted Action with no significant environmental impact, and James Wiesner seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Motion to adopt this application with two conditions.

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

JAMES WIESNER: So you're going to do these together --

ADAM CUMMINGS: Yes.

JAMES WIESNER: -- because you can't have one without the other?

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

1. The lot is significantly smaller than the required acreage and is located in a residential subdivision and not in an agricultural area.
2. Application of Dan Cejka, 2 Northway Lane, Latham New York, 12110, applicant; Script Properties, LLC, 2027 E. Main Street, Rochester, New York, 14609, owner; for a variance to erect a chain link fence A) 6'-0" height in the front yard (4'-0" permitted); B) 6'-0" height on a corner lot adjacent to streets (4'-0" allowed) at the property located at 4201 Buffalo Road. NB District.

Dan Cejka was present to represent the application.

MR. CEJKA: Good evening. Dan Cejka.

ADAM CUMMINGS: Anything to add?

MR. CEJKA: No. Really, the reason behind it -- we represent this client, which is a childcare center -- daycare center. They have facilities all around the country. I was just in a variance meeting last week in Bethlehem, New York. They're switching all these.

These are playgrounds, essentially where the kids are. They're outside most of the day with them. They have had various instances over the years, different facilities, of people getting into the playgrounds at different times, whether it is night or not. Kids hanging on it, climbing it.

Little kids will try to climb up the fence, et cetera. It just affected the school, young children. We look at treating it like a school. They're looking to just go 6 foot. They're not replace -- or they're not adding. They're replacing what -- they currently have a 4-foot and making it a 6-foot height with privacy slag for security, safety.

JAMES WIESNER: So what are the ages of the children?

MR. CEJKA: They do infants to kindergarten, just about. That pre-K.

JAMES WIESNER: So pretty young.

MR. CEJKA: Very young.

ADAM CUMMINGS: What is the distance -- I know it's an existing 4-foot fence. What is the distance off from Westside Drive?

MR. CEJKA: Hold on. Let me pull it up. I apologize.

ADAM CUMMINGS: If you just came from a variance meeting, I'm sure you --

MR. CEJKA: This one was a lot easier. I was working on that one for five months. I had a survey done.

PAUL WANZENRIED: It's on there, Adam (Cummings).

ADAM CUMMINGS: I know. I'm testing him.

MR. CEJKA: Yeah, I know it's on there. Thanks. I drove 3 1/2 hours to get there. I went to leave the hotel and I dropped my keys in the storm drain on the way out. So I'm a little scrambled. I made it. Let's see.

I'll be honest, if you have it right in front of you, instead of teasing me --

ADAM CUMMINGS: All right. Jim (Wiesner), what do you got there?

JAMES WIESNER: Can't read it.

ADAM CUMMINGS: I can't read it is my issue.

JAMES WIESNER: Trying to see what the scale is.

ADAM CUMMINGS: The scale on this is 1 to 30.

JAMES WIESNER: I have to find something that is close. I believe my head scale, out of my brain --

ADAM CUMMINGS: Paul (Wanzenried), do you know -- do we already have paperwork for it being in a drainage easement?

PAUL WANZENRIED: No. But we could make that a condition.

JAMES WIESNER: Looks like maybe 20 feet.

ADAM CUMMINGS: From the right-of-way line? Yep. I'd agree with that.

JAMES WIESNER: The dotted line.

ADAM CUMMINGS: Yeah. It's at least 20 feet from the right-of-way boundary and then you still have room to the pavement.

JAMES WIESNER: If you look at the drainage easement, it's a little bit smaller than that 20-foot drainage easement.

ADAM CUMMINGS: But it's off quite a bit. It's not going to hinder any views of traffic going along -- along the street there.

Any other questions from the Board?

MARK MERRY: So what other means or method do they have for safeguarding those children who go outside?

MR. CEJKA: The lock systems on the gates. The building itself is all secure locked. The parents all have to have a pin or password to get in through -- even just to walk into the office to check the kids in. Everything is locked out. Cameras galore. Quite a bit of security. It is checked pretty well.

MARK MERRY: So I'm assuming when they're outside, that they're supervised at all times?

MR. CEJKA: Absolutely. And monitored. There is cameras, too.

MARK MERRY: Okay. Thank you.

ADAM CUMMINGS: And to clarify, there is no barbed wire going on the top; correct?

MR. CEJKA: No, not yet.

PHILIP SUPERNAULT: But you're also concerned about intrusion from the outside and --

MR. CEJKA: Yeah. It is not -- not as though there has been an instance. It is just as things get a little crazier in the world, they're beefing up and getting ahead of things as they go. They have an existing 4-foot fence. It works. Nobody has ever stormed the gates or anything like that, but --

PHILIP SUPERNAULT: And vandalism is also a concern also?

MR. CEJKA: Yes. Again, this facility hasn't. A couple in Maryland, there were issues. People would break in and, you know, bust kids' toys, cameras or not, so.

ADAM CUMMINGS: So this is more of a standardization of this corporation's standardizing their security features at each of their facilities?

MR. CEJKA: Correct. And they're all -- every one of the facilities currently has 4-foot perimeter fence where they're just increasing the height. We're not adding on -- or excuse me -- changing anything on the boundaries.

FRED TROTT: Is there a State Code that you have to follow for that, for a child care?

MR. CEJKA: I don't believe so. No. Nothing has been brought up to me. Might be something to look at.

ADAM CUMMINGS: I think we'll rely on the State Inspectors to handle that.

You don't get into that, do you, Paul (Wanzenried)?

PAUL WANZENRIED: No, sir.

FRED TROTT: I didn't know if he was required by the State.

ADAM CUMMINGS: That's a good question.

MR. CEJKA: That's a good question. But I'm not -- like I say, it's more of a corporate -- corporate upgrade across the board really.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Philip Supernault made a motion to close the Public Hearing portion of this application, and Mark Merry seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: I will mark that down. It's more of a paperwork effort, but this chain link fence is within a drainage easement. It is just the Building Department has some relief paperwork so you will have to complete the paperwork for it to be present within an easement of the Town.

Anything else from the Board?

I'm going to keep these together just because it's a 6-foot fence. It's not like we're going to restrict one side unless somebody objects to that. All right.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an Unlisted Action with no significant environmental impact, and Mark Merry seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: I would ask for a motion to adopt this application with one condition of approval.

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

DECISION: Approved by a vote of 4 yes to 1 no (Mark Merry) with the following condition:

1. Required paperwork for fence to be constructed within Town easement must be obtained.

The following findings of fact were cited:

1. The existing fence has not obstructed any drainage flow patterns and will not obstruct any of the municipal utility facilities or operations in the right-of-way boundaries in the front yard nor the easement area.
2. A 6-foot tall fence for a business in the NB District is reasonable to provide increased access security to their site.
3. Application of Bruce Blankenship, 36 Tempest Street, Perry, New York, 14530, applicant; Rodney J. Arndt, 48 Colby Street, Spencerport, New York, 14559, owner; for a variance A) for pre-existing lot area of 39,286 sq. ft. (50,000 sq. ft. min. required); B) for 100 ft. preexisting lot width (200 ft. required); C) for 10'-0" side yard setback (35 ft. required); D) for off-street loading berths to be at grade (14'-0" width required, 60'-0" length and 15'-0" height required); E) parking-three (3) spaces proposed (23 total spaces required) parking at the property located at 3504 Union Street. GI District.

Bruce Blankenship was present to represent the application.

MR. BLANKENSHIP: Evening, gentlemen. My name is Bruce Blankenship.

ADAM CUMMINGS: All right. I will get to your map. I will zoom in as we need to for the specific things. Go ahead, sir.

MR. BLANKENSHIP: Just state my name?

ADAM CUMMINGS: Yep.

MR. BLANKENSHIP: Bruce Blankenship. Here to go over the needs for the Arndts to be able to erect their building there. It's going to be for their business, which is Arndts HVAC. They have done a lot of work to the property to be able to develop it up to the point that they have at this -- as of today.

They have actually cleaned it up quite a bit. There was a couple little houses on it that as of today are gone. So they're working very hard with the Town to be able to put their business in place. They want to have it in Chili.

ADAM CUMMINGS: Okay. These ones we will do individually. So let's start with letter A, the pre-existing lot.

Once again, this was a lot that had two houses on it. It was residential and now -- it's been zoned GI. This is trying to get it to have a business that fits in there, but it was a pre-existing

extra small lot off of Union Street here.

So for A, with it being about 10 -- a little over 10,000 square feet on lot coverage or lot size, we'll stick with that one first.

MARK MERRY: So there was a second request for reduced parking on the site. Why is that?

MR. BLANKENSHIP: Do you want to address that? We can do that now?

FRED TROTT: We're going down the list.

JAMES WIESNER: I was going to say -- if you're going to go off on the other stuff, I have questions on some of the other stuff.

ADAM CUMMINGS: We -- we'll go with the way it is going. We'll go to parking.

MR. BLANKENSHIP: Can I approach you? I want to give you --

ADAM CUMMINGS: Sure. We actually have --

MR. BLANKENSHIP: You guys wouldn't have this right here. So we're not locked into the three-car parking. Just so you're aware. We're not.

MARK MERRY: I didn't think you would be, but I thought it was a good question to start out with.

Multiple people were speaking at the same time.

MARK MERRY: I was going down the list.

MR. BLANKENSHIP: I was just trying to follow instructions.

ADAM CUMMINGS: You did a great job.

So -- so --

MR. BLANKENSHIP: So if you want to address that, we can do banked parking. We -- we can put these extra spots that is further up the building in.

ADAM CUMMINGS: Wait a minute. You skipped me.

MR. BLANKENSHIP: I didn't give you one?

ADAM CUMMINGS: No.

MARK MERRY: You're not on the list.

ADAM CUMMINGS: I guess I'm not giving instructions that are followed and I'm not given information that should already be in the packet.

Thank you.

MR. BLANKENSHIP: So we could definitely add -- add spots.

ADAM CUMMINGS: So as I'm seeing it here, just to describe it to everybody, I don't think I can draw on this -- but on the north side of the building, you're depicting three -- three spaces -- maybe I can draw it. Here we go.

Three spaces right here (indicating)?

MR. BLANKENSHIP: Yep.

ADAM CUMMINGS: And then you're adding two more.

MR. BLANKENSHIP: Put another couple in there. Yep.

ADAM CUMMINGS: You're putting two here (indicating). Another three here (indicating).

MR. BLANKENSHIP: Uh-huh.

ADAM CUMMINGS: And then one, two, three, four, five, six, seven -- and then another seven right back there (indicating). Accurate for a grand total of -- so this is banking parking spaces totalling 12 additional for a total of 15.

Correct?

MR. BLANKENSHIP: Correct.

ADAM CUMMINGS: Where 23 are required. Okay.

MR. BLANKENSHIP: So -- so even though this is a business, it's not a retail business.

MARK MERRY: Right.

MR. BLANKENSHIP: It is specific to just the employees and they certainly don't have 14 employees. They have -- so the Arndts basically -- they're going to carpool in more than likely because they live together and they have a couple technicians and then an office person. So I mean --

JAMES WIESNER: Do they drive the trucks home at night?

MR. BLANKENSHIP: The building is specific for having their van bodies -- the van bodies, so they -- those would be in the building.

MARK MERRY: So there could be potential growth, right, if they're successful, years from now, adding staff potentially?

MR. BLANKENSHIP: I would agree. That is the point of the building, is to obviously grow their business.

MARK MERRY: So I know to grab low-hanging fruit, so that's what I thought I would do tonight, parking being one of those. So what can we max out on that site? We're asking for 23. You're asking for a variance on the 23. I think we're at 15 now. Could we go a little bit closer to the 23?

MR. BLANKENSHIP: Not -- not really.

PAUL WANZENRIED: No.

MR. BLANKENSHIP: As have you already said, the lot is -- is small. The first thing that we're looking at was A, you know, with the 39,280 square foot versus the 50,000. And I -- I think that we're -- we're working as hard as we can with the Town to be able to get that many in there.

MARK MERRY: Okay. It's a fair answer. Thank you.

ADAM CUMMINGS: So to go along those lines of thinking, the eastern loading berths or loading docks, you have got two of them there. The goal is to eventually build this out and have enough space so we would not want to restrict that and not have those be loading bays by sticking parking in the east or rear of the building. Because then you would pigeon-hole future use of the building by not having those loading berths.

Is that a fair statement?

MR. BLANKENSHIP: Yeah. Also, there is not going to be 18-wheelers on the property. They're not receiving that much materials as far as their business goes. They don't have anything over a ten-wheeler -- or excuse me -- under -- excuse me -- over a ten-wheeler. So it is just, you know, regular delivery trucks that are delivering there.

ADAM CUMMINGS: Well, to be fair, we hear the same thing from Byrne Dairy. They will never have a tractor-trailer and I witnessed three of them there this evening. So we understand that is out of the control that you have here. This is a very small lot. You're trying to repurpose it from what it was historically and I -- I don't want to -- we're talking about their HVAC business. But once again, we're talking about variances that stay with the land.

So just to make it clear, that we could have 18-wheelers that come in here and you show some maneuverability allowed there. What is to say the next business that comes in doesn't fulfill that?

Do you think it could fill this need, taking -- taking the current applicant's use in there, do you think this type of layout would lend itself to another General Industrial use?

MR. BLANKENSHIP: I mean based on the building size, I -- I personally don't see it.

ADAM CUMMINGS: The answer would be yes. You would hope so.

MR. BLANKENSHIP: Do I hope so?

ADAM CUMMINGS: Yes. We hope they stay there forever. But if they don't, we don't want to put in a shoehorn in a -- in a one-purpose building that can never be used for any other --

MR. BLANKENSHIP: I'm sorry. I misunderstood you. I thought for a future --

ADAM CUMMINGS: I'm saying if the applicant doesn't own this property anymore, the variances stick with it. So the next person who owns it hopefully can use what is being approved tonight.

MR. BLANKENSHIP: Absolutely they would be able to use that building.

ADAM CUMMINGS: Okay. Perfect. All right.

MR. BLANKENSHIP: Just to address the -- the lot size, because that is obviously a concern, they have looked into the lot that is vacant to the south and it's just -- the -- the owner is asking an astronomical amount of money for it. They -- they made a very fair offer to that owner.

ADAM CUMMINGS: Okay. Anything else?

JAMES WIESNER: I just had a question on this loading berth that comes up in Application Number 5, as well.

ADAM CUMMINGS: Yep. Yep.

JAMES WIESNER: I don't know if we have ever seen this before.

ADAM CUMMINGS: We have.

JAMES WIESNER: So what is that really saying? What -- what is he supposed to have by code? The door opening is supposed to be 14 --

ADAM CUMMINGS: 14 feet wide -- no. 15 feet high, yes. And then the approach is supposed to be 60 feet long. And the width is supposed to be 14 feet wide.

JAMES WIESNER: So the approach is like the driveway leading to it.

ADAM CUMMINGS: The approach, yes, for the length of it. And then the width of the berth -- not the doors necessarily -- but the berth of what it can back into along the building, that's what we have restricted to be -- it must be 14 feet.

MR. BLANKENSHIP: I think the code is asking for a very, very commercial like -- you know, the whole thing that you see with the door gasket seals around them and lifts and things like that. That would be handling a lot of materials.

JAMES WIESNER: And then as far as -- so you do have one loading berth.

Where is that located? You said on the back?

ADAM CUMMINGS: No. He has actually got one, two, three, four, five, six, seven.

JAMES WIESNER: Is each a door?

ADAM CUMMINGS: Yep. So those are at-grade loading berths. So what he is asking for here is that none of them would meet that whole approach that we would have on a commercial -- like a C&M Forwarding that we approved on that one or -- sorry. We didn't approve variances for that. They met theirs.

Wegmans Market Street has got similar ones. But we did approve the industrial park off of Union Street that hasn't been built yet. They had a loading berth issue that we granted because they didn't need that right size, but they still haven't built that one.

So yes, he has got both berths. So what he is looking for is to have at-grade ones that meet --

JAMES WIESNER: If it is at grade, it's just an overhead door; right?

ADAM CUMMINGS: Yeah.

JAMES WIESNER: That's really what it amounts to.

ADAM CUMMINGS: But our code specifically calls that our loading berth.

JAMES WIESNER: Okay. So he has actually got -- it says proposed, one. He has got many of them.

ADAM CUMMINGS: Well, it's plural. He -- he is asking for off-street loading berths. It doesn't quantify how many. It just says -- he is asking instead of them being loading berths with 14-foot width, 16-foot length --

JAMES WIESNER: I'm looking at what was -- the denial of application, I guess. It says "Proposed one per occupancy at grade."

ADAM CUMMINGS: That's what the code says. Oh, and I see what you're saying. One per occupancy at grade.

Paul (Wanzenried), what did you mean by proposed -- you just changed it from having the dimensional requirements to having one per occupancy.

PAUL WANZENRIED: The intent was to eliminate the dimensions. He has the proper amount based on the square footage. There is a square footage requirement that kicks in.

ADAM CUMMINGS: Right. So it is based on the occupancy square footage, not occupancy --

PAUL WANZENRIED: Your first 5,000 square feet you have to have one. Right? And then every -- I think it is 10,000 square feet after that --

JAMES WIESNER: So he meets the one per -- at grade, instead of those dimensions.

PAUL WANZENRIED: Yep.

JAMES WIESNER: I got you.

FRED TROTT: Do you need the facility to be that large? Could we get some relief if we made the building smaller?

MR. BLANKENSHIP: They -- they actually need that space. They need that space for their vehicles. And they're going to try to store more furnaces and their hot water tanks, tankless, whichever it is, HVACs, things like that so they can have those things on hand. Their problem now is that they can't service their customers because they don't have a place to put all the stuff and it's difficult to get things fast to be able to repair -- do repairs for the customers.

So they -- they really would like that space to be able to have -- and like you said earlier, you know, grow their business.

ADAM CUMMINGS: We can't really restrict the size of it unless you were asking to add more parking spaces in there.

Is that what you're looking for?

FRED TROTT: No. I just -- being such a small lot, if we had relief from that, I mean by making the building smaller.

ADAM CUMMINGS: But that square footage of the lot would still be the same.

FRED TROTT: I realize that.

ADAM CUMMINGS: Okay. I just don't want to think that the applicant is thinking that we're going to try to restrict their building size. That is more -- that is not within ours. That is more of a Planning Board issue.

JAMES WIESNER: Has this been before the Planning Board?

MR. BLANKENSHIP: Yes.

JAMES WIESNER: Or subject -- it has.

ADAM CUMMINGS: I believe this was one of the conditions, correct?

PAUL WANZENRIED: They have preliminary approval and are on the docket for November to seek final approval.

ADAM CUMMINGS: Contingent on the variances.

PAUL WANZENRIED: Based on the outcome that happens here.

JAMES WIESNER: So they have already voted yes?

ADAM CUMMINGS: For preliminary.

JAMES WIESNER: For preliminary.

ADAM CUMMINGS: To allow it to move to final. But they didn't give a final approval.

JAMES WIESNER: We're the in-between step right now?

ADAM CUMMINGS: Right.

Is that fair to say? They -- there is no pre-determined that the Planning Board is going to approve it. But they saw the concept good enough that they didn't want to restrain the applicant from pursuing these variances. If these variances didn't get approved, the viability of his project probably ceases so, therefore, he wouldn't have to go to the Planning Board.

PAUL WANZENRIED: I wouldn't go that far.

ADAM CUMMINGS: Okay. Okay.

All right. Anything else, Fred (Trott)?

FRED TROTT: No.

I was looking at something when you were probably talking about it. If you had -- you said you were going to store like HVAC units, hot water heaters and so on.

If those came in on a tractor-trailer, would you be able to -- how would you be able to offload that?

MR. BLANKENSHIP: Well, front of the building will have space for an 18-wheeler to be able to maneuver and back up into that area, as the site plan shows.

ADAM CUMMINGS: Right. So I will guide you here. The tractor-trailer would back in. You could -- it could go anywhere in this area right here (indicating). So the way you're depicting it, it could pull in, back to here (indicating), unload and then pull out; correct?

MR. BLANKENSHIP: Yes, sir.

ADAM CUMMINGS: So it would pull in, back and pull out.

FRED TROTT: But he wouldn't be at grade, so they would have to do it in the parking lot? I mean --

ADAM CUMMINGS: They would have to use a forklift to unload it out of the -- or lift gate, drop it down to the ground and then lift it up to get it into the building.

MR. BLANKENSHIP: There's a really nice neighbor to the north that sells forklifts.

ADAM CUMMINGS: They have some really good forklifts there.

The side setback, so you have obviously offset it to be on one side versus the other. So you're looking for just to cover all of them -- so you're supposed to be 35 feet and you're looking for a 10-yard side setback.

Is that fair enough?

MR. BLANKENSHIP: 10 feet.

ADAM CUMMINGS: So that -- that seems reasonable in a General Industrial District.

MR. BLANKENSHIP: I -- I mean could you ask for less? It was like -- 10 feet is pretty reasonable.

ADAM CUMMINGS: Because if you pushed that further up to the north and increased it from 10 feet, now you're going to get into the way of the fire lane, the travel of the trucks.

MR. BLANKENSHIP: Right. And that space will be for drainage where we'll tie in the gutters, et cetera.

ADAM CUMMINGS: Yeah. You have called out the French drain there. Yeah. Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Philip Supernault made a motion to close the Public Hearing portion of this application, and Mark Merry seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: We're going to vote on each of these individually, but one condition of approval is that you will have to get a building permit. Goes without saying.

MR. BLANKENSHIP: That's the goal.

ADAM CUMMINGS: Yep. So we'll move on and do SEQR first.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an Unlisted Action with no significant environmental impact, and Philip Supernault seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: I ask for -- once again, this is for letter A. It is the pre-existing lot area of 39,286 square feet where 50,000 sq. ft. minimum and is required.

Still going to leave a condition of approval for a building permit to be obtain.

I ask for a motion to adopt this application item with that one condition.

Mark Merry made a motion to approve Application 3A with a condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 3A: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. The lot was shown to have sufficient space to provide vehicular movements, building envelope, and parking on this GI parcel.

ADAM CUMMINGS: So now we'll move on to B. It is for the 100-foot, pre-existing lot width where 200 feet is required. Once again, this is only for letter B. It's a pre-existing lot that was extra small.

All right. And this -- just to be redundant, I will say a building permit will be required, even though we already did it. But I will still write it on each decision sheet.

Motion to adopt this application item with one condition?

Philip Supernault made a motion to approve Application 3B with a condition, and Mark Merry seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 3B: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. The lot was shown to have sufficient space to provide vehicular movements, building envelope, and parking for a small industrial operation with the reduced lot width.

ADAM CUMMINGS: Now, letter C is for the 10-yard side setback where 35 feet is required. Still same condition of approval with the building permit to be obtained. Ask for a motion to adopt this application item with that one condition?

James Wiesner made a motion to approve Application 3C with a condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 3C: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. The lot is adjacent to another GI zoned parcel and the setback provides adequate space for necessary utility facilities and safe distance to avoid risk of potential injuries to neighbors on adjacent property since that side of the building will be a wall and not include any industrial operations outside of the building in that area.

ADAM CUMMINGS: Letter D is for the off-street loading berth to at-grade instead of the dimensional requirements.

Building permit must be obtained.

I ask for a motion to adopt this application item with one condition.

Fred Trott made a motion to approve Application 3D with a condition, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 3D: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. The applicant provided justification for the loading berths to be at-grade instead of the required dimensioned loading berths due to the smaller site only being able to accommodate small industrial business operations and smaller truck movements in the back portion of the site.

ADAM CUMMINGS: That one is all set.

Letter E, that is the three parking spaces which has been modified to be 15 parking spaces. Applicant, are you still agreeable to that?

MR. BLANKENSHIP: Yes, sir.

ADAM CUMMINGS: So once again, that has been reduced, minimized to be 15 spaces where 23 is required.

JAMES WIESNER: So those are banked, though; right?

ADAM CUMMINGS: Yep.

JAMES WIESNER: That doesn't get into the wording?

ADAM CUMMINGS: I would call those on the site as being available parking spaces.

Paul (Wanzenried), is that fair enough?

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: Same condition of approval where a building permit must be obtained. I will make sure to mark down it is 15 spaces.

Motion to adopt with one condition of approval?

Philip Supernault made a motion to approve Application 3E with a condition, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 3E: Unanimously approved by a vote of 5 yes with the following condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. The reduction of required parking spaces from 23 to 15 spaces provides adequate parking for the number of potential employees and customers for a small commercial or industrial business on the property.

4. Application of Roy and Mary Taylor, 5 McNair Drive, Rochester, New York, 14624,

applicant/owner; for a variance to erect an 8'-0" x 10'-0" accessory structure (shed A) to be 0'-0" to the principal structure (8'-0" required); B) to be located in the front yard proposed, (not permitted) at the property located at 5 McNair Drive. R-1-15 District.

Roy and Mary Taylor were present to represent the application.

MS. TAYLOR: Hello.

ADAM CUMMINGS: I will bring up the map. So that is the shed?

MS. TAYLOR: Yes. That is it. I forgot what I wrote down already. Yeah. Evidently it is because we're on a corner -- corner lot that -- and we -- we need a shed next to the garage that doesn't have enough space in -- well, my husband has gardening stuff and other things. And our son has moved home with us and his bike has to be in the basement. And some of his -- a lot of his other things.

It would be nice if it could be, you know, in a shed. I think -- I think I put on there the neighbors would probably like us to have a shed.

ADAM CUMMINGS: Okay.

MS. TAYLOR: Yeah.

ADAM CUMMINGS: So you want it near the garage? Did you look at putting it in the backyard?

MS. TAYLOR: We want it right next to the garage. But it -- and then there is pine trees along -- what is that street? Fisher?

MR. TAYLOR: Yeah.

MS. TAYLOR: Fisher. So it would be kind of, I think, facing Fisher.

ADAM CUMMINGS: Yep.

MS. TAYLOR: It's not a large shed.

ADAM CUMMINGS: So you're looking at putting it right there and it is an 8 foot by 10 foot shed?

MS. TAYLOR: Right.

MR. TAYLOR: Actually towards the back more.

MS. TAYLOR: Well, no.

ADAM CUMMINGS: I was just --

MS. TAYLOR: Wherever we can get it.

MR. TAYLOR: Yeah.

MS. TAYLOR: But it would be useful because he has a lot of junk, you know. And shop things. Tools.

ADAM CUMMINGS: I will go to the Board questions.

JAMES WIESNER: You asked why it wasn't in the backyard, right?

ADAM CUMMINGS: Yep.

JAMES WIESNER: And what was the answer?

ADAM CUMMINGS: I never heard. I was still smiling about the story about too much junk.

Did you look at putting it in the backyard?

MS. TAYLOR: Well, you know, that would be nice, but the -- but the lawn slopes down and it's very wet in the spring. I mean it's like a little river back there.

ADAM CUMMINGS: Okay.

MS. TAYLOR: So I mean -- yeah. Thought of that would be nice.

ADAM CUMMINGS: Okay. This one is small enough it doesn't need a building permit.

MS. TAYLOR: And also the -- the shed, there is a deck there. So we couldn't put it at the back corner because of the deck. I didn't want to take that down.

ADAM CUMMINGS: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

BETTY TOTTEN, 7 McNair Drive

MS. TOTTEN: Betty Totten and I live at 7 McNair, next door.

ADAM CUMMINGS: Yeah.

MS. TAYLOR: Oh.

ADAM CUMMINGS: Yes, ma'am.

MS. TOTTEN: I just am not familiar with all these drawings here.

Now, where is McNair?

ADAM CUMMINGS: So McNair is up here at the top (indicating). I will highlight it. So McNair is up here (indicating) and Fisher is over here (indicating). So that is the intersection. So they're looking to put the shed on that side facing Fisher Road.

MS. TOTTEN: So not in the front of the house?

ADAM CUMMINGS: No.

MS. TAYLOR: No. It's not. It's not on your side.

MS. TOTTEN: Pardon me?

MS. TAYLOR: It's not on your side.

MS. TOTTEN: The way it is worded --

ADAM CUMMINGS: The reason it is worded that way, because the way our code read -- corner lots are unique. We go off the plane of the house. So -- so it's that point and --

MS. TOTTEN: Oh, I see.

ADAM CUMMINGS: And really that's the point.

MS. TOTTEN: Okay.

ADAM CUMMINGS: So it is closer than the rear of the building. So we call it -- this is technically the front yard because it fronts Fisher Road. So because it's fronting Fisher, this is a front (indicating) and this is a front (indicating).

MS. TOTTEN: Okay.

ADAM CUMMINGS: So they have two front yards and this -- while you might think it is a side yard because that's their front door, this is technically the front yard. Because they have two. There's a primary and a secondary.

MS. TAYLOR: It's near where he has the garden.

ADAM CUMMINGS: That is why we referred it to as being in the front yard.

MS. TOTTEN: Now I understand.

ADAM CUMMINGS: Technically, that's their secondary front yard. Because their primary is where their front door and driveway are.

MS. TOTTEN: Okay. Fine.

ADAM CUMMINGS: Okay? Anything else? Thank you.

MS. TAYLOR: I didn't recognize Betty (Totten).

ADAM CUMMINGS: I will go ahead and ask for a motion to close.

Philip Supernault made a motion to close the Public Hearing portion of this application, and Mark Merry seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: I don't have any conditions of approval. And I don't see a need to separate these for our decisions. In terms of pushing it off the building to put it closer -- or further away, that would just put it closer to the road. And we don't want to do that.

MR. TAYLOR: It drops off -- from that point down, it drops off rapidly.

ADAM CUMMINGS: Yep. You have got the drainage ditches that are there and there's also an easement to the Monroe County Water Authority.

MR. TAYLOR: Right.

ADAM CUMMINGS: Want to keep away from the water mains.

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 Philip Supernault seconded the motion. The Board all voted yes on the motion.

PAUL WANZENRIED: I think you might want to add -- put a condition that states --

ADAM CUMMINGS: I can't even hear you.

PAUL WANZENRIED: I think that you would want to make the condition that the 10-foot side of the shed face Fisher Road as opposed to the 8-foot side.

ADAM CUMMINGS: I got you.

PAUL WANZENRIED: Because it sticks -- it's not that -- the distance isn't as great.

MR. TAYLOR: That is right.

MS. TAYLOR: What is this?

ADAM CUMMINGS: So the condition is going to be that the wider side is going to be along your house --

MR. TAYLOR: Yeah.

MS. TAYLOR: Yeah.

ADAM CUMMINGS: -- and the door would be on that.

MS. TAYLOR: Yeah.

ADAM CUMMINGS: So what he is saying is we don't want -- not just you -- but once again, this -- this variance sticks with the land. So the next property owner, if we didn't word it this way, they could rotate the shed to be --

MS. TAYLOR: We don't have a neighbor on that side across the road.

ADAM CUMMINGS: No. I'm not saying that.

I'm saying any property owner in the future 50 years from now, 150 years now, they could rotate the shed. So we're just going to put the condition on it it has to be orientated the way that you have it depicted here. So it will be 10 feet along the house and 8 feet towards Fisher Road.

MR. TAYLOR: Right.

ADAM CUMMINGS: So the door is going to be facing Fisher Road.

MR. TAYLOR: That's correct.

MS. TAYLOR: Right. Right.

ADAM CUMMINGS: Okay.

JAMES WIESNER: So it would be on a secondary --

ADAM CUMMINGS: Yes.

JAMES WIESNER: -- secondary front yard?

ADAM CUMMINGS: Yes.

Actually, that's a good clarification, too. Door facing --

JAMES WIESNER: No implications of it being zero feet off the garage or house from a State standpoint.

ADAM CUMMINGS: Right.
Motion to adopt with one condition of approval?

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

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

1. Door must face Fisher Road (10' side to face Fisher Road).

The following findings of fact were cited:

1. Alternative locations in the backyard were investigated, but not feasible due to the topography in the backyard.
 2. The shed will resemble a building attachment to the main structure and is very small in size.
 3. It will not impede any pedestrian or vehicle viewing angles at the nearby road intersection.
5. Application of JD & Sons Inc., 100 International Blvd., Rochester, New York, 14624, applicant; Garage 4119 Holdings LLC, 100 International Blvd., Rochester, New York, 14624, owner; for variance to erect a warehouse addition with A) two (2) off-street loading berths proposed (4 required); B) one (1) loading berth to be at grade proposed and one (1) to be 14'-0" width, 60'-0" length, and 15'-0" height, code compliant at the property located at 100 International Blvd. LI District

Ian Kuchman and an unidentified JD & Sons representative were present to represent the application.

MR. KUCHMAN: Good evening. I'm Ian Kuchman with McMahon LaRue Associates. I have the applicant here behind me from JD & Sons.

We are -- we have submitted site plans and obtained site plan approval conditioned on zoning variances from your Board here tonight.

We have addressed all of the parking issues so we don't seek any relief for parking in that we're providing banked parking for potential future use.

But we are here for, as you described, off-street loading docks and berth parking. The existing facility has two loading docks as depicted on the plan that we're looking at here. And then the hatched building here is going to be overall 10,000 square feet. It's going to be in two phases.

The first phase is going to be 4500 square foot and then the second phase is going to be 3500 square feet. We're proposing overhead door at the end of our drive aisle for at-grade off -- off-street -- loading and the applicants here are willing to make further concessions here tonight to convert that overhead door into the dimensional -- the dimensions required for off -- off-street berthing. And additional overhead door immediately adjacent to that unloading dock. And --

ADAM CUMMINGS: Which is not depicted on this plan? I'm lost on the adjacent one.

MR. KUCHMAN: So the application for what we're showing here, I'm just saying we're willing to make -- we're willing to meet the middle and make concessions.

ADAM CUMMINGS: Okay. Understand.

Do you need something?

PAUL WANZENRIED: Yeah. Don't do that.

MR. KUCHMAN: Okay.

PAUL WANZENRIED: Don't do that.

MR. KUCHMAN: We're not doing that.

PAUL WANZENRIED: The minute you do that, you're back before the Planning Board because it will screw that seven spots up when you put a drop dock in there. So let's just go with the way the variance is written. And see what the Board says.

ADAM CUMMINGS: I -- I would actually prefer to stick with how the variance is written because when we change from what was publicly noticed, then we can't do anything tonight.

MATTHEW PISTON: That's true.

MR. KUCHMAN: Okay.

ADAM CUMMINGS: I was getting confused because your application says one loading berth at grade and that's the one to be compliant. So I -- in terms of the berth dimension. So I viewed this as being the berth dimensions one -- I will highlight it because it's a new tool that I found today -- that is the one with the dimensional requirements and then you will just have an at-grade one somewhere else, correct?

PAUL WANZENREID: No. The at-grade -- the one with the dimensional requirements is up to the northeast here -- or northwest.

ADAM CUMMINGS: This guy (indicating).

PAUL WANZENRIED: There you go.

MR. KUCHMAN: That is existing.

PAUL WANZENRIED: That's the compliant one.
ADAM CUMMINGS: That is why I was getting confused. I thought --
PAUL WANZENRIED: The at-grade one is down where the overhead door is.
ADAM CUMMINGS: Yep. Okay. Now I'm following it.
MR. KUCHMAN: That is proposed. That is where I was getting confused with it. I thought you were adding another one with dimensions and another one like you were describing there, but not showing here, so --
PAUL WANZENRIED: That was the concession that he was talking about. Okay.
ADAM CUMMINGS: Okay. I'm better with how it is depicted here. The loading berth is here (indicating). The loading berth is here (indicating). And the at-grade is here (indicating).
PAUL WANZENRIED: Correct.
ADAM CUMMINGS: Okay. Thank you for the clarification.
PAUL WANZENRIED: You notice that in the denial page, given the square footage of the existing building and the proposed square footage, it would require four loading berths. We only want the two. One will be compliant. One will be at grade.
ADAM CUMMINGS: As long as we grant the variance tonight to reduce it from 4 to 2?
PAUL WANZENRIED: Yes, sir.
ADAM CUMMINGS: Understood on that one.
JAMES WIESNER: So truly the one overhead is going to be part of the new building.
ADAM CUMMINGS: Yes.
JAMES WIESNER: The two loading berths that supposedly meet the requirement are already existing.
ADAM CUMMINGS: Yes.
JAMES WIESNER: Why are we addressing it now and not when the building was -- after the building was built?
ADAM CUMMINGS: I don't know that answer.
PAUL WANZENRIED: Because the square footage kicks it into --
ADAM CUMMINGS: Needing four instead of two. Before it needed two. That's right. I did know that.
JAMES WIESNER: And you're saying that those two meet the 14 wide, 60-foot length and 15 feet height?
PAUL WANZENRIED: Those two are -- yes. Are compliant. The two existings are compliant.
JAMES WIESNER: I thought you said that had to be 60-foot length that --
The 60-foot length --
ADAM CUMMINGS: They definitely got the length.
PAUL WANZENRIED: The length goes out --
ADAM CUMMINGS: Goes out this way (indicating).
PAUL WANZENRIED: Yeah.
JAMES WIESNER: So that's the concrete pad.
ADAM CUMMINGS: Right. It can even go beyond the concrete pad.
JAMES WIESNER: 14 by 15 is the door size.
ADAM CUMMINGS: Now -- I mean technically they're .6 short because the dimension says 13.4 feet on the first berth. But I think it's --
JAMES WIESNER: Semantics.
ADAM CUMMINGS: -- fine. Rounding error.
So those are the two berths that they have from the existing one.
JAMES WIESNER: I guess I didn't catch that. So there is a Phase 1 here and that is what precipitated all these.
ADAM CUMMINGS: Phase 1 and Phase 2. Because they're asking for 10,000 square feet.
PAUL WANZENRIED: 8.
ADAM CUMMINGS: Or 8,000 square feet. Sorry. 8,000 square feet.
JAMES WIESNER: These are not proposed anymore. These are --
ADAM CUMMINGS: Right.
JAMES WIESNER: Now they're happening.
ADAM CUMMINGS: Yeah. Sorry. Bad math on my part.
I thought it was 55.
FRED TROTT: Is the proposed warehouse, Phase 1 and 2, going to be built at the same time?
UNIDENTIFIED JD&SONS REPRESENTATIVE: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application, and Philip Supernault seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: I'll go ahead and condition of approval is going to be the building permit needs to be obtain.
That goes without saying.

I don't see anything else.

I am going to do these -- I recommend that we do these as one decision unless somebody objects to that because they tie in together.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an Unlisted Action with no significant environmental impact, and Philip Supernault seconded the motion. The Board all voted yes on the motion.

Philip made a motion to approve the application with a conditions.

JAMES WIESNER: What was your one condition of approval?

ADAM CUMMINGS: Building permit to be obtained.

We have a motion. Is there a second?

PHILIP SUPERNALUT: I made the motion.

James Wiesner seconded the motion. All Board members were in favor of the motion.

JAMES WIESNER: So we're voting on A and B together?

ADAM CUMMINGS: A and B together. Yes.

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

1. Building permit must be obtained.

The following findings of fact were cited:

1. Previous approved and constructed phase included a code-compliant dimensional loading berth.
2. Providing at-grade berths in addition to the required dimensional loading berths allows for a more appropriate variety of delivery vehicles and access points.
3. Reducing the number of berths was justified based on the depicted warehouse areas and their operational needs.

Fred Trott made a motion to accept and adopt the 9/24/24 Zoning Board of Appeals meeting minutes, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

Adam Cummings made a motion to adjourn the meeting, and Mark Merry seconded the motion. All Board members were in favor of the motion.

The meeting was adjourned at 8:22 p.m.