

CHILI ZONING BOARD OF APPEALS
February 24, 2009

A meeting of the Chili Zoning Board was held on February 24, 2009 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 Paul Bloser.

PRESENT: David Cross, Adam Cummings, Robert Mulcahy, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Chris Karelus, Building Department Manager; Keith O'Toole, Assistant Town Counsel.

Chairperson Paul Bloser 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.

PAUL BLOSER: First we'll go over the signs for the three applications tonight.

The Board reviewed the notification signs for the applications on the agenda.

(In regards to Application #2)

DAVID CROSS: I didn't see one, but --

JAMES WIESNER: I didn't see one either and it was Sunday.

PAUL BLOSER: I went by yesterday afternoon and saw one.

ROBERT MULCAHY: I didn't see one on Sunday.

JAMES WIESNER: Where was it?

PAUL BLOSER: Front yard.

FRED TROTT: I can't remember what day I went by, but I saw it.

PAUL BLOSER: You did see it.

I did see it there. If the Board chooses, we can move on or table it.

ROBERT MULCAHY: We can move on.

The Board agreed to hear all of the applications.

1. Application of Robert Gilbert, owner; 20 Tarrytown Drive, Rochester, New York 14624 for variance to erect a 6' x 6' deck to be 54' from front lot line (60' req.) at property located at 20 Tarrytown Drive in R-1-12 zone.

Robert Gilbert was present to represent the application.

PAUL BLOSER: For the record, would you state your name and address, please?

MR. GILBERT: Robert B. Gilbert, 20 Tarrytown Drive, Rochester, New York, 14624.

PAUL BLOSER: This, by the print, is just going to be a front deck, not enclosed, correct?

MR. GILBERT: Yes, sir.

PAUL BLOSER: Driving up and down the street, the houses are very similar, as I saw this. You're not removing the old steps?

MR. GILBERT: No, sir.

PAUL BLOSER: Staying right there.

Pretty straightforward. There is a house almost directly across the street. Very similar, probably about the same size.

ROBERT MULCAHY: Looks to be, yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

ROBERT MULCAHY: Moved to close.

ADAM CUMMINGS: Second.

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

PAUL BLOSER: The only comment I would like to make on this -- well, personal thing, is sometimes I see these decks and they get put on and they're not maintained. They look nice for the first year or two, and then they don't get stained and they turn out a pretty weathered looking gray.

I see a lot of them with a complementing railing that matches the trim to the house, a white railing, planks, whatever, but from the -- a curb appeal, moving it forward, I would like to make a recommendation that they blend better so it looks like a front deck and not a back porch -- a front

porch as opposed to a back deck would be my only comment. It's a pretty simple design.

What are you making the railings out of?

MR. GILBERT: Um, I decided not to do with the composite material, but with pressure-treated wood.

And I have got the neighbors to help me with maintaining it and -- I'm a first-time homeowner, just so you all know. I definite -- I'm part of the military and very picky about the appearance. I will definitely maintain the wood. But it is more of a cost savings to stay away from the composite material.

PAUL BLOSER: I was thinking more like the vinyl fence as opposed to the composite. Composites are expensive. Just the fence, the railing, not for the decking, for the rest of the construction.

JAMES WIESNER: Is the house painted?

PAUL BLOSER: Sided house?

MR. GILBERT: Yes, sir.

PAUL BLOSER: That would be my only comment on the it. Otherwise, it -- the only thing I would add to this is he does need a building permit, so under conditions of approval, proper building permit and Building Department inspection could be made.

Paul Bloser 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 the following condition, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 6 yes with the following condition:

1. Building permit and inspections to be secured according to Town Code.

The following finding of fact was cited:

1. Requested variance has no adverse physical or environmental impact on neighborhood.
2. Application of Renee Emanuele, owner; 3151 Chili Avenue, Rochester, New York 14624 for variance to allow a total of four wall signs (2-6' x 3' and 2-4' x 2') for a total of 52 sq. ft. (four signs totaling 38.5 sq. ft. previously approved in 1983) at property located at 3151 Chili Avenue in G.B. zone.

Renee Emanuele was present to represent the application.

MS. EMANUELE: Evening.

PAUL BLOSER: Hi, how are you?

MS. EMANUELE: Good.

PAUL BLOSER: State your name and address for the record.

MS. EMANUELE: Renee Emanuele, 3151 Chili Avenue, Rochester, New York, 14624.

PAUL BLOSER: The signs you're putting up, I mean you have got a photograph here -- it's -- it's almost a black and white, but it is color?

MS. EMANUELE: Yes.

PAUL BLOSER: Gray Rochester.

MS. EMANUELE: And I ran out of ink in my printer.

PAUL BLOSER: You're showing -- this is showing us the yellow signs. What is the background going to be, the color?

MS. EMANUELE: Black.

PAUL BLOSER: So it is going to be different than what you have up there now?

MS. EMANUELE: Let me grab my picture. The sign below it is yellow with black writing. It's not as -- it's not very bright. It's a subdued yellow.

PAUL BLOSER: But is it a different color than --

MS. EMANUELE: Yes.

PAUL BLOSER: -- the upper one?

MS. EMANUELE: Yes. But I can, if you would like, make it the same color.

PAUL BLOSER: Can't really see the color on there, but -- are your intentions to add any additional lighting?

MS. EMANUELE: No, just what we have.

PAUL BLOSER: Nothing in the application mentioned that.

MS. EMANUELE: There is no additional lighting. There is actually lighting on the ground looking up into it, so I wouldn't need any lighting for it.

PAUL BLOSER: So this would be one over on the west side of the building, also, underneath the other one?

MS. EMANUELE: Yes.

PAUL BLOSER: So two signs total that you're doing, right?

MS. EMANUELE: Yes.

ADAM CUMMINGS: Is it two businesses?

MS. EMANUELE: No. No.

ADAM CUMMINGS: Any thought to making one sign?

MS. EMANUELE: No, because we're two separate people. It's the same person. She works for me. If I did that -- because she is paying for the sign, because it is her nail area, if I did that, and if she decided to leave, then I would have to go out and buy another sign.

ROBERT MULCAHY: Is that going to be just one sign on the front?

MS. EMANUELE: No, two separate signs. It would be the Creations sign up now, and then the Tina's Natural Nails would be under it.

ROBERT MULCAHY: It won't be on any other walls or side of the house?

MS. EMANUELE: If you look at the house, on the other side, you will see like a little light sticking out there. There is another sign there, and it would be under that.

ROBERT MULCAHY: So two signs?

MS. EMANUELE: Yes.

PAUL BLOSER: So a total of four signs on that house?

MS. EMANUELE: Yes.

PAUL BLOSER: I have a few comments, but I will save them for discussion.

CHRIS KARELUS: I just ask that if the applicant is willing to have the colors coordinate and appear -- it would probably appear less obtrusive to the building. The code, it only allows two per use, and I would ask if there were an opportunity to marriage the sign, to have one sign, not set a precedent that we're giving four signs to one business.

MS. EMANUELE: I can understand that, too. We're two -- she has her own phone like that with that. What I'm afraid of is if we put both of them on there, it would get confusing. It's confusing even now with the sign as it is. People call the salon and say, "Can I get my nails done?" And we have to have her go to a separate line.

I'm afraid if I put them all on one sign, it's going to be too clustered. When you drive by Chili Avenue, you want to look at the sign, the phone number and keep going. I'm afraid they will look at the wrong phone number and go that way. Does that make sense?

And my other fear is what happens if she does decide to leave me, then I would have to go and buy a whole another \$1,000 sign, where I don't have \$1,000 to get another sign if she does decide to leave. I mean eventually we would like to yes, continue this, but I would have always have doubt. I'm a business owner. You know what I'm saying? I always have my guard up with that.

CHRIS KARELUS: I guess I would suggest to the Board that somewhere in the findings it be included that this -- if this were granted an approval on the project, that this is noted it is not two separate ownerships; it is actually a sublease under her oneness. It is just a not two separate businesses, but it is a sublease.

Also, if there is no lighting, I would ask that a condition be placed that no additional lighting be added to the sign.

That's it. Thank you.

MS. EMANUELE: Thank you.

PAUL BLOSER: So you're not classifying this as a separate business, just a sublease?

CHRIS KARELUS: It would be a sublease to a current owner. And I assume that is what happened?

MS. EMANUELE: Yes. She works for me. Yes. We only make it a separate phone number because her phone is always -- she works with her cell phone right now and her phone number is ringing off the hook. And we have to leave our clients in order to go get the phone because we don't have a receptionist. And I think if we separate that, that would make it easier on us for our clients.

DAVID CROSS: Are you going to strike "nails" off the Creations sign?

MS. EMANUELE: Eventually when I do come into more money, I would like a new sign. I would do the same color, if we decide to stick with the same color. Actually, we don't have tanning any more either. It is just with the economy, we're staying afloat the way it is going now. So yes, I would like a new sign eventually. And it would look the same way, just take that off, the "nails" and the "tanning" and the "waxing" actually.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

ROBERT MULCAHY: I just like to see them the same color.

PAUL BLOSER: That's a -- one concern I have.

MS. EMANUELE: I can do that.

PAUL BLOSER: I also have a concern that this is a small building. That section of wall right there, it is just about a third of the frontage of the structure. It's a lot of sign in a small spot. It is close to the road. I think the color and font are two things I would like to be consistent. A change in font adds some of the confusion.

I mean this is going to be a -- this whole corner is new. We have put some real restrictions on other businesses coming in for signage on what they're supposed to be looking at, and I would like to be consistent with what we're doing on Chili Avenue.

I think color and front are the two biggest things. I was going to say that they both be at least the same width, but if they're the same color, it wouldn't be quite as obvious.

ROBERT MULCAHY: Obvious.

PAUL BLOSER: My preference would be to one complete sign, picture framed so maybe the sign can come in and out so if the business did move out, it could be flipped to a blank or covered.

Again, we have gone to great strides for what we have done with planning and architectural review. I would like to stay consistent with what we're doing in this corridor.

ROBERT MULCAHY: No. If she was to leave her, would that not disappear, that sign?

MS. EMANUELE: Yes.

PAUL BLOSER: Yes, it would. It would be what it appears now, and that is just a Creations Salon and Body by itself.

JAMES WIESNER: Would the var -- but the variance stays with the property.

PAUL BLOSER: That is what I am saying, the variance stays. So if we, you know, combine the two into one frame, so that they're the same size, with some type of border in between the two of them, I -- I would just like to see consistency coming down this strip -- the strip from an appearance standpoint.

JAMES WIESNER: You can merge the two signs in a way that they look more continuous.

PAUL BLOSER: Do you know what I mean by picture frame it?

MS. EMANUELE: No.

PAUL BLOSER: That would be to put some type of frame around the two so the two signs are within. It gives it the semblance of one sign and then you could have a black border, a squiggly in between them. Its gives them a separation, but it keeps it as one unit. You're in a great location for visibility.

But you're also in a location for aesthetics in the Town. And that's our biggest concern, to keep it really looking nice. I don't want to -- the structure, it really stands by itself. I don't want it to look like a billboard.

MS. EMANUELE: Right. That is totally understandable. I mean I am pretty much when you enter Chili Center, boom, I'm there. I understand that.

I thought we would go smaller thinking that would be easier for you guys, thinking it wouldn't be as tacky. That is why he we chose to go smaller. I'm more than willing to go the same size, but I'm afraid that will be too mammoth, because like you said, that would be a small corner of the building. My biggest fear is she leaves. She has had a history of it. That's my fear. If she does pack up and leave, the sign comes down and I can go on with my business. I'm just afraid if I have to combine the signs, I -- I have a sign with her name on it and I can't afford to get another one.

PAUL BLOSER: And I understand with the economic situation today, that is important, too, watching everything.

What I am looking at is if they were the same width, the two signs, and you had a -- what I will say is a picture frame made for the two of them to sit within, and have a black line in between them or some type of decorative artwork that would give some separation. In the event she did leave, you could slide yours down to the center and put two white blanks in there. What I'm looking for is just something to make it nicer looking than just a flat placard on the wall.

It would give some nice aesthetics to your building, but it would be consistent with what we're doing in the Town, is to control the signs --

MS. EMANUELE: Understandable.

PAUL BLOSER: -- the size, and the colors.

The background and font would be two things I would really want to stay consistent.

MS. EMANUELE: I agree they should be the same. I'm new at this. I never -- you know, I never imagined that. I never even knew I needed a variance. I'm a new business owner. I'm new. People say, "You got to go do this."

I say, "Okay."

PAUL BLOSER: We appreciate your doing it the right way.

MS. EMANUELE: The font blending in, oh, yes, that would look nice, blending in. I'm a visual person, so I need to see the whole frame of what -- I mean, I'm willing to do whatever you say to do that is better for my business.

PAUL BLOSER: Also, if you brought in someone to replace her, your frame is there and you know the variance is already tied to the property, so then you wouldn't have to change anything again and we would be looking at a different -- it would have to fit within that package.

DAVID CROSS: A 2 x 4 sign in it is going to be the same size as the other. It would be 6 foot wide, which I don't --

PAUL BLOSER: Do you know what the size of your sign is?

DAVID CROSS: 6 by 3.

ROBERT MULCAHY: It looks, by having the two signs as they stand right now, it looks like you just wanted to hang two signs on the wall. That is what the looks like to me. So it needs to be dressed up a little bit as Paul (Bloser) said.

MS. EMANUELE: That's fine.

FRED TROTT: Maybe if you went 2 by 6.

PAUL BLOSER: If they were framed together, I wouldn't even be opposed to that. It would just give it a nicer look, a little more professional.

MS. EMANUELE: I wouldn't want to go any smaller on the sign. I mean, there is people

that drive by sometimes and don't even know we're a hair salon.

FRED TROTT: You have 2 x 4 now. I'm saying if you went 2 by 6, it would match up with your sign.

MS. EMANUELE: Oh, the nails.

PAUL BLOSER: If the width was the same as yours, and it had a 2 foot height on it, the new one, but the same width as what yours is and then just have them picture frame border it, it would give it a -- to me, a more pleasing look for the Town, for the location, and possibly draw more attention, because now you're framed in, is what I am looking at.

That little extra space might give you enough room to put a detailed border in between the two of them that could be removable, and that is something you could talk to your sign guy about. That is just framing it. It is not coming up with artwork --

MS. EMANUELE: Right.

PAUL BLOSER: -- and everything else. I would just like to see something a little nicer. The building is well kept.

MS. EMANUELE: Thank you.

PAUL BLOSER: Your grounds are always kept. You're in a great location.

MS. EMANUELE: Thank you.

PAUL BLOSER: I'm looking at something to enhance that. That is the weakest link right you now in your operation, as I see it, from the street.

MS. EMANUELE: I agree.

ADAM CUMMINGS: Does that mean the variance would now go from 52 square feet up to 60?

DAVID CROSS: It would be more.

PAUL BLOSER: It would increase it to keep it to the size of her frame, picture frame it.

ADAM CUMMINGS: This is not drawn to scale either. That would mean your front is even bigger for Tina's Natural Nails, or it is a big white space or yellow or whatever the background is.

ROBERT MULCAHY: And then you have to consider the framing, depending on the size of the framing, it will make it that much bigger.

PAUL BLOSER: That is why we have Board discussion.

JAMES WIESNER: Are you working with a sign company right now?

MS. EMANUELE: I'm sorry?

JAMES WIESNER: Are you working with a sign company at all.

MS. EMANUELE: She was. I gave her the dimensions, thinking if I went smaller, it would be easier for me coming to the Board and it wouldn't look as tacky, so she is working for -- with the sign company regarding the sign.

My sign, I wasn't going to touch. So I mean if I need to get involved into the sign end of it with the framing, I'm more than willing to do that for my business.

ADAM CUMMINGS: My next question is then are we going to recommend 3 by 6 and 3 by 6, or is it going to be 2 by 6 and the existing 3 by 6? Is that where we're going?

PAUL BLOSER: That's what I have on the table. We start putting more on here, I would like to have them framed, more like a directory sign. Have them separated.

DAVID CROSS: I guess I'm okay with the 2 x 4, if it is the same color and the fonts work together. I really don't want to see more square footage than what is being proposed right now.

PAUL BLOSER: What about framing it?

KEITH O'TOOLE: Excuse me. How -- how long do you expect your tenant to be there?

MS. EMANUELE: I'm hoping until the day I retire. To be honest.

I mean it seems to be working well. I have known her for years. I have gotten my nails done with her for years, so I'm hoping until the day I close, but I -- it's unknown.

KEITH O'TOOLE: Anticipate having that existing sign updated at some point in the future?

MS. EMANUELE: My Creations sign, yes. Because as I said, I want to get rid of the "nails" on there, the "tanning" and the "waxing."

KEITH O'TOOLE: How long is that sign going to be with us?

MS. EMANUELE: Until I can afford a new one.

KEITH O'TOOLE: If you had to chose a date?

MS. EMANUELE: If I had to chose a date, I would say about two to three years. Because eventually in the way future, I would like to expand the building to have her have more room. It's a small building for me and my salon, so eventually when I want to add onto the building, I would say that would be the time for a new sign.

KEITH O'TOOLE: The sign seems to be showing some wear. At minimum we would probably require a new paint not too far down.

MS. EMANUELE: The sign is about -- since I took over, about seven years old.

KEITH O'TOOLE: May I approach?

PAUL BLOSER: Absolutely.

KEITH O'TOOLE: If an architect were doing this, he would design a sign of some sort, a sign package for the building that you would set along -- forgive the artwork here. This is awful. But something along those lines maybe (indicating), and -- I realize the proportion is wrong, and then you replicate that for every business that came along.

PAUL BLOSER: Right.

KEITH O'TOOLE: They would all be the same size, the same proportion. So what I suggest is you basically kind of give some indication what blank you would like to see. I have

seen this type in village sign ordinances. It's very common because it is a cheap sign to do. You just cut the corners, maybe add a bit of pinstriping along the perimeter and that is all vinyl and something that any sign guy can do, get rid of the yellow color, which is a little on the fluorescent side, so every time you come along, the new sign that replaces it is the same size the original blank. You go back to the same sign guy. He already has it on his computer and his CAD system.

As far as the existing sign, I would put a condition on there that say it goes away in five years, which is more than she is talking about, and it gives it a margin of error and they can replace it.

If you go with the striping, it makes it a little fancier so maybe you don't have to do the framing. But you can do the framing, too. That would be another way to do it.

PAUL BLOSER: Even though, that is giving it the framed look. That is something I am looking to pick up, aesthetics of it.

Do you want to approach and we can kind of show you what we're looking at here?

MS. EMANUELE: Sure.

ROBERT MULCAHY: It adds a little more class to your shop.

The Board explained their concept to the applicant at the dais.

MS. EMANUELE: I grandfathered it from the previous owner. I did the same size sign, same thing so I wouldn't have to come for a variance, and things like that. I was just grandfathered right into it.

ROBERT MULCAHY: As long as she is going to pay for it, let her do this.

MS. EMANUELE: I actually think that is very pretty, and actually my sign would look very pretty.

PAUL BLOSER: If you would be open to that.

MS. EMANUELE: Yes.

PAUL BLOSER: I will put a condition, I will review this with Chris (Karelus) and put a condition of approval your sign be approved by say Chris (Karelus) or I, probably both of us, submit a drawing to the Building Department and we would give it a thumbs-up or down. If you want to take this.

MS. EMANUELE: Now, I don't have to change my sign until I go and purchase a sign. It is that along with the same color and the same front for the Tina's Natural Nails.

PAUL BLOSER: We'll give you the details in the letter, but a look of something like that, and then just a final sign approval for that size.

MS. EMANUELE: For the 2 x 4.

PAUL BLOSER: For the 2 x 4, be submitted to the Building Department for final approval.

MS. EMANUELE: Okay. Thank you.

PAUL BLOSER: Thank you, Counselor.

KEITH O'TOOLE: You're welcome.

PAUL BLOSER: I will leave out the portion of the font at this point. I will do the background color and the lettering color to match.

MS. EMANUELE: I have a question. Do you want the font to be the "salon" and "body," or do you want the font to be the "Creations"?

PAUL BLOSER: I will leave the font up to you at this point. I'm going to say the background color and the letter color to match existing sign.

Paul Bloser reviewed the proposed conditions with the Board.

Paul Bloser 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 Adam Cummings seconded the motion. The Board all voted yes on the motion.

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

DECISION: Approved by a vote of 6 yes with the following conditions:

1. This is a sub-lease to the owner (current business).
2. Sign background, letter color and matching border/edge stripe (all colors match).
3. Existing "Creations" signs to be upgraded to match within five years.
4. Finished design proposal to be approved by the Building Department and Zoning Chair prior to making final copies.
5. No additional exterior sign lighting.

The following finding of fact was cited:

1. Requested change will not create an undesirable change in the character of the neighborhood or nearby properties.

Note: A sign permit is required before the signs are erected.

CHRIS KARELUS: In the conditions, I would just ask that the Zoning Board also add that the sign proposal will not include four, because that comprehensive approach -- if the two signs are combined on one template, that is considered one sign. So we wouldn't be setting a negative precedent the way she is agreeing to this project, allowing four signs to one use. In essence, we would only be involving a square footage adjustment based on code to two signs, which I think is, in my opinion, more agreeable.

PAUL BLOSER: How do you want this to read then?

CHRIS KARELUS: I would just say in the findings that the ultimate sign approval is involving the creation of two comprehensive signs for the building for a lessee, two of the primary property owners. Important to note that it gives them the flexibility or ability who uses the space to also be identified on the sign, but this way the comprehensive universal template is considered one sign, with two change-out name plates.

ADAM CUMMINGS: Can you clarify that? I thought we were going with two signs on each side of the building, under the same template. Was I mistaken?

CHRIS KARELUS: This was the ultimate end (indicating). To have them be within a border.

ADAM CUMMINGS: Each sign would have that look, so that the new one would be 2 by 4.

CHRIS KARELUS: They are still going to be four independent signs.

ADAM CUMMINGS: That is what I was understanding.

PAUL BLOSER: That's how we were discussing it with the Counselor.

ADAM CUMMINGS: It wouldn't be one master one on each wall with both businesses. It would be two separate on each wall.

CHRIS KARELUS: I misunderstood. Hearing the Chairman, I thought that the plates would actually slide out in case somebody were to --

PAUL BLOSER: With what Counsel showed us, she has a design of it, I will see -- it would be to make the two individual but have cropped corners with some borders to give it a neater look.

3. Application of James Morris, owner; 20 Foxe Commons, Rochester, New York 14624. for variance to allow existing enclosed porch to be 33.5' from rear lot line (35' req.) at property located at 20 Foxe Commons in PRD zone.

Jim Christian was present to represent the application.

MR. CHRISTIAN: Good evening. My name is Jim Christian, 92 Fenton Road, 14624. I'm not Jim Morris. And Jim Perna, the builder of this development is representing Mr. Morris tonight, and I just spoke with him on the phone. He is running -- he got delayed a couple minutes. He said he would be here within two minutes, so I just thought I would let you know that, and -- I don't know quite what further to -- that I could offer, because I'm not one of the principals involved here.

KEITH O'TOOLE: Mr. Chairman, it's a fairly minor variance. I think we can proceed.

PAUL BLOSER: We can proceed.

The owners, are you here?

NEIGHBOR: We live next door.

PAUL BLOSER: You're the neighbors.

Why don't we take a couple minutes? If he is here within two. I don't know if anybody has any questions. Hard to tell without talking about it.

James Perna was present to represent the application.

PAUL BLOSER: Mr. Perna, you're representing the homeowner on this?

MR. PERNA: Mr. Morris, yes, I am.

PAUL BLOSER: Did you build this porch on that when the property was constructed?

MR. PERNA: We built a deck on it, yes, sir.

PAUL BLOSER: You can't really see it from the road or from driving around the back, around the neighborhood. Is this totally enclosed?

MR. PERNA: Yes. It's a sunroom. It's a three-season room.

PAUL BLOSER: This was done at the time the building was built?

MR. PERNA: Actually, it was done afterwards.

PAUL BLOSER: Before it was occupied or has there been a sale since?

MR. PERNA: No.

PAUL BLOSER: Did you build it?

MR. PERNA: Yes.

PAUL BLOSER: Do you know about building permits?

MR. PERNA: Yeah.

PAUL BLOSER: If we move forward with this, this has to go through the building permit process.

MR. PERNA: Right.

PAUL BLOSER: And any criteria that they use, up to and including footer inspections --

MR. PERNA: Definitely.

PAUL BLOSER: -- is required.

MR. PERNA: But the footer was inspected when I built the deck. You see --

PAUL BLOSER: Is that part of the original structure then?

MR. PERNA: The deck was part of the original structure. This is just on top of the deck. We did all of the -- all of the decks at the same time we built the units.

PAUL BLOSER: What about the setback issue at this time?

MR. PERNA: Somehow, some way this thing got built 8 inches bigger than it was supposed to be. That is what happened.

JAMES WIESNER: You're saying there are decks on all of them?

MR. PERNA: Every unit, yeah.

JAMES WIESNER: They're not shown on the drawing.

MR. PERNA: You see the porch, that is what it is.

PAUL BLOSER: It's a foot and a half difference.

JAMES WIESNER: This is the sunroom (indicating), but there is no deck over here (indicating) or here (indicating).

MR. PERNA: What happened, that instrument survey, sir, Mr. Wiesner, it got -- I don't know why that wasn't on there when they -- what could have happened here is when we built -- it might have been like bad, wintertime or something, and they did the instrument survey before the decks were put on it. But they were all -- we -- on every building and every unit in Chestnut there is a deck, on every one of them units. They're all the same.

JAMES WIESNER: Is each one of the decks over on each of the properties also?

MR. PERNA: No, I don't think so. This is an end unit, and it could have been because the lot goes on an angle like. It could have just...

The guy who built the deck built it too big. I think it was supposed to be 12 feet and it ended up being 12 foot, 8.

DAVID CROSS: We're talking about 18 inches here, a foot and a half.

MR. PERNA: No, we're only talking about 8 inches.

ADAM CUMMINGS: It says a foot and a half, 1.5 feet is what the variance is asking.

MR. PERNA: Whatever, then. A foot and a half.

PAUL BLOSER: 1 foot, 6 inches, and the next page is 1.3 inches.

ADAM CUMMINGS: I have 1.5.

MR. PERNA: If you go 1.5, you're safe.

DAVID CROSS: You will meet whatever requirements the building --

MR. PERNA: Yes. The Building Inspector will come and inspect it. It is a three-season room, not heated or anything.

PAUL BLOSER: Is this unit being sold, a condition of sale?

MR. PERNA: Yes. That is how it came up.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

ADAM CUMMINGS: I'm concerned. How many lots are there in this subdivision?

MR. PERNA: There's 52. Um.

ADAM CUMMINGS: Are we going to have 51 others of these?

MR. PERNA: No, no, no.

JAMES WIESNER: That is why I was asking about --

MR. PERNA: What happened is -- somehow, some way this deck got built a foot and a half bigger. You know, it -- I was shocked when I -- when I found out about it myself. I mean it -- they got a foot and a half for nothing, let's put it that way.

PAUL BLOSER: I'm not questioning the quality of the build or anything.

MR. PERNA: I know you're not.

PAUL BLOSER: I think what I'm going to do is make a recommendation, a condition of approval, that the applicant meets all Building Department requirements for permits and inspections prior to variance being approved.

MR. PERNA: They can't give me a building permit until we get a variance.

ADAM CUMMINGS: Correct.

PAUL BLOSER: It's a condition of the variance. Which means you have to get the approvals. It's just a -- you still have to get the building permit.

MR. PERNA: Yes. This week. He will get right in tomorrow to get it.

PAUL BLOSER: That's fine. It is just a condition of approval that you have to go through that process with the Building Department. Permit is applied for, it's inspected, you meet any recommendations or requirements that they have to code, and once that is satisfied, then you have

a C of O on the building permit, then everything is in place for the closing. Okay?
MR. PERNA: Okay.

Paul Bloser 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 condition, and Robert Mulcahy seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 6 yes with the following condition:

1. Applicant will apply for proper building permit and fulfill all requirements for a Certificate of Occupancy.

The following finding of fact was cited:

1. Requested variance has no adverse physical or environmental impacts on neighborhood.

The 12/16/08 Zoning Board meeting minutes were approved.

The meeting ended at 7:56 p.m.