

CHILI ZONING BOARD OF APPEALS
April 22, 2008

A meeting of the Chili Zoning Board was held on April 22, 2008 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: Jordon Brown, David Cross, Adam Cummings, Robert Mulcahy, 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: Bob (Mulcahy), welcome you to the Board and look forward to a good time, educational for all of us and to bring your years of wisdom to the Board. Thank you.

ROBERT MULCAHY: Thank you.

The Board discussed the application notification signs.

The Board indicated they would hear Applications Number 1 and 2.

The Board indicated they would hear Application Number 3.

The Board indicated they would hear Application Number 4.

The Board indicated they would hear Application Number 5.

1. Application of Ron Cambisi, owner; 38 Red Leaf Drive, Rochester, New York 14624 for variance to allow the total square footage of garage area, including a new 673 sq. ft. garage addition to be a total of 1,344 sq. ft. (900 sq. ft. allowed), variance for garage addition to be 8.8' from side lot line (10' req.) at property located at 38 Red Leaf Drive in R-1-12 zone.

Ron Cambisi was present to represent the application.

PAUL BLOSER: I think I will hear the two of these separately, because they are kind of distinctly different.

MR. CAMBISI: The only mistake there, I -- we're at 38.

PAUL BLOSER: You're at 38? What did I say?

MR. CAMBISI: 30.

PAUL BLOSER: I got to clean my glasses. It does say 38, for the record.

MR. CAMBISI: I just cleaned mine, too. I just don't want you to get me in the wrong place.

PAUL BLOSER: What can you tell us about the garage? What are you doing and --

MR. CAMBISI: I got it written down here, so I will read it off to you.

My name is Ron Cambisi, the owner of 38 Red Leaf Drive house. I'm requesting the Board approve my application for variances to my property allowing me to expand my garage and allow sheds to exist on my property. The existing sheds were built approximately 15 years ago. At that time, when I ordered the sheds, I was unaware of a permit that was needed for the sheds. Mr. Karelus brought it to my attention that a permit and variance would be needed for the sheds to remain during his review of my garage variance application.

I have been working with Mr. Karelus over the past couple of months to get all of the information he asked us to get for the Board's review.

I have two personal collector cars that I own.

I do not run a business for fixing cars. I only work on my own personal cars. The addition of the garage will allow me to simply store my personal collector cars in the garage as well as my family vehicles in the garage.

I do not drain any of the car fluids in sewers, et cetera.

I collect the fluids properly in pans and dispose of them at gas stations or nearby parts centers.

I only do maintenance and upkeep on personal cars in my garage. It has been harder to clean and -- the family cars in the winter months. The indoor storage of these vehicles would be a great benefit to our family. My garage will also -- was also originally built with an odd 15-foot overhead door, which does not make it easy to store -- to store two cars in the garage because of

the width. I'm asking the Board also to grant me the ability to expand the garage width slightly to include a 16-foot garage door with my addition.

I understand the Board has to weigh my variance request with five State laws that determine an approval request. I respectfully ask the Board to consider these five factors when they decide on my applications.

Number 1, whether the benefit can be achieved by another method. There are no other feasible solutions to solving my shed locations and indoor vehicle storage issue, other than variance -- with variances. Relocating of the sheds are restricted by my 25-year old pool and mature trees that have grown up on my property.

This is a great benefit to my family to allow me to store my personal vehicles, and my hobby cars in the same garage.

Number 2, the variance request will not produce an undesirable change in the character of the neighborhood. I have discussed my project with the neighbors and the neighbor immediately to the west, Esteban Nieves has actually given me a letter stating he has no problem with the variance request. My property backs up to New York Interstate I-490, so there will be no impact to the south of my property, and I have a mature Evergreen tree line to the east which blocks most of the east views.

Number 3, the requested variances are not substantial. A New York State waiver from the Division of Codes has been granted for the shed locations. Mr. Karelus has worked with me on petitioning the State Department to grant me variances from the New York State Building Code for the shed locations. Mr. Karelus and the Town Commissioner of Public Works have looked at the shed locations and have approved their location. The sheds do not have any impact to adjacent owners or adjacent properties.

The garage additions are not a substantial increase from the allowed size of 900 square feet. The addition will be only approximately 30 percent larger in the area.

The garage setback is only being requested to allow me room to replace the odd 15-foot rectangular door for a 16-foot door. Seeing my property backs up to the I-490, the adjacent neighbor does not have a problem with my project. I do not see the variances being substantial.

Number 4, the questioned variances for my property will not have adverse physical or environmental effects. The sheds are existing and the garage addition will not have any negative physical or environmental impacts.

Number 5, the variances requested are self-created, but the shed requests are for existing, nonconforming issues, and the garage expansion is a -- is a needs-based request that will be a great benefit to me and my family.

I ask that you please approve my requested variances and thank the Town Building Department for working with me to get the property's past issues worked out.

Thank you very much.

PAUL BLOSER: Thank you. For the record, we do have a copy of the letter sent by one of your neighbors in support of this project. I have had conversations with the Building Department regarding the application and the review with the State. I do know that you did postpone this from the previous meeting --

MR. CAMBISI: Yes.

PAUL BLOSER: -- to get the details of this cleared through the State --

MR. CAMBISI: Yep.

PAUL BLOSER: -- for setbacks and all of the requirements involved with that.

I -- based on what you have said and the comments from the neighbors, I guess I have a confidence that we're not running a business out of there. And that's important to me.

MR. CAMBISI: Yes

PAUL BLOSER: I look at the 15-foot overhead door and I can understand that issue there with --

There was a discussion off the record.

MR. CAMBISI: You have to come in on an angle, and most normally my wife will catch the mirror on the track. It is tough. You have to come in on the angle.

PAUL BLOSER: How many cars total will you have on the property then?

MR. CAMBISI: Right now, it will be four.

PAUL BLOSER: Okay. How many will this garage, when completed, be able to park?

MR. CAMBISI: Probably five.

PAUL BLOSER: Okay.

MR. CAMBISI: And also, I didn't put that down on my sheet. For the variance and the width, it doesn't seem like a lot, that four feet, but when you have two cars in there, trying to get out of one car next to the other car, um, especially with the two door, you -- you can't squeeze out of there. It's just too tough. It's like only 19-foot 6 on the inside dimensions. So you're like one on top of another when you're parked side by side.

PAUL BLOSER: There is not a lot of details on the construction of this. Are you going to maintain similar type of siding --

MR. CAMBISI: Yes.

PAUL BLOSER: -- for the structures?

MR. CAMBISI: Yes. It will look exactly the way it does right now, except it is going to be deeper and maybe wider.

I want to keep the house looking just the way it is now.

ADAM CUMMINGS: That was my question. The height is staying the same, you're just making it deeper, correct?

MR. CAMBISI: I probably might make it a little higher, but not much.

ADAM CUMMINGS: How high?

MR. CAMBISI: 4 foot maybe.

ADAM CUMMINGS: Which would be -- how tall is it now?

MR. CAMBISI: Um, peak -- from the peak to the grade? I -- I had it written down. I don't have it with me.

PAUL BLOSER: The roof line of the garage will be lower than the level of the house itself, though?

MR. CAMBISI: Yes. Because it's a split level. I have one peak that is here (indicating) and right now I have the other peak that is here (indicating).

ADAM CUMMINGS: Okay. I just wanted to make sure you weren't going above.

MR. CAMBISI: It won't be a shed roof, either. It will be a regular, which looks great.

PAUL BLOSER: Is it the only one overhead door on the structure? Other overhead door; just one?

MR. CAMBISI: No. Just one.

PAUL BLOSER: Rear entrance to it?

MR. CAMBISI: Nope. I have a side entrance now, so I will just keep the side entrance. There won't be an entrance on the new garage addition. Couple more windows, that's about it.

JAMES WIESNER: Nothing other than maybe a condition what Adam (Cummings) said about not being higher than the house itself.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Paul Bloser made a motion to close the Public Hearing, and Adam Cummings seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

CHRIS KARELUS: Just one comment. The Building Inspector and -- I thank Mr. Cambisi for being cooperative. When we did the review, we realized the shed issues and worked with the State as well as the Town Highway Super to get all of the issues resolved.

We did meet with the Building Inspector to understand what is he doing with the addition. The reason he is raising the issue is to avoid having what is called a shed roof. You can actually see where the roof comes pretty close to the down level. He is raising the roof to try to keep the same character of the building. The Building Inspector has no issues with the variance request.

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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

Jordon Brown made a motion to approve the application with the following conditions, and Adam Cummings seconded the motion. All Board members were in favor of the motion.

PAUL BLOSER: Your plans will be submitted to the Building Department for complete review and processing?

MR. CAMBISI: Yes.

PAUL BLOSER: I'm sure they have discussed with you what they're going to require as far as blueprints and all of the information. If you have any questions on that, would you contact the department so you have a complete package for them?

MR. CAMBISI: Yes. That is going to be the next step. I didn't go any further with any plans or estimates because I have like several contractors in mind to do this job. Due to the fact I wasn't sure of what I could do, with the variance for the side and -- so until I got this finalized, now I go ahead and pursue the rest of it.

The Board discussed the proposed conditions.

PAUL BLOSER: We'll put a condition on there, the building will not be used for any business purposes.

MR. CAMBISI: Oh, sure.

PAUL BLOSER: I will ask Counsel on this.

Chris (Karelus), have there been complaints from neighbors? For instance cars up and down the street hot-rodding, anything as far as collector-car driven?

CHRIS KARELUS: Honestly, I don't know.

I'm jealous. I have seen his cars. They're not that style. But the one neighbor I did talk to had nothing but good things to say about him in support of this letter.

PAUL BLOSER: Just a question I need to ask.

MR. CAMBISI: That's okay. Got a lot of kids in our neighborhood. Last year I had -- I tried to get a sign to put up in the Red Leaf Drive for slow down. My granddaughter lives across the street. They put -- I was going to question that. I will again sometime. They put a sign up

for like three weeks and that is all they could do.

PAUL BLOSER: That you would have to refer to the Town Highway Department. We do not get into any jurisdictional --

MR. CAMBISI: Because there is people that come in there to do work, lawn mowing and work that is doled out, and, boy, these guys come racing through there.

The Board discussed the proposed conditions.

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

1. Building plans to be submitted to the Building Department for approval prior to starting.
2. Building not to be used for any business purposes.
3. Garage peak not to exceed height of main residence.

The following finding of fact was cited:

1. This application does not present any undesirable change in the character of the neighborhood.
2. Application of Ron Cambisi, owner; 38 Red Leaf Drive, Rochester, New York 14624 for variance to allow the total square footage of two utility sheds to be 247 sq. ft. (180 sq. ft. allowed), variance to allow sheds to be 1.7' from rear lot line (8' req.) and 6.5' from side lot line (8' req.) at property located at 38 Red Leaf Drive in R-1-12 zone.

PAUL BLOSER: This does back up to I-490, the State property. As Mr. Karelus has stated, they have reviewed this with the State, and there is no problems with them. The applicant has submitted an application for cost to remove or relocate.

What are these used for?

MR. CAMBISI: Utility sheds. My lawn mower is in there. We use one for the kids to change, the smaller one for when they use the pool.

PAUL BLOSER: Like a changing room for the --

MR. CAMBISI: Yes. That is the smaller one. The other one I got all my lawn tools in there and lawn mower. You name it, it's in there.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Paul Bloser made a motion to close the Public Hearing and Jordon Brown seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

PAUL BLOSER: How long have you been on this property, Mr. Cambisi?

MR. CAMBISI: Myself, about 16 years.

The Board discussed the application.

Paul Bloser made a motion to declare the Board lead agency as far as SEQRA, 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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

Jordon Brown made a motion to approve the application with no conditions, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. The requested variance will not create an undesirable change in the character of the neighborhood or to nearby properties.

The Board decided to go back and amend the condition of approval for Application 1, the garage peak, not to exceed that of the main residence.

3. Application of Anthony Pipitone, owner; 140 Stottle Road, Churchville, New York. 14428 for variance to allow the total square footage of garage area, including a new. 36' x 48' detached garage to be 2,213 sq. ft. (900 sq. ft. allowed), variance for detached. garage to be 30' from side lot line (50' req.) at property located at 140 Stottle Road in. PRD & FPO zone.

Anthony Pipitone was present to represent the application.

MR. PIPITONE: Anthony Pipitone, 140 Stottle Road.

PAUL BLOSER: What is the total acreage on your lot?

MR. PIPITONE: Just under 12 acres.

PAUL BLOSER: Just under 12 acres?

MR. PIPITONE: Yes. Like 11.8. 11.6. Actually, it's on the map there. 11.6.

PAUL BLOSER: Your driveway, appears by this, is 334-foot long; is that correct?

MR. PIPITONE: Yep. Closer to 375, but yeah.

PAUL BLOSER: The driveway that I'm seeing going off adjacent from the main -- appears it is going to the barn. Is that there now or is that going in?

MR. PIPITONE: There is a pad there now, and the stone driveway is in there now. I did that roughly a year ago so it would settle and be good for...

PAUL BLOSER: The barn itself, can you tell me a little bit about the construction of it?

MR. PIPITONE: I have already retained a contractor and I have a down payment on the barn. I have -- it is Finger Lakes Construction. I have a blueprint here. Would you guys like to see it?

SUPERVISOR DUNNING: Is that the structure you're actually building?

MR. PIPITONE: Yes.

PAUL BLOSER: Steel walls?

MR. PIPITONE: Yes.

PAUL BLOSER: Pole barn-type construction?

MR. PIPITONE: It is a pole barn.

PAUL BLOSER: The appears from the drawing there would be two overhead doors?

MR. PIPITONE: Two overhead doors and one entry door.

PAUL BLOSER: What is the size of the overhead doors?

MR. PIPITONE: Just 10-footers.

PAUL BLOSER: The purpose of the building?

MR. PIPITONE: Personal use. With the 12 acres we have, I have a 35-horsepower tractor, smaller lawn mowers. We have a snowmobile, four-wheeler and so on.

ADAM CUMMINGS: Are you running any businesses out of this?

MR. PIPITONE: I do own a small business, but I do not plan to run a business out of my home, no. I should say my wife owns a small business.

PAUL BLOSER: Is that business run out of the property at all?

MR. PIPITONE: We have a home office, yes.

DAVID CROSS: What is the reason you would like to locate it 30 feet off the lot line instead of 50?

MR. PIPITONE: The reason was, when I originally talked a year ago, whether it was my misunderstanding or whoever, I was under the impression it was a 10-foot clearance. I figured with 30 feet, we're more than enough. And also the adjacent lot next to us is my mother-in-law.

JORDON BROWN: Is that a good thing?

MR. PIPITONE: Pardon me?

(Laughter.)

JORDON BROWN: To get it back to 50 feet would involve what?

MR. PIPITONE: It would involve me bringing a contractor in, redigging the pad and moving it over 20 feet, which is a third of the pad that's there. By all means, there is plenty of room to move it around. If I would have known it was a 50-foot issue, it would have been done that way. I thought it was 10-foot. That is why we ended up with the 30. It is probably closer to 32, 33 feet, but still not 50. So...

PAUL BLOSER: You're running electric --

MR. PIPITONE: Nope. Strictly storage.

PAUL BLOSER: No plumbing into it?

MR. PIPITONE: No plumbing, no nothing.

PAUL BLOSER: Is there a loft in the barn, second story?

MR. PIPITONE: No, sir.

PAUL BLOSER: Any type of heat going into it?

MR. PIPITONE: (Nodded negatively.)

PAUL BLOSER: Insulated barn?

MR. PIPITONE: Nope.

DAVID CROSS: Colored to match the house?

MR. PIPITONE: Yes.

PAUL BLOSER: Is this a metal roof?

MR. PIPITONE: Yes.

ROBERT MULCAHY: I just wonder what is going to happen to the water from the roof.

PAUL BLOSER: That's an issue, um, that I will be putting forth in conditions, if we so favor this application, in that I would like as a condition, if approved, that the applicant would get together with the Town Highway Supervisor/Public Works and have the site reviewed for drainage issues. It is a significant amount of square footage, and I would want to make sure that downspouts, drainage is done properly, so I would want some clear plans on paper to be submitted, and that will be a condition of approval, that they be prepared and presented to the Town Highway.

MR. PIPITONE: Does that go with the permit or is that over and above the permit?

PAUL BLOSER: That would be above and beyond the permit. It would be a condition of approval for this garage.

MR. PIPITONE: How do I go about obtaining that?

PAUL BLOSER: Just contact the Highway Department with the -- again, if the application is approved, you take your letter of approval, make an appointment to see him and he will come out. He's an engineer by trade. He knows drainage very well, and he is there to assist the public.

MR. PIPITONE: Okay. Pretty much a formality. It is on the high point of the property. We'll go through and do what we have to do.

PAUL BLOSER: He is one of the best around, so he will help you, but that will be a condition that that be done.

MR. PIPITONE: Okay.

ADAM CUMMINGS: I do have a question now, I think. The pad you say is already constructed. Is that a concrete pad or did you just grade off?

MR. PIPITONE: Crushed stone, two feet deep down below, obviously down to the clay so it doesn't shift.

ADAM CUMMINGS: Did you do that or a contractor?

MR. PIPITONE: Contractor.

ADAM CUMMINGS: Okay. Do you remember how much that cost a year ago?

MR. PIPITONE: I want to say it was \$4,000. It's probably 10,000 this year.

(Laughter.)

ADAM CUMMINGS: That's just to mobilize to your place?

JORDON BROWN: Just will this have a barn-like appearance like some of the other structures in the area?

MR. PIPITONE: Yes. Do you want full-blown blueprints? Downspouts, gutters, the whole thing, so the water runs the right way like you are talking about.

PAUL BLOSER: There is a rendering in our package.

JORDON BROWN: Yes. I put mine up there (indicating).

PAUL BLOSER: What is the height of the barn?

MR. PIPITONE: I think to the top of the peak, the highest point was 14.

CHRIS KARELUS: I guess just for the -- I'm trying to -- what is the business? Just out of curiosity.

MR. PIPITONE: Mechanical contracting.

PAUL BLOSER: Another condition of approval that I would be putting on here, if approved, would be that no business to be run out of this, no business equipment to be stored in it or supplies, and that would be subject to inspection by the Building Department because you're not allowed to run a business.

MR. PIPITONE: Why would I not be allowed to store in it?

PAUL BLOSER: Business vehicles and parts that you would use to run a business will not be stored on the property without a business use permit.

MR. PIPITONE: Okay.

PAUL BLOSER: Okay?

MR. PIPITONE: Uh-huh.

PAUL BLOSER: That will be subject to approval and inspection by the Building Department.

MR. PIPITONE: Okay.

PAUL BLOSER: Okay. This is still a residence, and it has to be maintained that way.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Are there other steel buildings in the neighborhood?

PAUL BLOSER: There are a few out that way, yes, that I have seen.

MS. BORGUS: Well, this gentleman has a very nice piece of property and very nice home, but I don't think as nice as that building may look in some settings that it matches his home, and I don't think it matches the neighborhood. Certainly -- certainly metal roofs don't match the neighborhood.

It's unfortunate that the pad is already there, and he spent money, but I don't understand why with 12 acres he can't abide by the law. Mistake or no mistake.

And if he already has -- would have 2,213 square feet of storage, I fail to see why he needs the other shed that is -- that will be on the other side of his house. I mean pretty soon we have two or three sheds around every good sized house just because they have a place to put one, so they just keep putting them up, and that eventually -- not necessarily in this man's case because, as I say, it is very neat, but you start a precedent where you can allow sheds and sheds and sheds because somebody has some space and you will have a very cluttered neighborhood very quickly because people being what they are and human nature being what it is, everybody thinks they have to store a little more than they have at the moment and they want more space.

I think this is a huge amount of space. Regardless of the fact he has lawn equipment -- I understand that, but his -- his storage space will exceed by 140 percent the space in my two-story home, and I brought this up before this Board before. I think we have got to look to the future. This gentleman may not always be in this place. He may sell it. He probably will sell it and down the line it won't be his and then what you will have is all these huge storage buildings and we'll have a lot of businesses in those places, even though that wasn't the intent when it was

done. It gets to be a very dangerous precedent when we allow so many huge storage buildings just because there is space. We may be inviting a disaster. Maybe not -- maybe not in the next 10 years, 15 years and -- I may not even be around to see it, but the point is that there hasn't been much attention paid to the future of Chili in many, many, many cases in the past and right now we're having to live with those mistakes. I would hate to see these mistakes continue.

Although I'm sure this gentleman doesn't consider it a mistake, I think it is a very dangerous precedent to allow so much big storage on -- especially in South Chili. Thank you.

Paul Bloser made a motion to close the Public Hearing and Jordon Brown seconded the motion. All Board members were in favor of the motion to close the Public Hearing.

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

The Board discussed the application.

PAUL BLOSER: I do feel that acreage here, that if we were to move forward with this, that the barn should comply with setbacks. There is enough land there. One of the things we look at is certainly the use in the area. We have not had anything submitted to us for return on the investment for what he has done already or what the impact or change to pull it in, the actual footage.

The other question, the existing shed right now, how many square foot is that?

MR. PIPITONE: It's 10 by 14. 1240 square feet.

PAUL BLOSER: Any reason why the contents of that couldn't be moved into the barn?

MR. PIPITONE: Probably will be moved into the barn. The intent was to move that into the barn and make the shed a chicken coop.

PAUL BLOSER: A what?

MR. PIPITONE: A chicken coop eventually.

PAUL BLOSER: What was the structure of the shed? What is it made of?

MR. PIPITONE: Wood. Slab wood.

PAUL BLOSER: Pardon me?

MR. PIPITONE: It's a slab wood shed.

PAUL BLOSER: The other comment I would like to -- I have seen a lot of these, Finger Lakes does a great barn, good construction. And in a rural setting like this, I'd kind of like to see a cupola on the top of that. We can't enforce it, but it is something that would really pull it as far as the country character back in there. You're still in the Town, but you're in the outskirts. It would be -- they do them. I don't know what the cost of it would be, but...

MR. PIPITONE: Significant. We talked about it. We looked at it. I'm already into quite a few thousands of dollars to put this structure up, because I don't want something to look cheap and shabby on the property. There are other ones on the street. As a matter of fact, I have barns on both sides of me, metal structures that match the homes and stuff. We're listed as a residential zoning area, but yet the smallest lot around us is 5 acres and that's my mother-in-law. They're cutting hay across the street from me. There is corn growing in my backyard. So is it residential or is it agricultural here, you know?

CHRIS KARELUŠ: Mr. Chairman, if I could. I just want to make a point, the reuse of that shed for the purpose of a pen or a kennel for him housing animals, it couldn't happen in that location without a variance from the Board. It would have to be within 200 feet of any residential property line.

MR. PIPITONE: I'm aware of that. But I'm not looking for that tonight. That is down the road.

CHRIS KARELUS: Just to make a comment on the use.

JORDON BROWN: Just another comment. A comment was made about in the future somebody else might buy this land and use it for business purposes, but in reality, they would have to come before this Board and ask for a business use, so it couldn't happen automatically. Just mentioning that.

PAUL BLOSER: I have a couple of issues on this one as far as the setbacks.

The Board discussed the application.

PAUL BLOSER: I guess we're going to vote on these as two separate issues. The variance for the setback and then for the building itself. Counsel, is there a problem with doing that?

KEITH O'TOOLE: I'm sorry, I didn't hear.

PAUL BLOSER: I would like to vote on this as two separate issues, the size of the barn and the variance issue for the location and setback.

KEITH O'TOOLE: That's fine.

The Board discussed the application and proposed conditions.

MR. PIPITONE: So I got to remove the other shed within 30 days? A shed I spent \$1,200 on I just got to get rid of because I want to make something to store my stuff in?

PAUL BLOSER: That would be a condition for multiple structures on the property.

MR. PIPITONE: You just approved a guy with three garages on a residential

neighborhood. I have 12 acres of land here and you will make me eliminate a 140-square-foot wood shed?

PAUL BLOSER: Um, it's only open on the table. We haven't voted on it.

MR. PIPITONE: I'm just saying, it just doesn't seem right. If I had a 2-acre parcel of land, it wouldn't even be a conversation. It would already be down.

JAMES WIESNER: We have done that before. It is certainly not something we haven't ever done before.

JORDON BROWN: You know, I went and viewed the property. I see what you're saying, but on the other hand, um, I -- I don't see that small shed with that barn being built as giving it a cluttered look or any kind of negative aesthetic value to -- to the property.

PAUL BLOSER: David (Cross), your thoughts on that?

DAVID CROSS: I agree with Jordon (Brown). I think we have to look at the facts.

PAUL BLOSER: Your thoughts, Adam (Cummings)?

ADAM CUMMINGS: If the small shed is 140 square feet, and we're worried about total square footage, is there an option to shrink down the size of the new barn? I mean, are we putting a limit?

PAUL BLOSER: I don't think that would be --

ADAM CUMMINGS: Okay.

PAUL BLOSER: From the street line you would never notice the difference in shrinking the building.

ADAM CUMMINGS: Okay.

PAUL BLOSER: Jim (Wiesner), your thoughts on it?

JAMES WIESNER: No.

ROBERT MULCAHY: I looked at it today, and I don't see a problem with the two sheds.

PAUL BLOSER: Just want to have it on the table, so it is clear.

On the setback?

JORDON BROWN: That's a tough one.

PAUL BLOSER: It's a tough one, but the laws are the laws in the Town. There is room to replace it. There has been no structure put up yet. It's strictly grading.

Did you bring any fill into this property yet?

MR. PIPITONE: There was no fill needed to be dug out, it rolls back. We put the topsoil --

ADAM CUMMINGS: Do you have an invoice or a receipt of payment?

MR. PIPITONE: Not with me, but yes, I do.

ADAM CUMMINGS: But you don't have it here tonight?

MR. PIPITONE: No.

ADAM CUMMINGS: Okay.

JORDON BROWN: How much does this Board take into consideration the finances involved?

PAUL BLOSER: It's a consideration under hardship. You can't realize a reasonable return on his existing investment.

KEITH O'TOOLE: Well, that's a different issue.

MR. PIPITONE: Can I -- can I ask a question?

KEITH O'TOOLE: That is getting into use variance territory.

PAUL BLOSER: Okay.

MR. PIPITONE: The -- my understanding, we need that -- like I got a variance when I originally built my house from 275 of road frontage footage down to 200, and that was the minimum the Town would go. There is not 200-foot of road frontage between both lots, so there would never even be another house put in there, in that area. So that's part of the reason we kept it closer to the lot line. I figured, like I told you, I thought it was 10 feet and it ended being 30, because I wanted to be far enough off. Because nothing can ever be built in between, what is the difference if I'm off. I know it is wrong. I what the code is now, but I mean, what is the difference? That's why I'm asking for variance, that part of it. Nothing can ever be put in there. To my understanding. If I'm wrong, please tell me different.

PAUL BLOSER: There is no environmental impact on the location other than drainage and I have addressed that in the conditions of approval, it would be clarified by the Town Highway Department that it is drained off properly.

DAVID CROSS: You know we have to keep in mind the distance of the neighboring house from the property line is 22 feet. That's a lot of open space.

PAUL BLOSER: It is.

JOHN CROSS: Quite a bit of buffer.

JORDON BROWN: Oh, I see what you're saying. The house to the north is --

PAUL BLOSER: Yes.

DAVID CROSS: Mother-in-law's house. So the distance from this barn would be 152 versus --

PAUL BLOSER: 152 feet.

DAVID CROSS: Which is, you know, not small compared to what (inaudible). It is a 14-foot tall building, I believe he said. So the -- if the neighbor did want to put cover on it, there that is enough to cover the line of sight. It is reasonable.

PAUL BLOSER: Do you have any shrubs planned for around this, trees or shrubs?

MR. PIPITONE: I haven't even looked that far ahead. I'm trying to get past this point. But I would think so, yes. You know, there is a hedgerow we started growing there. It hasn't

grown in yet, but yes, it is -- the intent is to grow the line down through there.

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.

PAUL BLOSER: I will do two votes on this, one for the setback approval and one for the building itself, just so we're all clear on that. First on setback motion to adopt.

David Cross made a motion to approve the setback portion of the application with the following conditions, and James Wiesner seconded the motion. The vote on the motion was 5 yes to 1 no (Paul Bloser).

David Cross made a motion to approve the garage portion of the application with the following conditions, and James Wiesner seconded the motion. The Board was unanimously in favor of the motion.

DECISION ON THE REQUESTED SETBACK VARIANCE: Approved by a vote of 5 yes to 1 no (Paul Bloser) with the following conditions:

1. No business use. Subject to inspection by the Building Department and Code Enforcement Officer.
2. The building plans will be approved by the Building Department.
3. Drainage to be addressed by David Lindsay (Commissioner of Public Works/Supt. of Highways).

The following findings of fact were cited:

1. The application does not affect characteristic of the neighborhood and distances between neighboring structures.
2. Reflects rural agricultural character of existing neighborhood.

DECISION ON THE REQUESTED SQUARE FOOTAGE VARIANCE: Unanimously approved by a vote of 6 yes with the following conditions:

1. No business use. Subject to inspection by the Building Department and Code Enforcement Officer.
2. The building plans will be approved by the Building Department.
3. Drainage to be addressed by David Lindsay (Commissioner of Public Works/Supt. of Highways).

The following findings of fact were cited:

1. The application does not affect characteristic of the neighborhood and distances between neighboring structures.
2. Reflects rural agricultural character of existing neighborhood.

Paul Bloser reviewed the conditions of approval.

4. Application of Joel Begert, owner; 28 West Ham Circle, North Chili, New York 14514 for variance to erect a 16' x 14' deck to be 10' from rear lot line (20' req.) at property located at 28 West Ham Circle in PRD w/Incentive Zone.

Paul Begert and Paul Zachman were present to represent the application.

PAUL BLOSER: For the record, identify your name.

MR. ZACHMAN: I'm Paul Zachman from Boardwalk Design, designer and contractor for the owner. We're proposing to build a deck on the back of the house and asking for that rear setback. The house is set on a lot that is on an inside corner, inside of a curve and if we try -- we really can't place a deck in that position and comply with the setback.

The house was set up that way with a -- with a sliding glass door that bumps out, that

10-foot by 17-foot bump-out on the back. On the other opposing side of the rear corner of the house there is a fireplace unit and no exterior exit on that portion of the house, so it is really not a practical spot.

The house was -- as they all are in the neighborhood, was kind of laid out to have a deck in kind of a particular location and that's where we have placed it. We really have kept it pretty much to a minimum for functional usable deck. The scenario is not self-created by the homeowners. They didn't have the home built. It was placed on the lot by the builder, so they kind of walked into this situation, and it's -- the deck is not large or out of character with the neighborhood. It would fit with the house. It would look perfectly in place. Um, and if we did comply with that rear setback, it would be cut nearly in half kind of on -- at diagonal, which would be a landing essentially coming out. So they're proposing to place the deck in this location and that size to give them functional space.

PAUL BLOSER: Construction of the deck?

MR. ZACHMAN: Pressure-treated wood framing with Trek composite decking and railings.

PAUL BLOSER: Rails will be?

MR. ZACHMAN: 36 inches high? Is that what your inquiry is about? There is a proposed privacy panel along kind of the southwest side of the deck as indicated on the plan. The way that you can kind of see the property line, this (indicating), we're asking the relief from -- there is another house situated right there, so that privacy panel would give them some privacy, because it is kind a fishbowl effect with the --

PAUL BLOSER: How high is the privacy panel?

MR. ZACHMAN: It's proposed 6 feet from the deck surface.

PAUL BLOSER: Just a quick question. To the Building Department on that, Chris (Karelus), would that be considered a fence? In the rear? Would that be -- fall in?

CHRIS KARELUS: How high was it?

PAUL BLOSER: 6 foot.

MR. ZACHMAN: 6 foot.

PAUL BLOSER: As a privacy wall?

MR. ZACHMAN: From the deck surface.

CHRIS KARELUS: Give me a second and I will look and see if it is.

PAUL BLOSER: Thank you.

Would that be out of the same material, lattice work?

MR. ZACHMAN: It will be -- the post themselves would be Trek posts with caps, and the panels in between would be 1-by-6 pressure-treated that -- they're going to be stained to match, so the fascia and the band joists, step risers will be pressure treated so it will kind of match that component.

I do have, I believe, an elevation view of the privacy panel, if the Board wanted to see it.

PAUL BLOSER: How high is the deck off the ground?

MR. ZACHMAN: Um, the deck is four risers, so about 30 inches off the ground, the surface now.

PAUL BLOSER: So that would make the privacy wall almost -- just under 9-foot high?

MR. ZACHMAN: Yep.

DAVID CROSS: Let me get a clarification. It looks like you really need to be -- get a variance for 7 feet off the lot line, not 10-foot, if you -- if you view your line perpendicular to the lot line.

MR. ZACHMAN: It is 7 feet off the lot line. Now, Mr. Begert made the application, and I didn't -- I'm not sure if when they measured, they were taking it perpendicular off the back of the house, but as I have it shown on the survey map, it's 7 feet from the -- perpendicular line from the property.

DAVID CROSS: So when the Board votes tonight, we should clarify it is 7-foot that we would be granting, not 10-foot.

ADAM CUMMINGS: What is located behind the house? Is there another property immediately behind it?

MR. ZACHMAN: Well, technically behind it is the lot next door. Um, if you continue around to the rear of that, there is another lot back behind there, too.

ADAM CUMMINGS: Okay.

PAUL BLOSER: If I'm standing at the very southernmost corner of that deck, 7 foot away from the lot line, looking straight south, how far is the closest structure from that lot line?

MR. ZACHMAN: Um, let me see. Straight south. Um, that's a good question. I'm not -- do you know?

MR. BEGERT: I only know that it would be 7 feet from our -- to the line and then their house is -- the next house is probably, I don't -- if it is another 10 feet, 15 feet, I really don't know what it is.

ROBERT MULCAHY: I think it is more than 15 feet.

MR. BEGERT: Behind our house is actually woods, but that line, the rear line just touches the property line that -- our backyard, the line kind of cuts a corner in our backyard, which technically looks like our backyard, but technically the corner of our backyard is not our backyard. It looks like it, but it's not. So it is kind of the line that we're on.

PAUL BLOSER: Chris (Karelus), do you have a finding on that?

CHRIS KARELUS: Yes. The fence is fine. It wouldn't be in the front yard, so the fence height is measured from the floor of the deck (inaudible), so it is permissible.

The couple questions I did have, it is a very unique lot. When these types of subdivisions get approved, these corner lots are all unique in the sense that they have these awkward rear and unique side setbacks. They do have a slider to the house. When you visit the site, adjacent home, I would say it is probably 20 feet off that one lot line.

What I do have a question for the owners, and I couldn't find it on the sub map, nor did I find it on any of the survey maps, but what is the restriction on the property? I looked to the references on the property record, and it has a restriction on the deed. It's not in any of the easements that come to your property, but what was the restriction on the property? Did you --

MR. BEGERT: I actually do not know.

CHRIS KARELUS: I had nothing further with respect to the deck. Just what I had -- there is a restriction on the deed for the property and it is not an easement encumbrance, but I was not sure what it was. It is usually in the title.

PAUL BLOSER: Counsel, question for you. If the Board was so moved to pass this application, would a condition of approval be in order to -- to the owner to clarify what the restriction of the deed is for the Town Building Department for record's sake?

KEITH O'TOOLE: No, I don't think so. I -- I think the Building Department Manager was trying to bring that to the applicant's attention inasmuch as it might create a title issue, but from the Town's point of view, title issues aren't our problem. They're not a zoning problem.

PAUL BLOSER: Okay. Thank you, sir.

Any other questions from the Board?

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Have you heard from the neighbor that would be the closest?

PAUL BLOSER: I have no record of any neighbor comments.

MS. BORGUS: Maybe the applicant could say whether he has discussed it with his neighbor.

PAUL BLOSER: Okay.

MR. ZACHMAN: I have not discussed it myself. I'm not sure about the homeowner.

MR. BEGERT: I have not.

UNIDENTIFIED FEMALE: We did put a sign outside giving them the opportunity.

PAUL BLOSER: They were given ample notice and they would have received the letter of application also in the mail.

MS. BORGUS: It is unfortunate that these situations appear before this Board, but the problem rests with the Planning Board when they approve plans for subdivisions that have unique, if -- if that is the word -- lots like this that lead to all these problems. And I don't think that buyers, when they come to look at a house, envision that they -- this may -- this may be a problem. I mean they see the house, they buy. And then afterwards they say, whoops, there was a door there. We're going to want a deck and now what are we going to do? Nobody thinks about these things. The Planning Board -- and this is only a comment for the record. The Planning Board should be aware of these lots and the problems they create when they pass these -- these plans. They should make a few lots a little bigger and corner lots like this shouldn't exist.

Thank you.

PAUL BLOSER: Thank you.

Jordon Brown made a motion to close the Public Hearing portion of this application at this time, and David Cross seconded the motion. All Board members were in favor of the motion.

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

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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

Jordon Brown made a motion to approve the application with no conditions, and David Cross seconded the motion. All Board members were in favor of the motion.

The Board discussed the application.

PAUL BLOSER: For the record, I would like -- Sandy (Hewlett), for the record, I ask that you amend the variance request to reflect the 7 foot setback instead of the noted 10 foot as a perpendicular measure.

The Board discussed the application.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. Variance will not create an undesirable change of character of the

neighborhood or nearby premises.

2. Variance due to lot shape (irregular).

Note: A building permit is required prior to construction.

5. Application of Deborah Wood, owner; 3101 Union Street, North Chili, New York 14514 for variance to allow existing 10' x 12' utility shed to be 46' from side lot line (55' req. abutting a street) at property located at 3101 Union Street in R-1-15 zone.

Deborah Wood was present to represent the application.

MS. WOOD: Deborah Wood, and I used to live at 3101 Union Street.

PAUL BLOSER: Is that 51 a wrong number?

MS. WOOD: Yes.

PAUL BLOSER: I believe that this is a typo, for the record, on the legal notice, on the application -- the application does refer, does reflect the right address, so for the record.

I know this is an existing shed, so we're just going for the variance.

MS. WOOD: Yes.

PAUL BLOSER: We get a lot of these like this. I really don't have any questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Who built this shed?

MS. WOOD: It came from Tuscarora Sheds. It is built by the Amish.

MS. BORGUS: Who placed it there?

PAUL BLOSER: Mrs. Borgus, address the Board.

MS. BORGUS: I meant to. I'm sorry. I know the process. I'm looking down.

PAUL BLOSER: I don't want to have to explain it to you.

(Laughter.)

MS. BORGUS: How did this get here, put in the wrong place? I mean this is the question I ask every time I see that awful word "existing." You know? Didn't -- how long has it been there, who placed it there? And why wasn't the law obeyed at the time?

PAUL BLOSER: Okay.

MS. BORGUS: I would appreciate you asking those questions, because it's annoying to come here every month and hear people say, "Oh, I didn't know." Well, ignorance is not an excuse, you know -- if people are going to put buildings in places, they better find out what the law is and they better find out what they can do before they go buying things and sticking things where they don't belong.

It is too bad afterwards, but that's -- now is a sorry time to be thinking about it. People think just because they own property, they can put anything any place. So I would appreciate it, Mr. Chairman, if you would ask those questions.

Thank you.

PAUL BLOSER: For the record, I will ask the question, how long has the shed been there?

MS. WOOD: Seven years.

PAUL BLOSER: And it was placed by Tuscarora Sheds?

MS. WOOD: That's correct.

PAUL BLOSER: Were you the purchaser of the shed?

MS. WOOD: Yes, I was.

PAUL BLOSER: Were you aware of the requirements for zoning and placement of these?

MS. WOOD: No, I was not.

Jordon Brown made a motion to close the Public Hearing portion of this application at this time, and David Cross seconded the motion. All Board members were in favor of the motion.

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

The Board discussed the application.

PAUL BLOSER: You are selling the house; is that correct?

MS. WOOD: It's sold.

PAUL BLOSER: It's sold.

MS. WOOD: Yes.

Paul Bloser made a motion to declare the Board lead agency as far as SEQOR, 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 Jordon Brown seconded the motion. The Board all voted yes on the motion.

Jordon Brown made a motion to approve the application with no conditions, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following findings of fact were cited:

1. The requested variance will not create an undesirable change in the character of the neighborhood or to nearby properties.

PAUL BLOSER: Some of you here tonight may have received an agenda indicating that a public hearing would be held regarding an application brought by Indus Real Estate, LLC, for property located at 3260 Chili Avenue. There was also a sign posted at this property and an ad placed in the Gates-Chili Post indicating there would be a public hearing tonight.

As you can see, this application has been removed from this evening's agenda. The reason for this was that the Town made an error in public notification. An internal oversight neglected to get proper notification to the surrounding residents as required by law. Due to this error we are not able to hear the application this evening. We do expect this application will be heard at the May Zoning Board meeting. The Town apologizes for any confusion this may have caused.

The 3/25/08 Zoning Board of Appeals meeting minutes were approved.

The meeting ended at 8:20 p.m.