

CHILI ZONING BOARD OF APPEALS
May 15, 2012

A meeting of the Chili Zoning Board was held on May 15, 2012 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: Adam Cummings, Robert Mulcahy, Michael Nyhan, Robert Springer, James Wiesner and Chairperson Paul Bloser.

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

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. The only one I did not see was the Paul Road application.

JAMES WIESNER: That's correct. I didn't see it either.

PAUL BLOSER: Okay. Is there anybody here for the Paul Road application?

No one was present.

PAUL BLOSER: Okay. I was told that might possibly be pulled from the applicant. I didn't get anything officially from him, so we'll go right by that this evening.

1. Application of Roger Moynes, owner; 109 Parkway, North Chili, New York 14514 for variance to erect a 10' by 12' utility shed 5' from side lot line (8 foot required) at property located at 109 Parkway in R-1-15 zone.

Christine Moynes was present to represent the application.

MS. MOYNES: Christine Moynes. I'm Roger (Moynes)'s wife. 109 Parkway, North Chili New York. He could not be here this evening. We had travel interruption.

The reason for our request for the variance is due to two main reasons. Number 1, we have a drainage easement that runs from Parkway all of the way back to the culvert behind the house, which is limiting us on -- as to where we can place the shed, and how far we have to be from the end of that easement.

The second reason is because the slope gradient of the backyard runs directly back into the culvert. We did have a contractor who came and looked at it and said it would be extremely difficult to level the shed, place it to the rear part of the yard.

We have also spoken with neighbors on either side, so they were aware of this before we even put the application in. They had no objection.

PAUL BLOSER: You have a fenced-in area in the back?

MS. MOYNES: Yes, we do.

PAUL BLOSER: Where does it fall in the fence? That fence I don't believe is identified on the map.

MS. MOYNES: It should be identified on the map. If not, I can certainly show you. I don't have anything for an overhead. Both Dave Lindsay and Gray Gardner were out prior to us putting in the fence and also prior to the application coming in.

Would you like me to show on the map where it is? If -- it runs -- if -- it comes right straight back from the house and then kind of cuts in and goes back out again. The placement of the shed, the proposed placement of the shed would be in the area where it kind of cuts in a little bit, because we had to avoid the easement of that culvert, which gets larger for the drainage back there.

PAUL BLOSER: Where you're showing on -- on this map that I have got, it looks -- where the shed is going -- coming back closer?

MS. MOYNES: I'm sorry.

PAUL BLOSER: Is this where the shed is going on this? Or is it moving up closer to the house at all?

MS. MOYNES: No. We would like to keep it back there, because there really is no room to put it back behind the house.

PAUL BLOSER: Do you have to move the fence at all?

MS. MOYNES: No, we do not. If you see how the fence cuts in -- the fence cuts in here -- I'm sorry, we have the five -- that is where the proposed shed would be. They have it down as 10 by 12. We actually would like to do a 10 by 10, so it would be smaller.

PAUL BLOSER: Okay. Smaller is not a problem.

JAMES WIESNER: I missed it. Did she answer your question, inside the fence?
MS. MOYNES: Inside the fence.
JAMES WIESNER: Backs up to the fence?
MS. MOYNES: Backs up to the fence.
JAMES WIESNER: No distance from the fence. Right up against the fence.
MS. MOYNES: We would like it right up against the fence.
PAUL BLOSER: Is this a prefab shed you're just going to drop into place?
MS. MOYNES: Yes. We haven't selected where we're getting it from. It looks probably like a Home Depot situation.
PAUL BLOSER: I don't have any other questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Michael Nyhan made a motion to close the Public Hearing portion of this application and Robert Springer 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.

PAUL BLOSER: If you go 10 by 10, no permit will be required. If you go larger than 10 by 10, a building permit is required.
MS. MOYNES: Yes. That is what we found out after. We put down 10 by 10 or 10 by 12, but we would like to do it without the permit.
PAUL BLOSER: I am going to put conditions of approval on here. The first one would be all required permits must be obtained. From the Building Department.
ADAM CUMMINGS: What permits?
PAUL BLOSER: I'm putting "all required." If it is not required, it's okay.
ADAM CUMMINGS: Oh, okay.
PAUL BLOSER: Final size and placement of shed to be identified on tape map. And submitted to Building Department.
Another thing we have been doing on the sheds in Town, for consistency, um, the materials, colors, roofing materials to be similar with the main residence.
MS. MOYNES: We had already planned on that.
PAUL BLOSER: Are you running electric to the shed?
MS. MOYNES: No, there will be no electric.
PAUL BLOSER: So on this application, three conditions of approval.

Paul Bloser reviewed the proposed conditions of approval 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 Michael Nyhan seconded the motion. The Board all voted yes on the motion.

Michael Nyhan made a motion to approve the application with the following conditions, and Robert Springer seconded the motion. All Board members were in favor of the motion.

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

1. All required permits shall be obtained from the Building Department.
2. Final size and placement of the shed must be identified on a tape map and submitted to the Building Department.
3. Materials, colors, and roofing materials to match those used on the main house structure.

The following finding of fact was cited:

1. The proposed variance is minimal in nature and will fit within the existing lot footprint outlined by the existing fence.
2. Application of Mr. and Mrs. Richard Clar, owner; 425 Stottle Road, Scottsville New York 1454-6 for variance to allow the total square footage of garage area, including a new 30 foot by 40 foot detached garage to be 2,325 square feet (1200 square feet previously approved) variance to allow detached garage to be 30 feet from side lot line (50 foot allowed) at property located at 425 Stottle Road in AC zone.

Richard and Lisa Clar were present to represent the application.

MR. CLAR: Good evening. I'm Richard Clar. This is my wife, Lisa Clar. 425 Stottle Road. And the reason we're looking to erect this structure is first general storage, number one.

Number two, I am an avid woodworker. I'd like to have an area, a shop much larger than just a garage, small garage. I did need something larger to move long boards and cut them down. Also, my wife who really didn't like the smell of the finishing products used, so that would keep it away from the house. You know, Minwax and things like that. So that is our reason.

We have spoken with our neighbors. They are not opposed to erecting a barn of this size. And also they don't oppose the closeness of the side to the side lot. Meaning not a 50 foot, but a 30 foot side setback.

PAUL BLOSER: It's hard to tell from the road -- is it fairly densely wooded to the south side? Does that continue all of the way back?

MR. CLAR: It opens around the house. And then there is a row of trees behind where we want to erect the structure.

PAUL BLOSER: Is it wooded going to the back of the lot all of the way to the rear of the property?

MR. CLAR: No. There is not. There is a meadow in the back.

PAUL BLOSER: Will we be able to see this from the road?

MS. CLAR: Only if you look really, really hard.

MR. CLAR: If you look through the trees.

PAUL BLOSER: I know the driveway has kind of a bend.

MS. CLAR: There are trees that go up the line of the driveway, so you can't really see back to that corner.

PAUL BLOSER: You running water out to this?

MR. CLAR: I am not, no.

PAUL BLOSER: I assume you will have electric?

MR. CLAR: Eventually, but not immediately. Um, I'm trying to keep the cost down initially.

PAUL BLOSER: Well, plan for it when you're building it. Put your conduit under the slab so it is there.

Construction?

MR. CLAR: Construction is going to be a pole frame. It will be 4 by 6 uprights, a scissors truss type of roof, vinyl siding which will match the color of the house, existing house. Same colored roof. And the windows are white vinyl, just like the house. And there will be two overhead doors, just a standard size.

PAUL BLOSER: Do you have a contractor chosen for this yet?

MR. CLAR: No. Actually, we have been looking, and based on the price and my older son going to college, I'm going to keep the cost down and contract it myself. On a building this size, do you have blueprints for it?

Not currently, no.

PAUL BLOSER: On something this size, I would like a full set of plans submitted as opposed to just pencil drawing on this. It is a fairly good sized structure, and I want the Building Department to review it to see exactly how it is being put up.

MR. CLAR: Definitely, yes.

JAMES WIESNER: The siding where the pole barn will be is difficult to see back there. Is it the elevation of your house, same elevation, lower? Does it go back and dip down behind the house where this is going to be or the same elevation?

MR. CLAR: It's slightly lower than the house, but not -- it is still elevated from the road quite a bit. Because of the winding driveway, it goes up.

JAMES WIESNER: But on --

MS. CLAR: Then it goes down behind. If you look -- there is currently a driveway there, stone driveway. And if you go back from the stone driveway, after the berm of trees, there is a slight gradual decline in the meadow, that area.

JAMES WIESNER: Okay. I couldn't really even see it. Is it a two-story house or single-story?

MR. CLAR: Single-story.

MS. CLAR: Ranch. So it will be as hidden as the house.

MICHAEL NYHAN: Single-story structure, the barn? What will be the height?

MR. CLAR: 12 foot sides to the roof, so yes, single-story. Not planning on a second story.

PAUL BLOSER: Is your house two-story or single-story?

MR. CLAR: Single-story house. It is a ranch.

PAUL BLOSER: The roof height can't exceed the house height unless you have a variance for that.

MR. CLAR: Okay. Understood. Thank you.

PAUL BLOSER: The highest peak of the roof to the highest peak of the house.

MR. CLAR: They have to match or be below.

PAUL BLOSER: Equal to -- to or less than. Less than or equal to is the right order of words.

That is something that will need to be documented on your prints, on an elevation map so that the Building Department can see that. Okay?

MR. CLAR: Very good. Thank you.

PAUL BLOSER: In my conditions of approval, um, I am going to put full set of prints with elevation map to be submitted to the Building Department prior to building.

Okay?

MR. CLAR: Yes.

PAUL BLOSER: Are you bringing in any fill?

MR. CLAR: No. I don't need to. No.

PAUL BLOSER: Okay. Other than the stone for a base or slab or --

MR. CLAR: There is preexisting stone right now that is part of the driveway. It will cover over that part of the driveway.

MICHAEL NYHAN: What is your timeframe start to finish for building this? Will you start it and work continuously until it is done?

MR. CLAR: End of June.

MICHAEL NYHAN: This year?

MR. CLAR: This year.

MICHAEL NYHAN: You know, it's almost 5 1/2 acres. Have you considered placing it anywhere else on the property so you don't require that 30 foot setback area variance rather than putting it 50 foot from the side? What is the reasoning for having to -- requiring it to be within 30 feet of your lot line?

MR. CLAR: Just placement with the existing driveway, and the trees are not in that area, because we have many trees that are up -- back there. We would have to clear more trees.

MICHAEL NYHAN: Okay.

MR. CLAR: Just seemed to fit within the existing trees, without being right on top of them.

ROBERT SPRINGER: Is the driveway currently going back to that location right now?

MR. CLAR: Yes, it is.

ROBERT SPRINGER: This is not in any way going to be a business? You have your wood as a hobby?

MR. CLAR: It's a hobby. Build furniture for ourselves and our family, that's it.

ROBERT SPRINGER: No business?

MR. CLAR: No business permit or something. No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

JAMES WIESNER: I'm a little uncomfortable with something this big. You can't see it or we don't have any plans for it. I guess that happens quite a bit, but...

PAUL BLOSER: Well, it's a little more than a two-car garage. Not too far off from it. I will put conditions that a full set of prints be available, the standard -- exterior materials, roofing, siding, windows, et cetera, will match the house.

MICHAEL NYHAN: Will you also put all permits that will be required?

PAUL BLOSER: Yes.

MICHAEL NYHAN: Will there be windows on this structure?

MR. CLAR: There will be four windows.

MICHAEL NYHAN: They will match the window style you have on your home, as well?

MR. CLAR: Yes, they will. They will be sliders.

PAUL BLOSER: On conditions of approval, I put six down.

Paul Bloser reviewed the proposed conditions of approval with the Board.

PAUL BLOSER: This is consistent with anything we usually do.

The size of the structure, driving up and down Stottle Road, it's consistent with what is out there already. So I am not too concerned about the size. It is sheltered from the road and neighbors pretty well by existing vegetation. I would rather see it go up there, I think, than chopping down trees. I don't have a problem with it.

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 Springer seconded the motion. The Board all voted yes on the motion.

Robert Springer made a motion to approve the application with the following conditions, and Michael Nyhan seconded the motion. All Board members were in favor of the motion.

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

1. All required permits and inspections must be obtained through the Building Department.
2. A full set of plans with elevation map shall be submitted to the Building Department prior to commencement of construction.

3. Roofing, siding, windows, trim materials shall match the materials on the main house structure.
4. No business to be based or operated from the premises.
5. No rental of storage space is allowed.
6. No signage to advertise any business or notifications.

The following finding of fact was cited:

1. The proposed variance will not impact the neighborhood as the lot is more than 5 acres in size and densely wooded on the perimeter. This new structure will not be seen easily from the road or neighboring properties.
3. Application of Mr. and Mrs. Clint Battista, owner; 2387 Westside Drive, North Chili New York 14-514 for variance to erect a 7' by 4' open porch 55' from front lot line (60' previously allowed) at property located at 2387 Westside Drive in R-1-15 zone.

Clint and Lisa Battista were present to represent the application.

MS. BATTISTA: Lisa Battista.

MR. BATTISTA: And Clint Battista, 2387 Westside Drive.

PAUL BLOSER: You have quite a project going on there.

MR. BATTISTA: Yeah. We actually have an expanding family and we like the neighborhood so much we decided to modify our house to fit our needs instead of moving elsewhere.

PAUL BLOSER: I lived right around the corner from you about 20 years. I liked that area very well.

But you are putting a lot into that house right now. It will be really nice when you're done.

MR. BATTISTA: We'll be in there a while.

PAUL BLOSER: The porch, this is just going to be an open porch?

MR. BATTISTA: Yes. We actually have a concrete stoop now that was in bad shape, so we're not really doing anything different from what is there except adding something that is code compliant and structurally stable and having a roof above it.

The only thing that came up recently was we started to demo the existing concrete stoop in preparation for the porch and there is actually a foundation under it, so we actually need a foot more of variance than we asked for because otherwise we would have to excavate what is there, because we're not comfortable building on that foundation, because we just don't know what it is. So it would actually give the new foundation out past that porch and actually need a 54 foot setback.

PAUL BLOSER: So what do you need now?

MR. BATTISTA: Instead of having a 5 foot variance, we would actually need a 6 foot variance. We're open to discussion, if that is going to push it off another month, trying to make it work. It is just a financial hardship to modify the existing condition.

PAUL BLOSER: So what is your -- what is the final dimension of the porch going to be?

MR. BATTISTA: The porch itself will come out 5 feet from the house, and then there will be a couple steps in front of that.

PAUL BLOSER: So you will be 7 foot by 5 foot, without the steps?

MR. BATTISTA: Yes.

PAUL BLOSER: 7 by 4. Right across the street from you is an enclosed addition that is probably about a 40 foot setback.

MR. BATTISTA: Well, there is -- two houses down from me there is a porch on the whole front of the house that probably comes out 8, 10 feet, so it is much larger than what we're proposing to do.

PAUL BLOSER: This has been a common thing in that neighborhood, stoops rotting out and have been doing this all through. I'm going to allow this for the extra foot to go through on the request. I will amend it. I don't have a problem with that. It's not significant. If it was a full addition, I might look at it different.

MR. BATTISTA: It is just to try to get past what is already there so we don't have to mess with it.

PAUL BLOSER: Counsel, quick question, you don't have a problem with me amending that for just an extra foot on this request?

MICHAEL JONES: No, not at all. The applicant agrees and makes the request, that is fine.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Wiesner made a motion to close the Public Hearing portion of this application and Robert Springer 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.

PAUL BLOSER: Do you have a building permit request in for this?

MR. BATTISTA: Yes. It was a contingency on the building permit we already have. So to come get the approval we couldn't start anything until that happened, so that is why we're hoping to get approval tonight to get the project on schedule.

PAUL BLOSER: Have you modified your print to reflect the new size on the porch?

MR. BATTISTA: No, not yet because we just found out about it within the past week.

PAUL BLOSER: Is Leo Carroll going to be doing this?

MR. BATTISTA: Yes.

PAUL BLOSER: Because I saw his sign out front.

MR. BATTISTA: Yep.

PAUL BLOSER: Then either he or you will have to submit a drawing update to the Building Department for this, okay?

MR. BATTISTA: Will we need to have that updated print stamped by an architect, or can we just submit a sketch?

PAUL BLOSER: That -- you can change that by hand. I don't -- I am not going to require a stamp for the porch. I just need to have it documented, you know, where it is -- you're coming out one more foot. So it is documented on the lot map, and it is on file in the Town -- in fact, everything else you have done on the house, you have your stamped drawings. This is a minor change. I'm not concerned. But we want to identify on it, and then it is registered with the County so if you ever do sell the house, there is not a problem with that. Okay?

MR. BATTISTA: Okay.

ADAM CUMMINGS: When the architect submits the as-built drawings, just make sure he notes the change on that set. You will be all set.

MR. BATTISTA: Okay.

ADAM CUMMINGS: Because there may be other changes that pop up, too?

MR. BATTISTA: Hopefully not.

ADAM CUMMINGS: Leo (Carroll) does good so probably not.

MS. BATTISTA: I told them we're having this baby in two months, so it has got to be done.

PAUL BLOSER: So the setback then, we have done some of things at 45 foot, in that neighborhood. Right around the corner we did one at 45. And I know there is another one at 50 farther down the perpendicular street.

MR. BATTISTA: There is a lot of porches.

PAUL BLOSER: You have got 55. I'm going to say 53, so there is a little bit of a buffer on that.

MR. BATTISTA: Okay. Thank you.

PAUL BLOSER: Just in case.

MR. BATTISTA: Okay.

PAUL BLOSER: Doing railings on this?

MR. BATTISTA: Yes. On both sides and the steps also.

Pretty much all of the details for that porch were on the set of drawings. It is just we needed the variance.

Paul Bloser reviewed the proposed conditions of approval 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.

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

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

1. Porch dimensions were increased to 7' x 5' from 7' x 4'. Requested variance was revised to be 53 feet instead of 55 feet.
2. Materials to be consistent with the main house structure.
3. All necessary permits and inspections shall be obtained from the Building Department.
4. Final "as-built" drawings for placement and setback of porch to be submitted to Building Department prior to Certificate of Occupancy issuance.

The following finding of fact was cited:

1. The proposed variance involves the replacement and improvement of an existing, degrading concrete stoop that will enhance the appearance of this residence and surrounding neighborhood.
4. Application of Nathan Stefl, owner; 520 Paul Road, Rochester, New York 14624 for variance to erect a 26' x 40' detached garage to be 17' from rear lot line (40' req.) and 4' from side lot line (10' req.) at property located at 520 Paul Road in R-1-15 zone.

No one was present.

ADAM CUMMINGS: Did we table the last one or deny it?

PAUL BLOSER: Unofficially, I have been told the application is withdrawn. We do not have any formal word, so at this point, um, I will put this down as a no-show.

MICHAEL JONES: That is fine. I just want to note for the record it appears there were members of the public that were here for that application that just left, so that application should not again be heard unless it is readvertised at the applicant's expense. Just to make sure -- clear a tabling would allow the Board just to put it over to another meeting, but because the residents left, they won't know that unless we told them. So my advice to the Board is, to remove it from the agenda and not to add it to a future meeting without the applicant requesting that and readvertising.

PAUL BLOSER: Okay. With that, I'm going to make a -- a recommendation and a proposal that Application Number 4 be removed from the agenda and any continuance of this would require a new posting and public announcement before it could be heard.

Do I have a second on that?

ROBERT SPRINGER: Second.

The Board was unanimously in favor of the motion.

DECISION: The application was unanimously removed from the agenda for the following reason/finding of fact having been cited:

1. Application was removed from the agenda due to the applicant neglecting to properly post the public notice signage. This application will need to be re-publicized if the applicant ever wishes to proceed.
5. Application of David Dunning, owner; 2 Wheat Hill, Rochester, New York 14624 for variance to allow the total square footage of utility shed area, including a 10' x 16' addition to be a total of 320 sq. ft. (192 sq. ft. allowed) at property located at 2 Wheat Hill in R-1-15 zone.

Ron Brand was present to represent the application.

MR. BRAND: Good evening, members of the Board. I'm Ron Brand. I live at 144 Eastland Avenue in Rochester, New York. I'm here tonight representing Karen and David Dunning, owners of property at 2 Wheat Hill.

The Dunnings are asking for an area variance to increase the size of the existing structure for accessory storage of materials on their property.

The existing structure is shown on the overhead there in black. It is an 8 by 20, 160 square foot structure. They're looking to go to a 320 square foot structure.

The shed, if approved, will be an expansion of the existing shed and not a second or separate shed.

It will be constructed of wood and roofing materials that match the exist house. The shed color and trim will match the existing house that is currently on the property.

There will be no windows in the storage shed. The doors will be as shown on the photographs that were submitted with the application, and there is no power to the existing shed.

And at this time, there are no plans to extend power to the shed.

The shed now is used to store typical residential property maintenance equipment and a portion will be used for that purpose.

The applicants are requesting the addition to meet their storage needs for holiday decorations which are now being stored in the basement of the residence. And in the basement, it is subject to moisture and seepage of water, which causes problems and deterioration to the decorations.

The applicant has looked at alternatives to building the addition to the shed. One of the alternatives looked at was to add onto the existing garage, making a facility. As you can see from the overhead, the only way to add on to the existing garage is to the west side of the garage, that being the side towards Archer Road. An aerial photo of the area shows that the existing structures along Archer Road are pretty uniform in nature, and adding on to the existing shed [sic] would require an additional variance for setback from Archer Road.

In addition, the cost of adding on to the garage and the structure improvements that would be required have been estimated to be in excess of \$18,000, which is not feasible to the applicant.

Secondly, we do not believe that granting the variance requested will be detrimental to the neighborhood or nearby properties. The character of the neighborhood is predominantly

single-family dwellings on lots ranging in size of 15,000 square feet and larger, in the R-1-15 district.

The applicant's lot, according to the Town Tax Assessor's role is .54 acres or 23,522 square feet, which is 56 larger than the minimum lot size in this zoning district.

An aerial view of the parcel shows that the principal structure is set back, as I said before, in a similar manner to other structures along Archer Road.

The applicant's existing structure is barely visible. When I say "existing structure," I'm talking the accessory structure here -- is barely visible from motorists along Wheat Hill. It is buffered by a row of evergreens along the east property line and a row of bushes along the north property line.

The variance that is being requested is a variance of 50 percent. The applicant is allowed 192 square feet. The difference between the 192 and the 320 is a 56 percent variance increase to the 160 square request.

The variance, as you know, is a Type II action under SEQR, and therefore, we do not anticipate it will have any adverse effects on the neighborhood or the environment. The applicant has indicated his intentions -- their intentions, excuse me, to have the structure match the existing house and roof.

The other thing is, with the setback of the structure from the Archer Road, the main north/south road in this area, it is a structure that at that setback, the depth of which will not be noticeably visible to the passing motorist. Finally, the difficulty is indeed self-created. The size of the additional structure is something that the applicant is not allowed to do under code but needs a variance to do. It points out that attaching the -- what would be a .32 square foot addition to the 160 square existing structure would create a difficult engineering solution because of the size of the structure itself.

However, that does not justify the fact that the criteria one of five has to be taken into consideration when a decision is being made upon this.

In conclusion, it is our contention that the Zoning Board of Appeals may find that the benefit to the applicant does weigh -- out weigh any detriment to the neighborhood, and therefore, the variance should be considered.

We understand that you have a practice of placing conditions upon the variances. We are receptive to those conditions, and we request that the Board consider acting favorably upon this application.

With that, I will stop.

PAUL BLOSER: It's only a shed.

RON BRAND: I know, but...

PAUL BLOSER: Mr. Brand, I do have a question on the construction of it. We don't have a print. How is this being added on? Will it be like -- become like a two-room shed? Is one of the walls being removed so it is one big open shed in the inside?

RON BRAND: One of the walls -- at this time, one of the walls will be removed to be one big open shed on the inside. The existing doors will serve the double size of the structure.

PAUL BLOSER: Is the roof being raised on it then?

RON BRAND: No.

PAUL BLOSER: One wall will be lowered to maintain the slope?

RON BRAND: Yep.

PAUL BLOSER: Should we put a condition of approval for no exterior lighting of any kind? (Laughter.)

MICHAEL JONES: I understood that the purpose of the addition was to store holiday lighting, and I know the shed is a Type II, so there is no presumptive environmental impact for the shed. I can't speak to the lighting at the holidays, though. (Laughter.)

RON BRAND: The lighting of the shed itself? Or --

PAUL BLOSER: The.

ADAM CUMMINGS: The holiday lighting.

PAUL BLOSER: We're having a little fun at the Supervisor's expense.

RON BRAND: Be my guest.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Paul Bloser reviewed the proposed conditions of approval with the Board.

PAUL BLOSER: We're moving a main bearing wall and moving it so, so the structure overhead is strong enough to hold the span. That is all. That is a standard. So I will do those three conditions of approval.

The colors, I'm assuming -- I did put that -- that they would be matching. Final request on this is that the exterior be completely painted so the extension of the front and the back of the shed, it's one continuous color. Not starting new paint halfway down and going -- saying that at least the roof is the -- the main slope be all one color and the shingles aren't added halfway down.

It is a visible corner. He takes immaculate care of the lawn and the property, so I wouldn't expect any less from him, but it needs to be said for consistency what we do here for the Board. So that will be part of the -- materials and colors to match.

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 Springer seconded the motion. The Board all voted yes on the motion.

Michael Nyhan made a motion to approve the application with the following conditions, and Robert Springer seconded the motion. All Board members were in favor of the motion.

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

1. Building permits and inspections must be obtained, as required, from the Building Department.
2. Materials and colors must match the existing structures on the property.
3. Plans showing construction methods to be submitted to the Building Department for review.

The following finding of fact was cited:

1. The proposed variance will involve a slight modification of an existing shed structure that will be similar in size to several other similar structures in the neighborhood.
6. Application of Frank D'Angelo, P.O. Box 449, Pittsford New York 14534 property owner: Holt Road Storage LP; for variance to allow existing building to be 10 foot from proposed rear lot line (40' req.) at property located at 1615 Scottsville Road in G.I. & FPO zone.

Robert Avery was present to represent the applicant.

MR. ROBERT AVERY: Robert Avery from Razak Associates here on behalf of the applicant, Frank D'Angelo.

I did want to make one note on the announcement which indicates this is pertaining to a setback from a proposed rear lot line, when in essence, the lot line has been there for 26 years. This lot was originally deeded off in 1986. We're not -- we're not proposing any new boundary lines. It's an existing property line.

We were sent back to the -- to you folks, from the Planning Board, relative to a site plan approval that we had gone into -- before them, which we received approval at the April 10th meeting, but during the -- during the process of that Public Hearing, it was discovered by the Town, that one variance had been neglected in the past when we had come with the same project twice before in front of this Board to simply rectify the existing conditions that were created by this illegal split of the land 26 years ago.

So that the dimension that we would be looking at tonight, I guess, in the Town's determination, who has, of course, all rights and interpretation of the zoning, was that the 10 foot shown off the west side of the garage was actually to a rear lot line, even though that length is rather minimal.

We have been in front of the -- of this Board on two separate occasions to receive all of the other variances that needed to be obtained because of this illegal subdivision. We came here at -- let's see here. The January 26th, 2010, Zoning Board meeting, and at that time, we received, oh, a variance for the front setback on the building to the north, on the northerly lot to be 66 1/2 feet from the right-of-way where 75 is required. 9 1/2 feet off the Greco building to the lot line (35 required.) We received that.

Also the front setback on the masonry garage on the parcel that I'm here for, 227 (75 required.)

We also received a side lot tie variance for that same garage and that was in January 26, 2010. We also were sent back probably by the Planning Board through the process to attend your meeting -- well, it looks like it was a year ago, May 17th, 2011, where there were two other variances that we needed to obtain from -- from the Zoning Board. One of them was for the width of this lot, which is -- once again, an existing number, 12439. 200 is required in a GI zone. And also it is less than the 50,000 square foot minimum that is required in the GI zone.

I guess that we had thought and the applicant thought that all of the variances based on those two applications had been covered, but I guess the interpretation that was made at the Planning Board at -- when we received approval for the site plan approval Mr. D'Angelo wants to make on Lot 2, that one was missed.

PAUL BLOSER: We have been around and around on this project for a couple of years now getting all of the -- all of the lines cleaned up and registered with the County. I know with

the selling off of -- the property owner changes -- and I guess there was a death in the family there, too.

So this used to be a standing will, and I know it has been kind of a mess cleaning up.

You know, the site plan had been approved. I know last year we did the variances for the other setbacks. I guess I kind of took that as a given last year, but it wasn't really identified, addressed at that time.

Because those lines were looked at and talked about, so. I really don't have any questions on this.

JAMES WIESNER: This -- this structure, is quite old, delapidated. What actually goes on inside this building?

MR. ROBERT AVERY: Nothing at this point. He has received a site plan approval, though, for some improvements.

JAMES WIESNER: To that structure?

MR. ROBERT AVERY: Including expansion of the front parking area. Um, and improvements to that garage. He -- he is going to actually replace it with a new hipped roof on it, or a new peaked roof on top of it. I think currently it is fabric, I believe. And has already been a lot of interior modifications to -- I think it was a former television repair business in the back building there.

And actually, my client will end up having to come back to the Planning Board once he does find a tenant. He just wants to do the site improvements and the building improvements now so he can attract a tenant, but he is required to come back in front of the Planning Board with whatever that use might be and hopefully obviously will comply with the zone, so. He has nothing -- there is nothing at this time.

MICHAEL JONES: Nothing to add. It is true the Planning Board caught this oversight with respect to the rear lot line there, and I think it is the Planning Board's referral over here that brings the applicant here. I was at the meeting. I think the Planning Board recommends a variance.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JOHN GRECO

MR. GRECO: John Greco. I own the property surrounding this property. My whole family has since the '40s. And this building was supposed to be torn down from the last person that owned this. It is a deteriorating building. It's -- it's -- I can't see how you would approve to rebuild a building that is just -- it's just -- it should be torn down.

Um, so I'm going -- I'm going to oppose this variance and I'm going to have my lawyer handle it from here. I don't want anything done on that front building. I think it should be torn down. And I will just fight it to the fullest extent. I'm very much opposed to it.

I have a couple little minor comments were made. I was told and asked if I could give 80 foot of frontage to the person who is -- the new owner of this property. He would tear this building down if I gave him 80 foot of frontage. I refused to do that. He said, "I'm going to make this building so tall no one will ever be able to see your store."

I have been in business since 1971. To make this building actually taller would be obstructing my store and I will fight it to the fullest extent. That is all I have to say.

PAUL BLOSER: Okay.

MR. GRECO: I think the building should be torn down. He agreed to tear it down if I gave him land. I can't give him land because it would block the back property. I own 30 acres surrounding this property. I mean, my -- my life is good, this property. My store is right behind it. To raise the roof on it would just block it more from the street, for the visibility. And the reason he is doing that, is because I won't give him the land in -- the frontage. I know Mr. Avery has done some work for us, too, but it's gone too far as far as I'm concerned. So that is why I am here tonight.

PAUL BLOSER: Okay. Thank you.

MR. GRECO: Yeah, you're welcome.

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

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

JAMES WIESNER: I'm just listening to you. It was assumed that the 10 foot covered all sides when we approved it before?

PAUL BLOSER: I am not going to say that it was assumed. I think it was more of an oversight when this property changed hands again and they were filing things with the County. Things were caught that had to be cleaned up. This is part of that. This is not anything new. This is not any change. This is just -- it's a line that has always been there. Just never registered properly with the County. So they're doing the formal update of everything to have it registered through the County so that we're on an equal platform.

I mean I'm not really in a position to address the building, its shape, its condition or what it is going to be used for. That's not before us.

MR. GRECO: Okay.

PAUL BLOSER: I -- I can't really comment on that. If there was a change of use to that or something that the code won't allow and it has to come before some type of zoning approvals, we would look at it then. Until then, we can't stake a stance on it.

If the Building Department decided and the Fire Department decided that it was structurally not sound and was a hazard, um, that -- that it would be up to them to condemn the building. We can't do that. So we have to let the process go and whatever they want to run into as far as legal obstacles, they would have to work to overcome them and likewise, with you. You do have the right to voice your opinion on -- on anything. And I do appreciate the fact that you're here.

So this is more just to -- paperwork maintenance to clean things up on how the property is registered. So before anything -- before anything could be done with this property.

MR. ROBERT AVERY: I might add for either property.

PAUL BLOSER: Yes. Yes. For either property.

MR. GRECO: I even tried to buy the property, but that is besides the point.

PAUL BLOSER: There is a lot of history there. I understand that.

ADAM CUMMINGS: Sorry to interrupt a -- Jim (Martin) to go along with your question, because it is weird how it makes that jog in, that makes that little section on the rear side, the rear lot line, whereas initially, we thought it was a continuation of the side lot line, so the variance we gave was 9 1/2 feet for the side lot line, which would have done that --

MICHAEL JONES: That is exactly right. That is exactly what the problem was. It was assumed the variance was granted when the side was granted, but when we went to Planning Board, the Building Department determined it was actually a portion of the rear lot line.

ADAM CUMMINGS: Which is one of those weird things that happened when you don't have a straight line on the property.

JAMES WIESNER: Now this variance would go with the land so if this building were to be torn down, the building could be put right on the corner again?

ADAM CUMMINGS: Correct.

MR. GRECO: Excuse me. It is in a deep hole. It should be filled in. It is the original garage that was attached to the house. We moved the house in 1952 and that was the level -- before they built up Scottsville Road. When I was just only 5 or 6 years old. So it should be just -- you know, it was a car dealership. There is all kinds of oil in the ground there. It should be just gutted and taken down. It really should be. It's a disaster. It has been an eyesore since I have been in business. I'm sure anybody that goes by there, you can tell.

Whether it is fixed up or not, it is just a cinderblock building that is deteriorated. The roof is rotted to heck. All deteriorated and should be torn down.

PAUL BLOSER: Not to interrupt but we did close the public comment.

MR. GRECO: I'm sorry. I apologize.

PAUL BLOSER: I appreciate your input.

Counsel, I do have a question for you on this. Is there a way we can put a condition of approval on this that if this structure was to be altered in any fashion, that it would be subject to review for rear setback?

MICHAEL JONES: I just want to make sure I understand the question. If the building was to be altered in any fashion you wanted to --

PAUL BLOSER: If they were to raise the roof or to put trusses on it or rebuild the wall, expand it, do anything with it, that would be -- major renovations, 50 percent or more renovation to the building, that we could look at it as far as another setback approval?

MICHAEL JONES: No. I would -- I would say not. You could put a condition that any -- and I think it is already the law, that any alterations go before the Planning Board for site plan review. And then I know that they're in that process right now. But you can't put a condition on it that would require it to come back to this Board for something that wouldn't otherwise not be compliant with code. This Board's authority and jurisdiction has to do with area variances and use variances and interpretation. So I don't think you can expand the authority of the Board for something that you don't otherwise have the power to oversee.

PAUL BLOSER: So if they were to truss the roof and raise the roof, maybe put a second floor on or just change the appearance of that building such, we could put a condition of approval that any building modifications or changes would be subject to Planning Board approvals?

MICHAEL JONES: Yes. I would say you -- you could put a condition this has to go -- any -- any alterations have to go before the Planning Board for site plan and Architectural Review. You certainly could do that. I think -- I think that is already in process. There is already a site plan application, I believe.

PAUL BLOSER: Part of the process of -- of -- I believe we have already submitted building plans for the front building.

MICHAEL JONES: I think you have.

MR. ROBERT AVERY: We have gone in front of the Architectural Review Board and we have submitted plans -- not the final building ones to you yet until we finish this process, but we have submitted plans for the improvements he plans on making to the building. I believe that would have been part and parcel to the approval we already received from the Planning Board.

ADAM CUMMINGS: But the point of this one is our original intent was the 9 1/2 covered both sides of that building, which is kind of what we're doing here. Just buttoning up our paperwork, because this is a unique definition of a rear lot line.

JAMES WIESNER: I guess my -- the only concern I have is it goes with the land, so I mean --

ADAM CUMMINGS: We kind of already approved it.

JAMES WIESNER: And any other structures sitting in front of the -- the rest of the other building.

PAUL BLOSER: This is more -- you know, I can't really use the word "clarification," but we had discussed this in our last approval with the understanding this was a continuous property line and as it turns out, it is not. So we -- so we had proved it once before, based on it being --

JAMES WIESNER: So without the angle it would be okay?

ADAM CUMMINGS: Yes. Would you probably -- you wouldn't hit 10 feet but you would still have to have another variance for it.

PAUL BLOSER: Yes.

JAMES WIESNER: Okay.

ADAM CUMMINGS: Just because of the different definition being a rear lot line instead of a side lot line. Our variance specifically says it was for a side lot line of 91/2 feet.

JAMES WIESNER: Okay. Good now.

PAUL BLOSER: That is how we approved it before.

This is more of a maintenance and logistical thing than really a new application.

ADAM CUMMINGS: And another building could go in 22.7 feet from the front, 10 feet from the back and 10 feet from the side, if we approved this one. Otherwise, you would have to ask for another variance from that rear lot line. We, actually -- in a year they would have to come back if we denied it.

PAUL BLOSER: Yes.

JAMES WIESNER: Okay. Fair enough.

MICHAEL JONES: Just to be clear with the condition, you wanted the applicant to get Architectural Review? Is that the condition you were asking for?

PAUL BLOSER: No, no, no. At this point, based on the input, the -- the normal procedure would be this would go back to site plan any way, Planning Board.

MICHAEL JONES: I would -- I'm sorry to interrupt. Ed (Shero) and I were just talking about it. It looks like they may have preliminary site plan approval and final being waived, so there might not be another scheduled Planning Board appearance. So if you wanted to condition it to Architectural Review, I think you have the authority to do that. I'm not --

MR. ROBERT AVERY: We already went in front of the Architectural Review Board.

MICHAEL JONES: Then you're all set.

PAUL BLOSER: So I can't see the need at this point to put any conditions on this.

MICHAEL JONES: Very good.

MICHAEL NYHAN: What type of building is proposed for that area?

PAUL BLOSER: Mike (Nyhan), I don't know. I --

MICHAEL NYHAN: Do you know?

PAUL BLOSER: Aesthetically to clean it up --

MR. ROBERT AVERY: Aesthetical improvements to both of the buildings. No -- no additions.

ADAM CUMMINGS: I assume you are going -- I haven't been inside the building, but the structural integrity to make sure it can be improved?

MR. ROBERT AVERY: I believe he has already obtained that from another engineer.

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 Springer seconded the motion. The Board all voted yes on the motion.

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

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

1. The proposed variance was actually given in principle at the January 26, 2010 Zoning Board of Appeals meeting when it was discussed and decided that this segment was a continuation of the side lot line of an irregularly shaped lot. It has since been determined that this segment of the property line adjacent to the existing building structure is actually a rear lot line and requires the variance.

The meeting ended at 8:11 p.m.