

CHILI ZONING BOARD OF APPEALS
June 26, 2007

A meeting of the Chili Zoning Board was held on June 26, 2007 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 Blos'er.

PRESENT: Jordon Brown, David Cross, Michael Martin, Richard Perry, James Wiesner and Chairperson Paul Blos'er.

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town; Ed Shero, Assistant Building & Plumbing Inspector.

Dennis Schulmerich, Town Board Liaison was in attendance.

PAUL BLOSER: Signs, Number 1, the application of Jim Martin?

The Board indicated they would hear the application.

PAUL BLOSER: Number 3, Angel Aguayo?

The Board indicated they would hear the application.

PAUL BLOSER: I went by it today and did not see the sign there.

JAMES WIESNER: I did see it over the weekend.

PAUL BLOSER: Do you want to hear this one?

DAVID CROSS: I didn't see the sign.

PAUL BLOSER: 46 Red Bud Road, Number 3.

DAVID CROSS: I saw 44 but --

PAUL BLOSER: 44 but not 46.

JORDON BROWN: I didn't see it.

RICHARD PERRY: If a number of people didn't see it, I would say you need to table it.

PAUL BLOSER: I will table that one for -- propose we table that to next month then.

Is the owner for that property here, 46 Red Bud?

(No one responded.)

PAUL BLOSER: I move to table that for a month.

MICHAEL MARTIN: I will second the motion to table.

The Board voted unanimously in favor of the motion to table.

PAUL BLOSER: This will be carried over to next month.

Number, any signs there?

DAVID CROSS: Good.

PAUL BLOSER: Number 5, James Creighton?

The Board indicated they would hear the application.

PAUL BLOSER: Number 6, Gerald Baker, everybody see the sign?

The Board indicated they would hear the application.

PAUL BLOSER: Number 7, 59 Rio Grande Drive?

DAVID CROSS: No problems.

RICHARD PERRY: No problems.

The Board indicated they would hear the application.

PAUL BLOSER: Number 8, Samuel Lo Temple, 20 Leah Lane?

PAUL BLOSER: 12, Robert Emens, 949 Morgan Road.

DAVID CROSS: I didn't see a sign.

JAMES WIESNER: It was very hard to find.

PAUL BLOSER: Not in view of everybody --

JAMES WIESNER: Not any place that a normal person would probably go.

PAUL BLOSER: Is -- the sign was there. It is kind of a private off-shoot of Morgan Road that goes up to the top of the hill. It was right at his driveway, very -- very clear you can see, but he would be the only one that can see it. His property does border down into Morgan. I would like to recommend that that sign be posted down on Morgan Road where passersby would see it or even at the corner of his street where it juts off Morgan. The sign is definitely there. Let's take a vote on that.

RICHARD PERRY: Your call.

DAVID CROSS: I would be willing to hear the application. The sign was there.

JORDON BROWN: If you saw the sign there, I think we should hear the application.

JAMES WIESNER: (The witness indicated non-verbally.)

PAUL BLOSER: Okay. We'll move on that one.

The Board indicated they would hear the application.

PAUL BLOSER: 13th application, Jackie Cammilleri, 25 Spicewood?

The Board indicated they would hear the application.

PAUL BLOSER: We'll go ahead and start with the applications then. Number 1, application of James Martin, owner of 710-Morgan Road, Scottsville for --

1. Application of James Martin, owner; 1710 Morgan Road, Scottsville, New York 14546 for variance to erect a 5' x 3 1/2' double-faced freestanding sign, variance for sign to be placed on front lot line (15' req.) at property located at 710 Morgan Road in A.C. zone.

DAVID CROSS: I will recuse myself from this one, and actually the next one.

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

MR. JAMES MARTIN: James Martin, and I live at 3948 Union Street.

PAUL BLOSER: What kind of business are you running, or what are we doing here?

MR. JAMES MARTIN: Landscaping business. I think the first order of business was the addition for the barn; is that right?

PAUL BLOSER: First one up is for the freestanding sign.

MR. JAMES MARTIN: Okay. The sign would be for my business basically. And I do have copies of some rough drawings what the sign would look like if you would like to see them.

DAVID CROSS: You have some copies?

MR. JAMES MARTIN: I do. Put them up here.

PAUL BLOSER: That's (indicating)?

MR. JAMES MARTIN: Very similar.

PAUL BLOSER: What colors?

MR. JAMES MARTIN: I think three. White, black and green.

PAUL BLOSER: What can you tell me about your hours of business there, truck traffic?

MR. JAMES MARTIN: I would say hours of business, usually the guys show up -- it is basically used for a place for the employees to show you, pick up their equipment and go to work. Hours of business, I would say Monday through Friday, we're in there typically around 6, 6:30 in the morning and usually out of there by 3 to 4 in the afternoon. Of course, those hours fluctuate depending on our workload.

PAUL BLOSER: How long have you been in there as a business?

MR. JAMES MARTIN: We have been in there I want to say since '97, so about 10 years.

PAUL BLOSER: This is the first time you're applying for a sign?

MR. JAMES MARTIN: Yes.

JORDON BROWN: Why now?

MR. JAMES MARTIN: I have a lot -- a lot of questions from -- from customers that say I didn't know what you were there. The barn sits so far back, it's kind of a -- a hidden away spot,

MICHAEL MARTIN: It is a safety issue.

RICHARD PERRY: Emergency services would know where to go.

MR. JAMES MARTIN: Would be more than happy to do that.

RICHARD PERRY: Will you have this lighted?

MR. JAMES MARTIN: No.

RICHARD PERRY: No other questions.

PAUL BLOSER: There is a business right now next door that has a sign there.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Um, are there going to be any customers that come to this address, to this business?

MR. JAMES MARTIN: During the course of one year in business I might have one customer that stops in that might look at a colored mulch, but basically, no.

MS. BORGUS: Are there deliveries made to this business?

MR. JAMES MARTIN: Yes, there is.

MS. BORGUS: In looking over your application today in the Building Department, I see that you stated that business was not conducted at this location.

MR. JAMES MARTIN: That's correct.

MS. BORGUS: I guess I don't see the need for a sign. It's an agricultural designation on zoning, and he has a conditional use permit, but when a variance is granted, it's my understanding, after all of the meetings and all of the years I have come to this, that is a balancing act between the good of the community and the good of the person who wants the variance. I say that out in the middle of the farm country where this is located, the last thing you would expect to see is a commercial sign. And since there really is no business conducted at this location, by the applicant's own statement, I really think that this is -- would be not in the best interest of the Town. The fact it is in an Agricultural District really has no bearing according to the law on the sign. The sign would be prohibited anywhere in Town. Anywhere.

But I could see maybe some reason for it in a semi-business area where there were stores or -- but certainly not out there.

Another thing I would like to ask is, on the paperwork there also I noticed the question who will be responsible for maintenance of the sign. And the applicant answered the sign manufacturer.

MS. BORGUS: Maybe the Board should clear that up. I don't know if that is a misunderstanding on his part as to who is going to make the sign, but we're talking about maintenance here. These signs are not maintenance free either. No matter how expensive they are -- they're not weather proof forever, and eventually they will all look crummy and they have to be redone, resurfaced, replaced and that's another problem with these signs. Once you get them up, keeping them fixed and presentable is another issue. And what is acceptable to maybe the owner ten years down the line when it starts to look shabby is not the same impression that the Town has about a shabby sign. So you're get into problems here. And I just do not believe this is necessary. I don't believe it is the appropriate place for it. It is far too big and there has been no reasonable explanation given. Thank you.

MR. EMENS: Bob Emens, 949 Morgan Road. Um, there is Pleasant View Glass right down on Union Street. Chili Country Club probably has one out there. I don't golf, but I imagine they do. That is agricultural. Um -- I don't know the size of the sign, but it surely isn't anything ugly, and I don't know. I just don't agree with that. There are other signs in the area, in the Agricultural District.

MICHAEL MARTIN: As far as deliveries, how often do you have deliveries at that location, with the mulch and various landscaping materials?

MR. JAMES MARTIN: I probably average about one delivery every two weeks or so. Especially this particular time of the year, especially as we go farther into the summer, there is less deliveries.

MICHAEL MARTIN: Multiple vendors that deliver to you?

MR. JAMES MARTIN: Yes, there is. Actually, it depends on where the mulch is coming from.

MICHAEL MARTIN: Have they ever had a problem finding the location where they couldn't find the driveway?

ED SHERO: My only comment was, and it has been said, it is a pretty agricultural area and if the Board wanted to deliberate on this, they could restrict it -- he has no intention of lighting it, and think if the Board did decide to allow the sign, they would restrict it from being lighted, that that would ease the burden as far as a commercial sign in the area. That is something I would hope the Board would consider.

MICHAEL MARTIN: You said you had no intention of lighting it. There are no operations there after dark anyway?

MR. JAMES MARTIN: Correct.

JORDON BROWN: Just a point of clarification. In your application under "Why is the sign necessary," you wrote "size of sign in a residential area." Any size sign would need a variance. It is not the size that is in not in compliance for the sign.

MR. JAMES MARTIN: I was under the impression beyond a certain amount of square footage you need to go for a variance.

JORDON BROWN: Any sign, it's required.

MICHAEL MARTIN: Also on the interest disclosure you did not check that off. Are you a officer of the State, County having an interest in the application?

MR. JAMES MARTIN: I don't know if I understand the question.

MICHAEL MARTIN: Basically do you work for the State?

MR. JAMES MARTIN: No, I do not.

JORDON BROWN: I didn't feel it's a compelling case.

RICHARD PERRY: We have to close the meeting before we discuss that.

PAUL BLOSER: If there is no other public comment, I will close the public discussion and take discussion now.

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. All voting members of the Board voted yes on the motion.

Michael Martin made a motion to approve the application, and James Wiesner seconded the motion. The motion to approve failed by a vote of 3 no to 2 yes (Michael Martin, James Wiesner).

DECISION: Denied by a vote of 3 no to 2 yes (Michael Martin, James Wiesner) with 1 abstention (David Cross) for the following reasons:

1. Could not show hardship.
 2. Does not have customer visits to warrant sign.
 3. Main concern of applicant is that deliveries cannot find address.
Suggested applicant put up a "710" number easy to see.
2. Application of James Martin, owner; 710 Morgan Road, Scottsville, New York 14546 for variance to allow the total square footage of garage area, including a new 40' x 48' addition to detached garage, to be 5,760 sq.ft. (3,840 sq.ft. previously approved) at property located at 710 Morgan Road in A.C. zone.

James Martin was present to represent the application.

PAUL BLOSER: What do you have on this?

MR. JAMES MARTIN: I also have some drawings in the box there.

PAUL BLOSER: For the audience, yes, we would like to have those posted up.

MR. JAMES MARTIN: I think the primary reason I want to apply for the addition is since I had the -- the primary barn built, my business has expanded. Um, it has expanded in ways where I didn't think it was going to. I have equipment that is taller than I am able to fit in my current barn. The main reason I would like the addition is to fit the equipment into this barn for

MR. JAMES MARTIN: The height of the existing building? The building -- the walls are 2 feet shorter. The doors are 10 foot doors versus 12 foot doors. I don't know if that means that the overall height of the building I have now is 2 feet shorter. Don't know.

PAUL BLOSER: You're adding this in addition to what you currently have?

MR. JAMES MARTIN: Correct.

PAUL BLOSER: I'm seeing here then, too, you have an enlargement of the berms and the yard to kind of block this out? Is that what this thing shows us?

MR. JAMES MARTIN: I don't believe so. Can I approach?
I think that was --

Mr. Martin conferred with the Board at the front dais.

MICHAEL MARTIN: Those Blue Spruces are already planted and the berm is -- the screen -- I guess it is more of a screen than anything.

MR. JAMES MARTIN: It was designed to be a screen. Unfortunately, we originally planted Blue Spruces and since then we have done three plantings and the soil in that berm is mostly sub soil, but even landscapers have no luck planting evergreens on the berm. If you have gone back there and walked by, the trees back there aren't doing well, but that was the intention.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

RICHARD PERRY: Who is going to build it?

MR. JAMES MARTIN: Morton Buildings. They're the company that built the first one, as well.

PAUL BLOSER: Expected time frame on this?

MR. JAMES MARTIN: Pending getting the building permit, I think they want to start in later in the summer, August/September time frame.

PAUL BLOSER: Will you bring in any fill?

MR. JAMES MARTIN: We really don't need to actually. The section behind the barn is -- is set up for an addition.

RICHARD PERRY: Will it be heated?

MR. JAMES MARTIN: Not at this point in time, based on financial reasons I can't afford to heat it. I just want a roof over my equipment.

RICHARD PERRY: Electricity to it?

MR. JAMES MARTIN: Down the road, yes. Absolutely.

RICHARD PERRY: What kind of a floor?

MR. JAMES MARTIN: Concrete.

MICHAEL MARTIN: Make sure you follow all of the rules when you apply for the building permit. The inspection and everything.

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.

KEITH O'TOOLE: Excuse me, Mr. Chairman. I was unclear as to whether the first public hearing included this or not?

PAUL BLOSER: It did not, no.

KEITH O'TOOLE: So we're opening this for public hearing, as well?

PAUL BLOSER: We just did.

KEITH O'TOOLE: Sorry I missed that. It was so quick.

PAUL BLOSER: There were no comments from the general public.

KEITH O'TOOLE: Thank you.

Michael Martin made a motion to approve the application with no conditions, and Jordon Brown seconded the motion. The voting members of the Board unanimously approved the motion.

No one responded.

DECISION: Unanimously tabled by a vote of 6 yes until the July 24th meeting at 7 p.m. for the following reason/finding of fact having been cited:

1. Applicant failed to post the required public hearing notice sign.
 2. Applicant did not attend meeting.
 3. Applicant to resubmit for July meeting.
4. Application of Thomas Cevicelov, owner; 12 Amanda Drive, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a massage therapy practice at property located at 12 Amanda Drive in R-1-12 zone.

Thomas Cevicelov was present to represent the application.

MR. CEVICELOV: Thomas Cevicelov, 12 Amanda Drive.

MICHAEL MARTIN: Been a year already?

MR. CEVICELOV: Been a year already.

MICHAEL MARTIN: How is everything going?

MR. CEVICELOV: Very well. Very well.

MICHAEL MARTIN: Has anything changed from the conditions granted previously?

MR. CEVICELOV: Nothing has changed.

PAUL BLOSER: How long have you been doing this now at this residence?

MR. CEVICELOV: One year.

PAUL BLOSER: You got one year under your belt?

MR. CEVICELOV: I have been practicing massage for six. One year at the house.

PAUL BLOSER: So you're building up your own personal clientele?

MR. CEVICELOV: Yes.

PAUL BLOSER: Have there been any problems?

MR. CEVICELOV: None.

PAUL BLOSER: Neighbor okay with it?

MR. CEVICELOV: Everyone is fine with it.

PAUL BLOSER: I will make a comment for the record. In conversation with some of the Town Board members, we're looking to -- on home-based businesses such as this -- this is one in particular of the many they're considering that these type of businesses are used as a baseline to get started, to -- the growth and with the intent to move into a commercial location.

They're looking to possibly adopt an amendment or ruling to limit the use of these to a one to two-year period or based on business-based growth, looking at these as a -- the Town, I guess, wants to look at these not so much as a permanent business run-out-of-the-home type of thing.

RICHARD PERRY: Wait a minute. What does that mean for people who have like beauty parlors in their home?

PAUL BLOSER: This is something in talking to a couple of the Town Board members, this is something they're looking to adopt.

RICHARD PERRY: You better do a little more digging. That is ridiculous.

MR. CEVICELOV: I put an addition on the house specifically for this. So that would really put a burden on me if that was adopted.

PAUL BLOSER: I'm -- was just asked to pass that on, and that's what I am doing.

RICHARD PERRY: They better rethink --

PAUL BLOSER: We're not in a position to enforce anything like that tonight anyway.

MR. CEVICELOV: Just for your information, some of us put additions on the house specifically for that. Something like that would really hurt.

PAUL BLOSER: I understand. When it comes to public vote or for an adoption, some type of amendment like that, certainly it will be advertised and it will be voiced.

RICHARD PERRY: It's worth asking.

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 David Cross seconded the motion. The Board all voted yes on the motion.

Michael Martin made a motion to approve the application with the following conditions, and Richard Perry 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. Granted for a period of five years.
2. No on premises advertising.
3. No on street parking pertaining to the business.
4. Clients by appointment.
5. No more than two clients at one time.
6. No outside employees.
7. Hours of operation as per application.
8. Applicant to obtain required state and local licenses.

The following finding of fact was cited:

1. Customary Home Occupation.
5. Application of James Creighton, owner; 71 West Forest Drive, Rochester, New York 14624 for variance to erect a 16' x 19' deck to be 14' from rear lot line (30' req.) at property located at 71 West Forest Drive in R-1-15 zone.

David Cross was recused from this application.

Pam Creighton was present to represent the application.

MS. CREIGHTON: Pam Creighton, 71 West Forest.

PAUL BLOSER: You got a corner lot.

MS. CREIGHTON: Yes.

PAUL BLOSER: Little kids' swimming pool in the back?

MS. CREIGHTON: You got it.

PAUL BLOSER: You don't have a big backyard.

MS. CREIGHTON: We don't.

PAUL BLOSER: You don't have a lot of room. I did see that.

Are you building the deck yourself or having it done?

MS. CREIGHTON: We're probably going to hire out. We're waiting for another estimate to come in.

PAUL BLOSER: That will put you 14 foot to the lot line.

MS. CREIGHTON: Actually, I had a question about the measurement, because the last guy that came said I was actually 20 going this way (indicating) which wouldn't affect the lot line, but then he also mentioned that the boards come 10 feet by 10 feet so why cut off a foot and

MS. CREIGHTON: Okay.

PAUL BLOSER: So really the only thing we're looking at here is setback. It is a small backyard. There is clearance for a vehicle back there, if necessary.

MS. CREIGHTON: I did speak with both neighbors. They seem fine with that. The deck actually faces the back -- side of the garage, so it is not like we'll be out invading anyone's space. There is no windows on the garage or anything.

PAUL BLOSER: Are you planning any privacy fences around it or --

MS. CREIGHTON: No.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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. All voting Board members voted yes on the motion.

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

DECISION: Approved by a vote of 5 yes with 1 abstention (David Cross) with no conditions, and the following findings of fact were cited:

1. Due to a corner lot and small backyard approval was granted.
2. Applicant applied for a 16' x 19' deck. Board approved a 16' x 20' deck due to wood waste. The 20' length to be along rear of house and 16' coming away from house.

Note: A building permit is required before the deck is erected.

6. Application of Gerald Baker, owner; 1079 Paul Road, Churchville, New York 14428 for variance to erect a 12' x 16' utility shed to be 192 sq.ft. (180 sq.ft. allowed), variance for shed to be 3' from side and rear lot lines (8' req.) at property located at 1079 Paul Road in R-1-20 zone.

Gerald Baker was present to represent the application.

MR. BAKER: Gerald Baker, 1079 Paul Road.

PAUL BLOSER: You got this shoved back into kind of southeast corner of your lot, the angle?

MR. BAKER: Right.

PAUL BLOSER: I know it's a lot of woods back there and -- but are there any reasons that you can't stay within the property lines?

MR. BAKER: Well, the backyard is kind of small, short. My neighbor, when he had his house built by Perna Homes, they gave him extra land to go back, so he is back about 30 feet more than me. So it kind of a funny shape the way our backyards are.

And bringing it in 8 feet by 8 feet which is the code, it's just going to be sitting in the back -- in the center of the backyard basically. In about 2 or 3 years, we're planning on getting a pool, and there would be no place to put it.

PAUL BLOSER: Are you on sewer or septic?

MR. BAKER: Septic.

PAUL BLOSER: Where is your tank in relation --

MR. BAKER: In the front yard.

PAUL BLOSER: In the front yard?

MR. BAKER: Yes.

PAUL BLOSER: Are you going to put the shed up?

MR. BAKER: No. I'm having it contracted out by DuraSheds.

PAUL BLOSER: What is the height on the

was that years ago when the Town Fathers passed this law was the feeling if it had much less, you can't maintain what is in back of the shed. In other words, people just mow up to the front and the rest just goes into weeds and mess.

Does this gentleman plan on maintaining the lawn around of the way around this? Does he have room with 3 feet?

MR. BAKER: Oh, plenty of room, and I'm really close friends with my neighbors, and the only property next to mine is, I believe, 1083, which is a brown house, and our yards are like so close together, it's easy to cut around that. I can go on to their property and cut behind it. I can use a weed whacker.

MS. BORGUS: Thank you.

ED SHERO: Only comment I have, the Board realizes this is actually two things being appealed here. The size of the shed and the side setbacks. Okay.

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 David Cross seconded the motion. The Board all voted yes on the motion.

James Wiesner 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.

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

1. Applicant has small back yard.
 2. No impact on neighbors.
 3. Shed to be sided and roofed like house.
7. Application of Akbar Hussain, owner; 59 Rio Grande Drive, North Chili, New York 14514 for variance to erect a 6' high fence in front setback area where 4' is allowed at property located at 59 Rio Grande Drive in PRD zone.

Akbar Hussain was present to represent the application.

MR. HUSSAIN: I'm Akbar Hussain, 59 Rio Grande Drive.

PAUL BLOSER: Do you have one of these that you can have posted up on the side board a copy?

I am reading your application here. Can you kind of go through it with us and tell us why you're looking for this variance?

MR. HUSSAIN: Sure, absolutely. We moved into the neighborhood last year and it's a corner lot and I've got two kids. We need some bit of privacy and security. We had some issues with pit bull dogs in the neighborhood, and that is one of the reasons we really want to secure our yard. That's one of the reasons we want to request the Board and the Town to -- with the variance.

PAUL BLOSER: Is there any reason why you can't do this with a 4 foot fence?

MR. HUSSAIN: The reason being I have this 2 1/2-year old, and he's -- I still feel it is not going to be sufficient. It's his -- 4 feet is not sufficient for him, because he's running in and out, and we still feel that it's going to be hard for us to -- and most of the time I'm traveling, so I just feel a little bit more secure for my family. I'm on the road most of the time, so.

PAUL BLOSER: I did check into this. There have been reports to the Town, the Dog Warden. I guess there have been some complaints given about these dogs, the pit bulls and the Town is addressing it with the homeowners at this point to try to get that issue resolved.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

a 4 foot fence has always been sufficient. No kid has ever gone over that 4 foot fence, none.

And since that's what the law in Chili is for pools and for all other purposes, it seems to me 4 foot is sufficient. It will be up to the Town to deal with this dog issue and I'm sure they will.

PAUL BLOSER: They're working on it.

MS. BORGUS: I'm sure they will. That's a serious complaint and it is something they don't take lightly.

As I read this application, he also wants to erect this in the front setback area?

MR. HUSSAIN: Not really. I -- in fact, we -- we are right -- right from the halfway from the house frame. It's not coming out of the front yard at all. It is completely away from -- it is about 70 feet away from the Rio Grande Drive. So it's not in the front yard at all.

DAVID CROSS: He is a corner lot. It's the Caboose Circle side. Basically he has two front setbacks, the lot.

MS. BORGUS: So he would be in one of the front setback areas?

DAVID CROSS: Right.

MS. BORGUS: Um, the Town, as you -- I'm sure this Board knows, and if you don't, you will get educated quickly, the Town frowns on anything over a 4 foot fence. I can appreciate the comments of the gentleman in the back. I wouldn't want on those small lots, I would not want a 6 foot fence near me. I mean it may be for his protection, but the rest of the neighbors bear part of the inconvenience and the danger that is presented from safety issues just because he has the fence. I don't see where it is necessary, and as I said, a 4 foot fence is sufficient.

If -- this could be a complaint or a request based on everybody having children. If you allow this, then everybody who has children is going to be looking for a 6 foot fence. They have held the line before, and I don't see this is any different situation.

Thank you.

ADAM CUMMINGS, 7 Caboose Circle

MR. CUMMINGS: I'm the next house beyond Mr. McGill. I also don't mind a fence. However, I would rather have it be the 4 foot as it says, and being a side lot on a corner lot that is really a front setback, not a side.

And with regard to the dogs, the dogs were actually penned with a 6 foot fence and they got through that, and they're approaching that problem separately. The police have been involved and I don't think there is anything to worry about in this arena. But I think the major issue is the view of that intersection with the 6 foot fence and the precedent for such a structure on the corner lots as they keep developing that subdivision there. That's all.

MICHAEL MARTIN: The problem you're facing is because you live on the corner, you have a front to Rio Grande and a front to Caboose Circle. They're both considered front yards for a corner lot. I have a corner lot myself. So it is like you have two front yards and basically no side yard is how it works. But because it is a front yard facing Caboose, the fence variance is 4 foot. Otherwise if it was in the back, or the side, it's a 6 foot.

MR. HUSSAIN: Right. Actually, we are -- when you look at the drawings, I mean we are 25 feet in from the Caboose Circle, and then 72 feet in the Rio Grande. So from the property line we're -- we're in 6 feet from the property line in. And from Rio Grande is 50 feet in, so I mean, we really appreciate it. I mean if that is the -- that's -- but we really tried to maximize as much as possible to -- to not to inconvenience the neighbors or the motorists because if you really look at the lot, there is no hindrance to the motorists or pedestrians coming into that area on both sides. That's all I have to say.

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

MR. HUSSAIN: On the 4 feet is there any limitations on -- that means I can go as far as out on the property line? Is that something which the Town allows, that 4 feet is permissible up to the property line? Because right now with the 6 feet we were losing out on 6 feet on Caboose Circle, and then 50 feet on the Rio Grande. We just -- which is fine on Rio Grande, but on Caboose, if we're allowed -- if we're not allowed 6 feet, how far max we can go out to the -- can we go up to the property line with the 4 feet?

ED SHERO: 4 foot fence, you can go to the property line. There really is nothing that says how far back from the property line you have to be. The rule of thumb is you have to be able to maintain your fence. So you have to be able to get on the other side and maintain, grass to be cut and weeds.

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.

Paul Bloser made a motion to deny the application, and David Cross seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously denied by a vote of 6 yes to deny with the following findings of fact having been cited:

1. Applicant's lot is on a corner and height would be a hindrance to traffic.
2. Advised applicant to adhere to Town Code for height and placement.

After the vote was taken, Keith O'Toole discussed with the Board what the Board was looking at for the last application.

MICHAEL MARTIN: For clarification for the audience, the front lot line starts from the edge of the side of the house forward towards Caboose. So from the point of the house going backwards would be considered a rear and he could do 6 foot from the corner of the house.

KEITH O'TOOLE: If Mr. Hussain needs further clarification, why don't you come on over here.

The side table discussed the matter with Mr. Hussain.

8. Application of Samuel LoTemple, owner; 20 Leah Lane, North Chili, New York 14514 for variance to erect a 12' x 12' utility shed to be 3' from rear lot line (8' req.) at property located at 20 Leah Lane in R-1-15 zone.

Samuel Lo Temple was present to represent the application.

MR. LoTEMPLE: I'm Samuel Lo Temple, 20 Leah Lane.

PAUL BLOSER: You're in the Fallone track; is that correct?

MR. LoTEMPLE: Yes, sir.

PAUL BLOSER: You're backing up to the railroad tracks and the pond?

MR. LoTEMPLE: Yes.

PAUL BLOSER: Drove around so many of them this month, trying to keep them straight. I don't have a problem with the shed size. That is pretty common. They don't have real deep backyards there. Or at least his is not very deep.

What kind of shed are you putting up? Prefab or building yourself?

MR. LoTEMPLE: I will build it myself, well, with me and my brother-in-law. He's done it before. It's going to be wood and I'm going to put siding on it to match the house and shingles on the roof to match the house.

PAUL BLOSER: How high are you making it?

MR. LoTEMPLE: Gee, I -- I happen to have the plans right here.

PAUL BLOSER: You will not make a two-story shed?

MR. LoTEMPLE: No, no. Just the wall is 8 feet high.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

MICHAEL MARTIN: You're keeping it well away from the wetland area?

MR. LoTEMPLE: Definitely.

MICHAEL MARTIN: 2 feet from the wetland area and behind trees in wetlands.

Paul Bloser made a motion to approve the application with no conditions, and Michael Martin 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. No impact on environment or neighbors.
2. Lot has small backyard backing up to railroad tracks and woods.

Note: A building permit is required before the shed is erected.

9. Application of Mr. & Mrs. Ron Sadler, owner; 32 Woodside Drive, Rochester, New York 14624 for variance to erect a 19' x 8 1/2' deck to be 52' from front lot line (60' req.) at property located at 32 Woodside Drive in R-1-15 zone.

Ron Sadler was present to represent the application.

MR. SADLER: I'm Ron Sadler, 32 Woodside Drive.

PAUL BLOSER: You have like a little corner lot there, right?

MR. SADLER: That's correct.

PAUL BLOSER: But that is torn off right now?

MR. SADLER: Yes. The existing porch was a concrete slab which the -- initially, I am sure it was pitched away from the house, but through the years, it sunk and the bricks were deteriorating and need to be replaced. We were having some issues with water.

PAUL BLOSER: What was the size of that?

MR. SADLER: That was approximately -- I want to say 5 by 7 or 8.

PAUL BLOSER: I did notice on the street also there are a couple similar type decks that are farther out.

MR. SADLER: Yes, there are.

PAUL BLOSER: Just for the record.

You have got a fairly good size addition to the back there also.

MR. SADLER: Yes.

PAUL BLOSER: You have the woods that kind of butt up right close there.

MR. SADLER: Right.

PAUL BLOSER: Your property line actually goes into the woods back there?

MR. SADLER: I don't believe so. I think it runs pretty much underneath the electrical wires there, right at the back of the woods, sir.

PAUL BLOSER: Ed, just a question for you. When these were originally built, I'm assuming the setback is the physical structure of the house itself, not the previous front porch stoop; is that correct, as long as it was not covered over?

ED SHERO: If it was just a stoop, sometimes they weren't put on the -- depending on the height, they were neglected for that.

PAUL BLOSER: There wasn't a roof over it, was there?

MR. SADLER: No, there was not.

PAUL BLOSER: Probably a setback -- by looking at the rest of the houses on the street, they're pretty consistent and just the ones with the porches, they're all coming towards the street. So...

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

The Public Hearing portion of the 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 David Cross seconded the motion. The Board all voted yes on the motion.

10. Application of Richard Manley, owner; 36 Everett Drive, Rochester, New York 14624 for variance to allow the total square footage of garage area, including a new 1,024 sq. ft. detached garage to be 1,524 sq. ft. (900 sq. ft. allowed), variance for detached garage to be 20' from rear lot line (60' req.), variance for ridge line of garage to be above ridge line of dwelling at property located at 36 Everett Drive in R-1-20 zone.

Richard Manley was present to represent the application.

MR. MANLEY: Rich Manley, 36 Everett Drive. The application is to build a workshop garage combination outside. My wife asked me to take my woodworking shop out of the house. I have allergies. My children have allergies and no matter what dust collection unit I get and however I try to control it, I can't keep it out of the house, so this is one of the solutions. And I have hobby work.

MICHAEL MARTIN: Is the woodworking a business?

MR. MANLEY: No. It's strictly a hobby. I do computer graphics, completely unrelated.

DAVID CROSS: So there is a second story here?

MR. MANLEY: It's considered a loft space. The overall height of the building from the blueprints I gathered is 20 1/2 feet. The height of my house, to the best of my measurement, because we have a jagged ridge line is about 16 1/2 feet. Our back lot, within 15 feet of where the house is slopes down 4 feet, and we currently have a pool in the backyard. This would be set to the back of the lot.

DAVID CROSS: So the grade in the rear of the lot where this shed would go, it would be 4 foot lower than up by the house, which would --

MR. MANLEY: Approximately at level height. They would be approximately the same height.

DAVID CROSS: Or within about a foot or so.

MR. MANLEY: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Today I went in the Building Department and I looked at the paperwork on this, and I am wondering what all of the small -- looks like unfinished buildings are in -- already on this property. It looked pretty junky. Things have to be -- Number 1, they have to be legal in Town, and then there is an expectation you finish what you start. So I am wondering if maybe the applicant would like to explain to the Board why he has all this unfinished work and where the buildings came from and what their purpose is.

MR. MANLEY: We have --

PAUL BLOSER: Before you start on that, because what you say is going to probably answer a lot of other things here.

Any other public comments or questions on this one?

PAUL BLOSER: I did get a letter that was sent to me. I received it today. It is also dated today from a neighbor that was unable to make it.

"Dear Board members: Regarding my need to express my concerns in this letter, um, I have recently had surgery and not able to attend this meeting tonight. We are neighbors to the Manleys on our north side and are concerned about what this proposed garage would have on our property value. The living area of our home is 1344 square feet. The proposed garage is 1024 square feet or approximately three-quarters the size of our home's living area. Total this 1024 square footage with the existing 500 square footage of the already existing garage space makes the total garage space on the property 1524 square feet. More total square footage than the total square footage of the living area of our home. The ridge lines, if approved, make the height of the structure an additional 4 to 5 foot higher than the principal residence on this property. There is 4 to 5 foot decline in grade level from the house to the proposed site of construction making (inaudible) side of the building. Enclosed are pictures taken from the front of our garage and driveway that lead onto the side and backyard of the property at 36 Everett. There are four small out buildings already existing in the backyard, two of which are unfinished, the first one dating back to the '90s. The other items are also -- other items are also stored in the yard.

Rich and Jeanette Manley are good neighbors and good friends to us, but I feel this

pool is on record. That was issued in July of '03 also.

The four sheds in the back, there is no record of any permits for the four sheds. There is -- next to the largest of the four sheds, there is a raised wooden structure that I know you're drying your wood on to keep it off the ground.

I think that that would come under not a structure, but --

MR. MANLEY: It's a pallet.

PAUL BLOSER: It is a free-standing wood structure, but it is not a building. It doesn't have a roof and it's not really a deck. It is to support -- it's like a -- just another structure that is back there. Another structure.

We have to look at five structures with no permits on any of them right now, registered permits.

KEITH O'TOOLE: Code enforcement could take a look at the height in question, and if it is just something for temporary storage, I don't think that that constitutes a structure.

PAUL BLOSER: The neighbor, when she talked to me, said that that structure had been there pretty much since the Ice Storm.

MR. MANLEY: Yes.

PAUL BLOSER: Correct?

MR. MANLEY: Yes. We had two storms that did some devestation. The Labor Day storm went square through our neighborhood and that is where I was overwhelmed with lumber. I was able to salvage good lumber and get it milled.

PAUL BLOSER: Which size storm was this?

MR. MANLEY: Well, Labor Day storm of -- I forget what year it was.

MICHAEL MARTIN: '91.

PAUL BLOSER: That is how long the structure has been there, 91?

ED SHERO: Labor Day storm was '98.

MR. MANLEY: I forget which storm. There were two storms that went through the neighborhood -- well, the first batch, one of our neighbors decided to take down a bunch of trees. They were going to cut them up for firewood. I said, "I do woodworking" and was able to get the lumber from that.

And shortly after that was the Labor Day storm where the neighbors gave me logs to cut up because they knew I was doing woodwork. Originally, I was under my impression a storage shed under 100 square feet didn't require a permit.

PAUL BLOSER: A storage shed does not. But you're getting into multiples.

MR. MANLEY: The mini barn that you see is -- is an 8 by 12, constructed to be under 100 square feet, 96 square feet total. That was the original structure.

PAUL BLOSER: How tall?

MR. MANLEY: It has an 8 foot wall and approximately a 3 foot roof line above it, so about 11 feet tall. Our plan would be to dismantle that, and remove that from the property.

There are two -- if you noticed recently, there are two small playing houses, children's playing houses that are up closer to the pool. Those were previously out back. We want to move them up closer to the house. The kids love to play in them.

There is another garden shed out in the back. Reason for putting this out there, I have lumber storage that has completely overtaken my mini barn and stacked outside the mini barn. I would like to get that indoors so it doesn't get weathered any worse than it is, salvage that and remove the garden shed from the property. So it would be just the two play houses and the 12 1/2 car size garage out back which would be very similar to what is across the street from us.

MICHAEL MARTIN: The lost space is for lumber storage?

MR. MANLEY: Yes. I have lumber in my garage up in front and lumber in my mini barn, completely filled up.

MICHAEL MARTIN: Were you able to mill trees into 10 foot, 12 foot?

MR. MANLEY: Yes. Anywhere from 8 to 12 foot long pieces. The loft space in the proposed garage would be a perfect place to stack that and --

MICHAEL MARTIN: Still seasoned wood?

MR. MANLEY: Pardon?

MICHAEL MARTIN: Still seasoned wood, not dried enough to --

MR. MANLEY: Correct. I have a -- a portion of the lumber I have already -- years passed taken it down to a kiln and had it professionally kiln dry. I air dry it myself and then professionally air dry it after that.

MICHAEL MARTIN: What kind of stuff do you build? You say it is a hobby.

MR. MANLEY: That's a hobby and I'm still learning about it.

MICHAEL MARTIN: The printed page, is that the exact structure?

MR. MANLEY: Very close to. My plan was to move one of the doors over a little bit to partition a 12 by 24 dedicated garage space.

MICHAEL MARTIN: So it will be a single-car garage?

MR. MANLEY: Single-car garage and on the 1 1/2 side, a wood shop.

MICHAEL MARTIN: Do you plan to put that inside?

MR. MANLEY: Plenty of enough room behind the barn -- or the garage to back it around back there.

MICHAEL MARTIN: You say you would get rid of the one -- the pole sheds?

MR. MANLEY: The mini barn and the garden shed out back.

DAVID CROSS: Plans to extend the driveway to the back of this?

MR. MANLEY: No driveway. If I pull a car in there, it will sit in there for a while while I restore it or anything like that. There would be virtually no traffic in and out of there.

RICHARD PERRY: Any reason that the second floor of the pitch has to be as severe as it is?

MR. MANLEY: That's the way that that one particular kit worked out, and I saw that and said this is great because I could use that for storage space for drying the lumber. As opposed to using a truss structure that would render the second -- or above grade useless.

And I figured that a gambrel, I believe it is, a barn type roof wouldn't fit the neighborhood. Our plan would be to use the same roofing material that we have on our house and then to do a Dutch lap siding as the house is and stain it or paint it the same color as the house.

And I did talk to Carol Brown the other day, and her concern was the height of it. This afternoon I took a ladder, elevated it to the height with an orange flag on it and I took some pictures. I have some pictures to show that from the street, viewing it, the peak of the roof would be below the bottom of our existing roof line.

MICHAEL MARTIN: So the peak of the garage, because of the decline in the property would be lower than your house?

MR. MANLEY: Correct.

MICHAEL MARTIN: That's important.

MR. MANLEY: That would be the visible appearance. Looking at our house straight on, you would never see the garage there. If you looked at it between houses, between the trees, you may see it. I was at a meeting not too long ago, there was a projector, so I didn't make copies of them.

Picture here which I will pass around first was the ladder with the orange flag. And if this is a picture of that, right from our street, showing that orange flag is below the gutter line.

And from the other angle, it is very hard to see, because it is all blocked by trees, but this is kind of an establishing shot which shows the peak of the ladder, and it is moved up from the street, right in that little corner.

One of the reasons we moved into the neighborhood was because it looked like Adirondack park. The Labor Day storm came and changed the whole atmosphere.

DAVID CROSS: Now, would this gable end be facing the house?

MR. MANLEY: No. The doors would be facing the house.

DAVID CROSS: Doors would be facing the house.

MR. MANLEY: Right. I would run parallel to the house.

MICHAEL MARTIN: You spoke to the neighbor who had the concern about the height?

MR. MANLEY: Yes.

MICHAEL MARTIN: What was their reaction?

MR. MANLEY: Carol Brown said thank you very much for showing me how high that would be, because they weren't sure how high that elevation would actually be?

MICHAEL MARTIN: Did it seem to alleviate their concerns?

MR. MANLEY: Didn't get a feeling either way.

JAMES WIESNER: When was it that you showed it to your neighbor?

MR. MANLEY: That was today. Today I got home from work, and I put that up and went over to see them right afterwards and took the pictures.

JORDON BROWN: Her letter is dated today?

PAUL BLOSER: Yes, it was.

MICHAEL MARTIN: Came in earlier today, I would imagine.

MR. MANLEY: That was about 6:00 p.m. between 5 and 6:00 p.m.

PAUL BLOSER: I got it this morning. I talked to her about 1:30, 2 o'clock. Brown. She

MICHAEL MARTIN: Then also you said there is a pallet with undrying wood. That would be removed.

MR. MANLEY: The lumber I would stack inside, correct.

ED SHERO: What are the square footage of the other -- the two blue and white sheds would remain?

KEITH O'TOOLE: The play houses.

MR. MANLEY: The play houses, um, one is about 4 by 6 and the other is about 5 1/2 by 7 1/2 roughly.

ED SHERO: They're to remain?

MR. MANLEY: Yes.

ED SHERO: And I know we do have a permit for one of the decks.

MR. MANLEY: Correct.

PAUL BLOSER: Correct. That was in '90. Those pools -- those were done in '03.

ED SHERO: There is another deck behind the house.

MR. MANLEY: That is to replace the staircase that was there that was disintegrating.

PAUL BLOSER: Looks to be almost the same in size. What is the size of the new one there?

MR. MANLEY: The new one? It's about 4 by -- the landing is about 4 by 8, I believe. 4 by 8, 4 by 10.

PAUL BLOSER: 4 by 10?

MR. MANLEY: Yes. It is just a landing. You open the door and go to the stairs.

PAUL BLOSER: That would still necessitate a permit.

MR. MANLEY: Okay.

ED SHERO: I would just like to have everything lined up here. If the Board does grant this variance, I would like to see the demolition be done first on two sheds and totally removed prior to issuance of a building permit. And also, if we could address the deck, if that is -- still needs a building permit and any other structures that -- that homeowner give us a tour. That can easily take care of everything else at once.

PAUL BLOSER: Are you open to that?

MR. MANLEY: Yes.

PAUL BLOSER: Just to continue that, I guess I have a -- I'm looking at the first shed, the red one, the bigger one?

MR. MANLEY: Yes.

PAUL BLOSER: That was constructed when?

MR. MANLEY: We have been in there since '91. It was probably within a year or two after we moved in.

PAUL BLOSER: Okay. It appears from the road that there is still portions of it that are unfinished; is that true?

MR. MANLEY: Yes. I have the lumber stacked up in front of it and couldn't get to the siding. I have the -- the one side is sided.

PAUL BLOSER: That -- a real concern we have is a project that is started and can't be completed.

MR. MANLEY: That is why I am going to have several carpenters work on this project. As I chose not to do when we repaired the siding and windows on our house and had the house reroofed, I had contractors come and do that. My wife and I talked about it there was someone at the corner of Fenton and Everett that took him the entire summer to do the siding on his house, and we said we didn't want that.

PAUL BLOSER: What do you think a reasonable construction period would be start to finish for this? Are these guys full-time that are going to work on it or is it a weekend?

MR. MANLEY: This would be a weekend type project. Masonry work I would say would be two weekends. The digging the foundation. I'm hiring somebody to completely do that. So that would be somewhere in the two-week window to get that completed.

PAUL BLOSER: Are you bringing in any fill for that?

MR. MANLEY: No.

PAUL BLOSER: Stone base, will you dig down?

MR. MANLEY: I have plenty of pea gravel right now that has been on site for a number of years. And if there is any additional gravel required, I would have the mason take care of all of that.

PAUL BLOSER: You would have to have approval for any fill for anything like that. You

MR. MANLEY: That shed rotted right into the ground.

PAUL BLOSER: It --

ED SHERO: It is no longer there.

MR. MANLEY: That's correct.

ED SHERO: So the shed I am looking at is not even one of the sheds.

MR. MANLEY: That would be the old tape map.

PAUL BLOSER: That is why it is real important to see what is there, what is not, what is going to be removed before any permits are issued for building the new one.

JORDON BROWN: Could a site review occur and then revisit?

JAMES WIESNER: That is what I would feel comfortable with.

JORDON BROWN: When you do a site review, and then we could --

ED SHERO: Table to next month, and between now and then a site review?

JORDON BROWN: There is an awful lot here.

KEITH O'TOOLE: I guess my question is why? I -- as I understand it, there are four shed-like structures on the premises. The gentleman indicates he is willing to demolish two of them. And the question was the timing, Mr. Shero addressed that. So unless we have a concern about the other two blue and white structures, and they seem to be of proportion of play house structures, so it is not an issue. We can make it a condition of approval all of the other accessory structures on site come into compliance and he can provide us proof of that. And if it requires a site inspection, it requires a site inspection as all of it does.

For example, the decks, they might have to pull back to see if, in fact, the footers were done properly. We can do all of that tonight.

MICHAEL MARTIN: So we'll make the condition to remove the shed and to obtain all necessary permits.

DAVID CROSS: And keep the ridge line at or below the existing ridge line of the house.

PAUL BLOSER: Per elevation?

DAVID CROSS: Right. He said it is very close. But let's make it a condition.

MICHAEL MARTIN: The picture, if your measurement was correct today, shows the peak of the new structure would be below.

MR. MANLEY: Visibly from the road it would appear to be much lower.

MICHAEL MARTIN: Did you see the photos?

DAVID LINDSAY: I saw a few of them. But I understand.

MICHAEL MARTIN: I understand, too. We don't want the accessory structure to be higher than the house.

DAVID CROSS: On the legal notice here, it is asked for a variance for the ridge line to be above ridge line dwelling on the property.

MR. MANLEY: That was under the advice of Dennis (Scibetta) when I spoke about this with him on this.

MICHAEL MARTIN: It has been a confusing issue in the past. Does it mean overall structure height appears to be taller than the overall height of your house structure? But -- because it goes down, the actual elevation is -- is -- is still lower, and we have gone back and forth several times on that. And the common sense thing says that it is the actual appearance.

DAVID CROSS: Actual elevation?

MICHAEL MARTIN: Yes.

MR. MANLEY: I would like to ask the Board one question. Has the total square footage of garage space changed? I know that -- I take this back several months when I originally spoke to Dennis. He said that they were visiting changing that.

MICHAEL MARTIN: It has not been approved yet, the new code. As far as I'm aware, it has not been approved.

MR. MANLEY: That's a curiosity question.

MICHAEL MARTIN: But it is not going to be 1500. I know it will be well under the 1500 that you're asking for.

JORDON BROWN: What is it going to be?

MICHAEL MARTIN: 900, and it was to be increased, but I don't know where it last left off.

RICHARD PERRY: If we consider that the rear slopes down and by appearance it is lower than the ridge line, if we use that same logic, if the land behind the house sloped upwards, would it then have to be that much shorter so it appeared to be below the ridge line of the house? I guess the point is, the law says that it should be no higher than the ridge line of the house, the

PAUL BLOSER: Building elevation.

RICHARD PERRY: We're talking about the actual height of the building.

KEITH O'TOOLE: No.

DAVID CROSS: It is either height of structure, or elevation. Maximum elevation above sea level.

KEITH O'TOOLE: I defer to Mr. Cross.

DAVID CROSS: I --

PAUL BLOSER: Go by sea level?

DAVID CROSS: Yes. Elevation. Not height of structure.

RICHARD PERRY: Well, again, I go back to if it were higher in the backyard and that were to make it so his building could only be 3 1/2 feet tall, then that's why we have a rule. Be consistent about it. I think what we're talking about is actual height of the bloody buildings.

DAVID CROSS: What is the language in the code?

KEITH O'TOOLE: The ridge line of the garage shall not exceed the actual ridge line of the house.

RICHARD PERRY: Then you have to say the actual ridge line of the garage, to be on consistent with the actual ridge line of the house.

KEITH O'TOOLE: We can interpret this off the code even if I can't cook up the language right now. What we're really saying is you take the elevation of the house, add to it the height of the house, that brings us to the highest point, the ridge. So if our sea elevation is 500, and the house is 14 feet high, then it cannot exceed 514, no matter what the actual ground elevation proposed garage may be.

RICHARD PERRY: If you do that, then every single --

KEITH O'TOOLE: I'm not arguing the policy. Just trying to describe it.

RICHARD PERRY: Then from that point on, whether it means they have to build a 6 inch high garage or not, that is the way I am going to vote for it.

KEITH O'TOOLE: I defer to greater judgment on that.

I think what this all comes from is the last couple of years, this issue has come up and the concern is we didn't want people building humongous garages next to diminutive houses. Big garages and tiny houses, that's dumb. It's bad aesthetics. You can't relate that to every adjoining property because not every property is at the same grade as you indicated, the same elevation. And certainly this proposed garage may well have an impact that is negative to the house to the rear.

PAUL BLOSER: I think that is the point that the neighbor was making, she didn't want this garage to be overpowering anything else that was there.

KEITH O'TOOLE: But on the flip side, depending on what the grade is, if you could build a garage that is the exact same height as the neighbor's house, but if the neighbor is at a lower grade herself, it will still look too big and there is nothing you can do about that either. About the only thing you can do, and this has come up before, is you have some separation. So maybe the front -- the rear setback should be more generous to deal with that issue. Don't know.

How far back is the neighbor's house? Or is it that she is just concerned about the height and maybe that concern is a little overwhelmed?

Sorry. I still don't have good language for that.

MICHAEL MARTIN: We ran into that with the Legacy construction because the grade was so severe, they wanted the third story, but it was still the same height as the regular two-story.

KEITH O'TOOLE: That's right. Because they have the drop-off.

MICHAEL MARTIN: And you know, the ridge lines were all equal. But it was just because it was so much lower at the one point, they were able to make it taller. And we did approve that.

KEITH O'TOOLE: I do believe -- I think the code -- 35 feet is the maximum height for any structure. So in terms of that relative to the neighbor's house, I mean what is the maximum height on this garage?

MR. MANLEY: 20 1/2 feet is what I gather off the blueprints.

KEITH O'TOOLE: From that perspective it is not that extraordinary a height.

RICHARD PERRY: No. But it is also 4 feet taller than the house.

KEITH O'TOOLE: Right.

RICHARD PERRY: In actuality. And once it is built, in perpetuity.

KEITH O'TOOLE: Well, as long --

seconded the motion. The motion failed by a vote of 4 no to 2 yes (Michael Martin, David Cross).

DECISION: Denied by a vote of 4 yes to 2 no (Michael Martin, David Cross) for the following reasons:

1. Site inspection to be made by the Town Building Department.
2. Obtain all necessary permits for existing structures.
3. Ridge line of garage not to be higher than house ridge line.
4. Larger two of the four out buildings to be removed prior to any approvals.

The following findings of fact were cited:

1. Currently has 4-5 buildings on lot, only one shown on map. No record of permits on any others.
 2. Two separate decks in yard, one permit issued, and neither deck appears to be size on permit.
 3. Applicant agreed to have Town Building Inspector review property and to get non-conforming structures registered.
11. Application of Jenna Christopher, owner; 44 Red Bud Road, Rochester, New York 14624 for renewal of conditional use permit to allow an office in home for a massage therapy practice at property located at 44 Red Bud Road in R-1-15 zone.

Jenna Christopher was present to represent the application.

MS. CHRISTOPHER: Jenna Christopher, 44 Red Bud Road.

I just want to renew my in-home business permit for massage therapy.

PAUL BLOSER: You have been doing this for a year also?

MS. CHRISTOPHER: Yes.

PAUL BLOSER: Your hours staying the same?

MS. CHRISTOPHER: Yes.

PAUL BLOSER: I did not see any signs out. You're not putting any signs out, correct?

MS. CHRISTOPHER: Nope.

MICHAEL MARTIN: Have there been any complaints filed with the Town?

ED SHERO: We did have a complaint one time about parking in the circle. And after we investigated it, I don't believe it was her clients. It was the same time that a pool was being built next door, and I -- I did did stop -- I think I talked -- was it your boyfriend? And he said you were cleaning out the garage that day and had your own vehicles there and that is what it possibly might have been. So it was an unsubstantiated claim, so we have had no complaints on the business.

MICHAEL MARTIN: Everything going well?

MS. CHRISTOPHER: Everything is going very well.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Paul Blosner 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 James Wiesner seconded the motion. The Board all voted yes on the motion.

5. No more than two clients at one time.
6. No outside employees.
7. Hours of operation as per application.
8. Applicant to obtain and maintain required state and local licenses.

The following finding of fact was cited:

1. The home office is a customary home occupation.
12. Application of Robert Emens, owner; 949 Morgan Road, North Chili, New York 14514 for variance to erect a 32' x 56' pole barn garage to be 1,792 sq.ft. (900 sq.ft. allowed), variance for garage to be 22' from front lot line (100' req.) at property located at 960 Morgan Road in A.C. zone.

Robert Emens was present to represent the application.

MR. EMENS: Bob Emens. I live at 949 Morgan Road, which is right across the road from the property in question at 960.

PAUL BLOSER: You have -- what kind of building is this going to be?

MR. EMENS: Pole barn.

PAUL BLOSER: Someone building it for you?

MR. EMENS: Yes. Oh, definitely.

PAUL BLOSER: What --

MR. EMENS: Well, it is either -- there are three quotes on it now. I have got a -- got to massage them a little bit more and make a decision.

PAUL BLOSER: And the purpose for the building?

MR. EMENS: Storage of all my toys and equipment that is stated in the bottom, farm tractors, boats, motorcycles, trailers, just stuff I use -- the implements for the tractor, the lawn tractor. It's everything. It's -- it's my families' garages. My neighbor is nice enough to let me keep stuff in his garage when he goes to Florida.

It's time. It's time to put a building up before I retire and can actually pay for it. That is the full intent of this.

PAUL BLOSER: So this really is going to sit in up the hill to the north of your house, kind of across the driveway kind of thing?

MR. EMENS: West. West northwest. It is tough to get the angle. You get very angled there. That is why I took the pictures. It is a tough one to understand. I also just added -- I was sitting here playing with the elevations off the map.

I put approximate elevations, for the Kabota, the tractor and all of that, so you have an idea.

PAUL BLOSER: Electric to it?

MR. EMENS: Eventually, probably.

PAUL BLOSER: Heat?

MR. EMENS: I -- I don't know. The building is a big step right there to pay for it. Once you go concrete and everything else, it's a whole mortgage -- I can't say I won't. It would be great.

PAUL BLOSER: You doing a concrete floor?

MR. EMENS: Not initially, no.

RICHARD PERRY: Is there any reason that it has to be that close to the road, that it couldn't be back further? It looks like the elevation lines would -- if you moved it back, it would keep it at that same elevation?

MR. EMENS: Um, the steepness of the grade as you move back to maintain the 100 foot, it actually doesn't go parallel to the property lines. It actually goes up the hill towards that 640 mark because the whole road is considered frontage -- or -- or front footage. So I mean my gosh, it ends up -- I have -- I had Avery Engineering come out and had four stakes right alongside the neighbors, so I knew exactly where the setback was from his side .

Then based on that, when they finished up, we approximated where the 100 foot was. To

and that is like 6,500 bucks. To -- the minute I go back more, it's just a whole new ball game. Just everything adds up.

Also, way at the top if it was up there where it was flat, that is an eyesore. That sticks up on the hill. By pulling it way down where I have got it, it's down as low as I can get, next to my house, so I am the only one dealing with it.

It is blocked by all of the trees to the south from the neighbors directly across and I spoke with both of them, and they actually congratulate me on being able to afford a pole barn and going for it.

Um, I have tried to minimize the effect. I have tried to minimize the cost to me, and -- and remember, the 22 feet also -- I know this has been a very difficult thing to understand up there. The pin for the 22 feet is up on top of the bank, up above the mailbox. That is a 66-foot wide road so it's 33 from the center line. As the one elevation map states, the width there is all over place. There is no consistencies. In fact, the center line is not really the center line of that road. So that pin is up on the bank, back probably I bet you 6 feet back from the top of that bank. Now it is 22 feet from there. And that is the closest we would pull it at that side.

Again, it is based on how we end up pulling the pad off, but we only got just so much dirt from somewhere's. It is the least disruptive to that (inaudible) room to get dirt. Any place else it would have so much fill. You would probably be filling 5, 6 feet minimum on one side. And that is just not a stable building. That's not what I want. And with both properties on that dead-end road -- if you have read my little justification here, you know, I talked to my --

RICHARD PERRY: I just wanted to hear.

MR. EMENS: I'm sorry. I could talk on and on. I have been thinking about this a long time.

RICHARD PERRY: I just wanted to hear why you wanted it that close.

MR. EMENS: I want it that close for those reasons.

RICHARD PERRY: Okay.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: The way I look at that map. Now his house will be on one side of the road and the barn will be on the other side of the road?

MR. EMENS: Yes.

MS. BORGUS: Then there is a house next to it?

MR. EMENS: To the west of it. There is a house.

MS. BORGUS: That house, if I read that map correctly, will just about be parallel with the barn? In other words, his barn will be equidistant from the road as is the house, so the person in the house will be looking at the side of the barn. Am I right?

MR. EMENS: Can I answer that?

RICHARD PERRY: Sure.

MR. EMENS: Of course, they will. But at a reduced elevation. If you look at the elevation -- well, you haven't been able to look at the elevations.

MS. BORGUS: I did. But that is okay.

MR. EMENS: That building is going to end up sitting down -- I did some little figures here. Um --

JAMES WIESNER: What elevation would the floor be at 625?

MR. EMENS: 620, 625 is about where I ball parked it at based on the elevation lines. Janet Lyons's house is at the 640 mark, so there is 15 feet right there. The building is 17 feet to the peak. It's also down over the edge of the crown of the hill, and there's also on that western property line, I have intentionally left a good 8 feet of brush just there to be as a blockage for them.

RICHARD PERRY: And can I also ask you, the neighbor's house, the portion that's closest to your proposed barn, is that the garage portion of their house?

MR. EMENS: No, actually it's not. The garage is on the opposite side.

MICHAEL MARTIN: But it is the side. It is -- basically the structure of what -- the back of your pole barn will be facing the side of their house?

MR. EMENS: The side of the pole barn will be facing the side of their house. The front of their house fronts on Morgan Road. Old Morgan Road, technically.

DAVID CROSS: Is there any vegetation to the pole barn from your property line?

MR. EMENS: Yes. I have some trees on the property line, but there is no brush.

residential area. It's an AC. This wouldn't fit in an R-1-2 or R-1-5, but in an AC it's not out of place.

MS. BORGUS: Mr. Chairman, can I comment on that please?

PAUL BLOSER: The roof line on this barn, the ridge is going to be about the same level as the neighbor's first floor level based on the grade.

MR. EMENS: Approximately.

PAUL BLOSER: "Approximately,"

MR. EMENS: It's a unique situation. I can give you that. It's --

MS. BORGUS: Thank you, Mr. Chairman. I would just like to comment on Mr. Martin's remark. Yes, there are many farm buildings that big, in an AC zone. But that's what an AC zone is. Agricultural. That's a farm building. Not a building for just toys. There are -- I have no problem with huge farm buildings, but they serve a purpose. Somebody makes a living off that land and you need a building to do it. This is not the same circumstance. Thank you.

MR. EMENS: May I comment? Ms. Borgus' statements are (inaudible). It has no relationship whatsoever to the size of her house or her barn or the intended use of it as a farm or not a farm. I'm asking for this for storage for my building -- if that doesn't entice her, then that's fine. But this is what I need. You build it little bigger than you need to. Of course, you don't want to come back in ten years and say, "I need eight more feet," but I have a lot of toys. These are things I worked hard to own. It is not like I am filling it up with frivolous junk.

I have done my best to hide this building, and it's going to be sharp looking. I am spending the bucks. It is going to be nice. I don't work in it. I don't make noise in it. None of that. So -- could you never predict what will happen in the future, or regulate it in the future.

MICHAEL MARTIN: How big are the mowers you have and the --

MR. EMENS: It's a finish mower and 5 foot brush hog.

MICHAEL MARTIN: That will go in the Kabota.

MR. EMENS: Yes. I don't like keeping my equipment outside. If you visit the site, it is tarped up. Some of it is not and that is driving me nuts.

MICHAEL MARTIN: Basically this is a rough -- with all of the grade -- you couldn't just use this tomorrow, a John Deere riding lawn mower and cover that property. You need to have the tractor and the brush hog.

MR. EMENS: The brush hog is 8 foot tall. All of the things I have, I need. I have deer plots down below. I like being outside. I have boat stuff in the garage. I have a Kabota tractor in the garage right now. The trailer is in the garage. It's for my storage.

MICHAEL MARTIN: Thank you.

MR. EMENS: Thank you.

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

Paul Bloser made a motion to approve the application with no conditions, and Michael Martin 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. Due to property elevations and property location, moving barn further back is cost prohibitive.
 2. As this is the last house on dead-end road, it is confirmed by the Highway Department as no negative impact on traffic or Highway Department Access.

Note: A building permit is required before the garage is erected

1. Applicant failed to appear for the public hearing.

The 5/15/07 Zoning Board meeting minutes were approved.

The meeting ended at 9:20 p.m.