

CHILI ZONING BOARD OF APPEALS  
July 27, 2010

A meeting of the Chili Zoning Board was held on July 27, 2010 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, Fred Trott, James Wiesner and Chairperson Paul Bloser.

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

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

PAUL BLOSER: First item before I go into the agenda, for the Board, we have a request to either rehear an application or to ask for relief of condition. This goes back to a little over almost a year ago, 58 Red Leaf Drive. We heard an application regarding a high hedge row around the property. At the time we did grant the variance to allow the existing hedge row to be a maximum of 12 foot high in the front setback area per plan submitted. 4 foot is allowed by the code. It has been requested, and I'm assuming by a neighbor, to reopen this and have this reheard, and as a Board, we have that option to rehear the application. We would vote on to rehear it or not to rehear it.

In order to hear the application, we would have to have a unanimous vote of the Board members. We did make a decision prior. I'll go back to it.

JAMES WIESNER: What was the status of the application? Like they had a certain period of time to bring it down to a certain level?

PAUL BLOSER: I will go into a little bit of background. The vote at that time was a four to three vote in favor of allowing the existing hedge. One of the conditions or one of the things that was looked at as a result of this hearing, was they had a professional arborist. We also had members of the Conservation Board go out and look at the property, did some research on the type of trees that are there, and what would be the impact if they were trimmed back to a 4 to 5 foot height. They're at 12 foot now. If they were trimmed back to 4 foot height, 5 foot height and/or different trees cut out. We looked at different possibilities, different suggestions. By cutting them down to the -- a 5 foot height, we were pretty much assured it would kill all of the trees. They would not have a chance to survive.

By taking out every other tree, um, the way they have grown, they have kind of grown into each other, so you wouldn't really have a good looking tree by cutting them out. So it would be kind of a -- I hate to use the word, be pretty butchered looking, but overall the impact of the trees would not survive that type of trauma.

We did, like I say, on a four to three vote approve to allow them to stay, but to be trimmed at a maximum of 12 foot height ongoing.

The neighbors have tried to work it out, I guess, between themselves, and they have not come to any good resolution, so they have now asked for -- neighbors have asked to have the thing -- the decision be reheard.

So we either -- well, we vote tonight do we want to rehear that. If we want to rehear it and hear the conditions over, or the arguments on both sides, again, you would have to have a unanimous vote for the Board to hear the application.

MICHAEL NYHAN: Did they comply with the conditions that were put on the -- the conditions?

JAMES WIESNER: I thought there was a certain time period they had to bring them down to a certain level or else they had to go.

MICHAEL NYHAN: One question, did they comply, and the second one is what has changed from our previous hearing on this?

PAUL BLOSER: The condition we put on was hedges to be trimmed to a height of 5 to 6 feet within a specified time frame as recommended by the Conservation Board. Again, the hedges to be trimmed to a height of 5 to 6 foot, within a specified time frame recommended by the Conservation Board.

The Conservation Board came back and said -- and this was upon consulting professional services also, if they trimmed the trees down to that height, it would kill them. So at this point, nothing has been done, knowing that the trees would not survive.

So --

JAMES WIESNER: So left as is, I mean the ruling would be that they don't stay, right? I mean -- I guess from a Building Department standpoint.

determine they can't be trimmed down, they would need to go. That's what I'm hearing.

PAUL BLOSER: Well, if they trimmed them, also, when they die, it's not within our authority to make them remove the remnants, or the dead -- the dead trees.

JAMES WIESNER: It could be cut down to that level and left a mess?

PAUL BLOSER: Yes.

JAMES WIESNER: Okay.

PAUL BLOSER: So it -- so it comes down to do we want to hear it again, or not. And that would be our vote tonight. First I would have to have a -- I would make a motion --

FRED TROTT: Is this coming from -- I'm confused. Where is this coming from? Is this coming from the neighbors or the homeowner or the Building Department that is requesting us to rehear it?

PAUL BLOSER: It would be for the homeowners to return for an amended decision to allow the hedges to remain or we enforce the -- our original vote that they be trimmed to size.

JAMES WIESNER: That has to be unanimous, right?

PAUL BLOSER: If we hear it again, the vote -- the vote to hear it again has to be unanimous. If we hear it again next month, the vote falls as is. It does not have to be unanimous. I could go either way. Majority rules.

MICHAEL NYHAN: If I remember, these hedges are at 12 feet.

PAUL BLOSER: They're at 12 foot right now.

MICHAEL NYHAN: We'll trim them to 6. Conservation Board went over and said if we trim them to 6, it will kill the hedge row.

PAUL BLOSER: So their recommendation was leave them alone, or they're going to die.

MICHAEL NYHAN: Did they state there is any recommended height they wouldn't die at?

PAUL BLOSER: Not really. Not -- because they're so mature, anything substantial, at that point...

MICHAEL NYHAN: Okay.

PAUL BLOSER: And even if we were to amend our decision to say, okay, let's cut them to 8 foot, that would still have to go before -- we would have to rehear the application to make any amendment, because it would have to go to public notice --

MICHAEL NYHAN: Right. I would want to go back there, too. I think I remember what it looked like, but I think I would want to go back to the property.

JAMES WIESNER: Really the owner is looking for them to be able to stay -- asking for them to stay. Given what they have been told, they can't be trimmed. He is asking -- I'm guessing, from what you're saying.

PAUL BLOSER: For relief from our conditions.

JAMES WIESNER: -- can I keep them?

PAUL BLOSER: If we don't act on it tonight and we turn it down, then they have to trim them or they will be ticketed to appear in court.

MICHAEL NYHAN: Do we have all of that? Did they come into the Building Department? Did you speak to them?

ED SHERO: I have not spoken with them. I know my assistant has. I never have. I think Paul (Bloser) pretty much laid it out, was that the -- the -- I wasn't here last year when they appeared before the Board, but I did read the meeting minutes. I know there was talk about getting opinion from the Conservation Board. Maybe that probably should have been maybe first -- or had it in order instead of afterwards, but it was the determination that it would -- if it was cut to the height that the Board voted on, that it would kill the trees.

PAUL BLOSER: I guess that is what I am saying here. It is not so much that the homeowner is asking for it to be reheard or a neighbor -- or neighbors want them down. The homeowner knows that if they cut them, they will lose them. So knowing what we have now from the arborist and from the Conservation Board is, do we want to give them relief of that condition? Which in that case, we have to hear it again. That would be in the August meeting.

MICHAEL NYHAN: Okay.

ADAM CUMMINGS: So this one -- I was flipping back through. We split that variance into two variances.

PAUL BLOSER: We did.

ADAM CUMMINGS: So we approved the height of the fence, but not the hedge row.

PAUL BLOSER: Correct. The fence is on the rear lot line, and that is not an issue. So this would be hearing only the height relief on the trees hedge row itself.

ADAM CUMMINGS: Okay.

PAUL BLOSER: At which point, if we heard it, I would ask to have Pat Tindale or someone from the Conservation Board here to explain in a little greater detail, be prepared for that information for us.

So with that, I will put a motion on the table to rehear this application for relief of condition of height imposed in our previous findings. Do I have a second?

ROBERT SPRINGER: I second.

PAUL BLOSER: All in favor?

MR. WIESNER: No.

MICHAEL NYHAN: Yes.

ROBERT SPRINGER: Yes.

ADAM CUMMINGS: Yes.

ROBERT MULCAHY: No.

FRED TROTT: No.

PAUL BLOSER: Yes.

Again, this is now a split decision to hear it again. We would have had to have a unanimous vote of yes to hear it. So based on the Board's vote, we will not be hearing this in August. This application, again, they're coming up on a year. Officially they could reapply for a variance again.

Is that correct, Counsel, after a year they could apply?

KEITH O'TOOLE: Yes.

PAUL BLOSER: So we will state that in our -- in a letter back to them. We have to be really close to the deadline right now. I will check into that and get with Kathy (Reed).

Thank you for that consideration.

We'll go over signs first. Did anybody have any problems with signs?

The only one I would comment on is Application 8 -- 2675 Chili Avenue. That sign was presented on the inside of a picture window at the property. I guess I'm going to defer to the Building Department on that one. Is that an acceptable presentation?

ED SHERO: Just a moment.

ROBERT SPRINGER: I had no trouble seeing it.

PAUL BLOSER: I didn't have a problem seeing it either, on the second pass, but it's -- but it still is -- I want a clarification from Counsel on that, that we're doing it properly.

The width of the front of the property is pretty much all asphalt. To stake it into the ground would have been difficult. Also, it was up for the proper amount of time required. It is more a condition of location.

KEITH O'TOOLE: My take is that the question is whether the sign is prominently displayed. The code doesn't speak whether it is behind a sheet of glass or not. It is whether the general public can see it.

PAUL BLOSER: It was visible. It is just I never seen one put in a window like that before, and I just wanted to make sure that we're okay. It was visible. You could see it if you looked for it. So...

KEITH O'TOOLE: In fact, in urban areas, that would probably be where you would see it, would be behind a sheet of glass, behind a window.

PAUL BLOSER: Okay. Thank you, Counsel.

With that, did anybody have any other questions on the signs? Problems?

Okay. Then I will move forward with the agenda.

1. Application of Heather Fedele, owner; 41 East Bellaqua Estates Drive, Rochester, New York, 14624 for variance to erect a 6' high fence along rear and portion of side lot lines (4' allowed abutting a street, rear fronts on Chili Scottsville Road) at property located at 41 East Bellaqua Estates Drive in R-1-20 zone.

Michael Fedele was present to represent the application.

PAUL BLOSER: As we call the applications and you come forward to the podium, I ask that you identify yourself, name and address, please. Thank you.

MR. FEDELE: Michael Fedele, 41 Bellaqua Estates Drive.

PAUL BLOSER: We have done some fences, I think, on a couple of properties here at Bellaqua. I guess the biggest question I have on -- I guess for clarification, are you looking at putting this fence on top of that berm?

MR. FEDELE: Yes.

PAUL BLOSER: Then, on the side, coming down from it, it gets hard to tell, and when you go by there, that berm is quite elevated in back of the house. You know, without an elevation map, I have no way of knowing, but it looks like it is over my head. If you put a 6 foot fence on top of that, on top of -- the top of that fence is going to be up there. Not close to your roof line, but --

MR. FEDELE: Right.

PAUL BLOSER: -- but probably not far from it.

MR. FEDELE: Probably to the deck, maybe slightly higher than the deck of the property.

PAUL BLOSER: Coming down off the berm, are you continuing that fence towards the house?

MR. FEDELE: Just a 6 foot return on the side to give it a little definition.

PAUL BLOSER: Stability on it?

MR. FEDELE: Yes.

PAUL BLOSER: The type of fence you want to put in there?

MR. FEDELE: Cedar.

PAUL BLOSER: You going to keep it natural or what will you do with it?

MR. FEDELE: I'm not sure. We'll see how it looks at first. If not, we'll stain it to match the deck.

PAUL BLOSER: My only concern, Mike (Fedele), is the elevation. It is a high berm. Not walking in back of the house, um, your deck, is that at ground level? Is it coming off the second floor? Because I know a couple of the houses are off the second floor. Where is your deck coming off of?

MR. FEDELE: It is off the first floor, but it is like a partial walk-out, so it is elevated.

PAUL BLOSER: How high off the ground is your deck base, your floor?

MR. FEDELE: I would say maybe 8 feet, if I had to guess.

PAUL BLOSER: Okay. And your berm is probably about that height?

MR. FEDELE: I mean, from the deck you definitely see over it. That is one of the main reasons we want to try to get some privacy and hopefully some noise reduction from the road. I know the berm is quite a bit higher to our left and it does taper down quite a bit. When you stand in a lot of the other yards, it is a lot more private.

PAUL BLOSER: I can see that. We're not allowed to walk in the back of the properties and walk a property, you know, officially.

MR. FEDELE: There is pine trees there, too. I'm sure they will cover it, once they mature a little more, a good portion of the fence.

PAUL BLOSER: They're about 6 foot, 8 high --

MR. FEDELE: At least.

PAUL BLOSER: -- right now.

MR. FEDELE: Probably closer to 8 to 10, I would say, the mature ones.

PAUL BLOSER: Are your neighbors going to be doing anything? Have you talked to them?

MR. FEDELE: Not that I know. The one house to my left, they're just building right now. And the neighbor to my right, at this time, doesn't have any intention of putting it --

PAUL BLOSER: They're at the lower side.

MR. FEDELE: They're on the lower side too, but they have a lot of poplar trees that have grown that gives them quite a bit of privacy. That is why they said they weren't going to do it.

JAMES WIESNER: Your intention primarily is just for sealing them from what you're saying?

MR. FEDELE: Mainly privacy. We have a swimming pool. You know, there are just cars driving by. Just mainly privacy. We're hoping to get some noise reduction out of it from the road.

MICHAEL NYHAN: Will the fence be on the house side of the pine trees, so the road, pine trees and then the fence?

MR. FEDELE: I believe it will fall right between the two rows of pine trees, the property line. So there is probably -- I want to say maybe 6 to 8 feet between the two rows of pines. So I believe it will fall right in between them.

MICHAEL NYHAN: How far from the road is that?

MR. FEDELE: On the one side, I think it is 68 feet.

MICHAEL NYHAN: From the highway?

MR. FEDELE: The curb.

MICHAEL NYHAN: The berm where the fence will be is 68 feet?

MR. FEDELE: Right. On the left side as you're looking out. On the right side it tapers down to 59.

MICHAEL NYHAN: You don't know how high the berm is there?

MR. FEDELE: No.

MICHAEL NYHAN: Only questions I had.

ROBERT SPRINGER: I see on your application that you scratched out something and put a 6 foot into it, and I guess that word was going to be a vinyl fence.

MR. FEDELE: Initially we were going to put vinyl around the whole backyard and then we got the price and got a change of gears.

ROBERT SPRINGER: That's fine. That's your decision. But originally were you always looking at 6 foot?

MR. FEDELE: Yes. When we called originally, when I called the Town, I asked if there is anything we needed to do, and I asked what was allowed. They said 6 foot. Then right before I hung up, she happened to ask where I lived and that is where she said because of the road, you need a variance for the 6.

ROBERT SPRINGER: The code calls for a maximum height of 4 feet.

MR. FEDELE: Right.

ROBERT SPRINGER: You want 6. That is two more feet. Is that 2 feet going to make a huge differential for what you're trying to accomplish here? You have an 8 foot berm. You will put 4 on top of an 8. That is 12. Two more feet, is going to be that significant?

MR. FEDELE: It is hard to say until it is up. What we're trying -- if it was up to my wife, she would want to put a 10 foot up.

ROBERT SPRINGER: I can appreciate that.

MR. FEDELE: I told her 6 would probably be as high as we want to try. If our deck wasn't elevated, you know -- just to get the privacy, we're just trying to maximize it. Once the pine trees fill in, you probably won't see much of it at some point. And the -- that is what we're shooting for.

MICHAEL NYHAN: How many pines will be on the street side of that fence?

MR. FEDELE: Um, I'm not positive. If I had to guess, I would say four or five on the street side. Then probably about the same on our side.

MICHAEL NYHAN: I think they're about 8 foot now. Is that anybody else's estimate to be the same? The pines look to be about 8 foot.

PAUL BLOSER: That is what I was thinking they are. My best, 6 to 8 foot.

Do you know what they're spaced at right now?

MR. FEDELE: Not offhand. Like I said, if I had to guess, I would say maybe --

PAUL BLOSER: If you were to look at the line closest to Scottsville Road.

MR. FEDELE: They're staggered.

PAUL BLOSER: I understand that. If you were taking the row closest to Scottsville?

MR. FEDELE: I would say probably -- I would guess 12 feet because I think they're 6 foot on center as they're staggered, so each row is probably 12 feet wide, if I had to approximate.

PAUL BLOSER: At this time we'll open the public comment.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I must say from what I can see of this gentleman's house, he has a beautiful yard.

However, I also cannot imagine this Board considering anything like a fence that rises up from the -- the baseline by 12, 14, 15 feet. This is incredible. This will look like a peanut on a pumpkin. I can't imagine you're even thinking about this.

And if privacy is so valuable and so wanted, I don't know why anybody would buy a house that fronts on two roads. This is a self-imposed hardship. You got to think these things through when you buy a lot. And just because afterwards you want privacy and you want less noise, you should have thought about that before you bought the house. This is not something people do lightly. You should have thought this through. I just can't imagine you're even considering this.

Everybody along there could come in and want the same thing, and that berm is higher further down toward Beaver Road than in his yard, so it will be even worse. And then what will be next? When people come in Bellaqua Estates and your high beams are facing right into that first house, are they going to want a 6 foot fence, an 8 foot fence to shut the lights out? Where do you stop here? You know what you buy when you buy a piece of property. I can't see how this fence is going to cut noise down. Should have thought about that, too.

One of the things that you have to satisfy as a Board is that you're satisfied this isn't a self-created hardship, and it is 100 percent that. So I don't know how you could even consider this.

Thank you.

Fred Trott 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: Myself, I'm looking at the height of the berm and what that is going to look like. Not so much from Chili Avenue side, but from Bellaqua side. It creates quite a visual impact from the road. I understand what they're trying to achieve. This lot presents itself with a -- certain conditions you're not going to find in other areas. So you want to look at it as what it is.

ROBERT MULCAHY: The only thing I see is the fact that a lot of houses going north from that house, and a lot of people could want to put a fence up and pretty soon you would have a stockade fence along the road there.

PAUL BLOSER: All along there and then have you varying types of stockade.

ROBERT MULCAHY: That's correct.

PAUL BLOSER: Even with a 4 foot, you would run into that. The neighbor to the north and south put up a white vinyl next to a cedar, and they could put up a -- a wrought iron. They would put up anything.

ROBERT MULCAHY: Then you have a problem.

PAUL BLOSER: So you're always at the mercy of neighbors wanting to get along with each other to keep things consistent within the neighborhood. So --

MICHAEL NYHAN: I think it was developed at the Planning Board, probably put the berm in there with the trees for the appearance they're looking for, to try to provide the privacy for the homeowners, but also to not make it look like a fortress or large fenced area. So, um, you know, perhaps additional trees on the berm might be a better solution. I fear the same thing. As you go down that berm, it's less and less in height, until you get to about probably the last five or six lots, there is really hardly a berm at all.

PAUL BLOSER: I think on one of those we did -- if memory serves me, we did allow a higher one down there for that reason.

MICHAEL NYHAN: I didn't see any fences down there when I went through.

ADAM CUMMINGS: They are still allowed a 4 foot fence.

PAUL BLOSER: They are still allowed a 4 foot fence per code, yes.

The other thing I would be concerned along that stretch, without substantial, um, reinforcements being that high, the wind is going to terrorize that fence. It -- at 8 foot, it would be an issue.

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

Adam Cummings made a motion to approve the application with no conditions, and Michael Nyhan seconded the motion. All Board members were opposed to the motion.

The Board discussed the proposed findings of fact.

DECISION: Unanimously denied by a vote of 7 no with the following finding of fact having been cited:

1. Visual impact of a 6' fence will create an undesirable change in the character of the neighborhood and nearby properties by creating a potentially detrimental visual impact to those parcels.
2. Application of James Toole, owner; 60 Aston Villa, North Chili, New York 14514 for variance to erect an above-ground swimming pool to be 40' from rear lot line (55' required abutting a street) at property located at 60 Aston Villa (rear fronts on Union Street) in PRD zone.

James Toole was present to represent the application.

MR. TOOLE: Good evening. James Toole, 60 Aston Villa.

PAUL BLOSER: In going by the property, I was trying to do a visual. The swale along Union Street, there is a slight berm there. It will not be impacted by placement of the pool, is it?

MR. TOOLE: No. No. In fact, right from the back of my house, I got -- the pool is pretty much as close as you can get to the house. Instead of 10 feet, I just moved it 15 to get it away from the house a little bit and that avoid -- in front of the berm is like a water swale. That avoids that totally.

PAUL BLOSER: That was my only concern.

MR. TOOLE: That was one thing, when they came out, I had the pool people come out and do the layout and everything. That is the one thing they were concerned with. And originally I wanted it more towards like my sliding glass door, I wanted a deck on it and I wanted to be able to come out into the pool. Well, with that swale there, I had to move the pool, as you see, in the location where it is now. And I missed it. It is -- I missed it by 6 feet. Like I talked with Ed (Shero), I was approved for an 18, but it is just so much -- significantly smaller for my family, that --

PAUL BLOSER: Okay.

MR. TOOLE: I'm kind of nervous. I'm sorry. I never been at anything like that.

PAUL BLOSER: That's fine. There is no issue on side setbacks. It is just the rear setback that is due to your location to Union Street?

MR. TOOLE: Yes. I went to -- I live in a cul-de-sac. I went to each of my neighbors and asked them before I did this if they had a problem with it. They said -- everybody said no problem.

PAUL BLOSER: Okay. Putting a deck around it at all?

MR. TOOLE: I will put nothing in the back and I will not put a fence in the back because I have the berm. I will just add more trees on the berm. It is pretty much vegetated now. I just want it to be a little bit bigger. The deck will come off the back of the house and then I'm gonna come up to the pool, and I'm not even going to go all of the way around. Just doing it lie -- actually even got a picture of the deck if you guys need to see on what I'm planning on doing.

PAUL BLOSER: It would be nice to see it.

MR. TOOLE: Sure. It is something we found on the internet. Can I approach?

PAUL BLOSER: Sure. If you want, slide it over the top of your photograph there, and we can see it.

MR. TOOLE: Oh, okay.

Something like this, but I won't do the concrete because it is a little expensive. I will actually come out with the wood. I will come right out the sliding glass door so it is level, so these steps won't be -- there will probably be two steps, it will just go deck and a couple steps up and just a little bit of landing around the pool. Nothing on the back, nothing on the sides.

It is kind of funny in a way, because the pool that I want to be approved for, the 18 would have been closer to my neighbor's lot line, where he just put up a big patio, so kind of the place where I want it is actually a better spot for privacy for him and privacy for me.

PAUL BLOSER: Very good. Thank you.

MR. TOOLE: Leave this up here?

PAUL BLOSER: No. All set.

MICHAEL NYHAN: What is the total distance from Union Street to the pool at this point?

PAUL BLOSER: From Union Street to the pool?

MICHAEL NYHAN: Correct. That is the front setback that -- that we're looking for, because he has got two fronts to his house basically. Do we know that distance?

PAUL BLOSER: Union Street side or...

MICHAEL NYHAN: From Union Street to the back side of the pool.

PAUL BLOSER: He is looking for 40 foot from the rear lot line. That is what the variance is for.

MICHAEL NYHAN: All right. Okay. Sorry.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

GUY CAVALERO (phonetic), 1 Fulham

MR. CAVALERO: I just want to have clarification. So you're going to place the pool and the berm will not be disturbed; is that correct?

PAUL BLOSER: That's correct.

MR. CAVALERO: The variance was just because technically he would be --

PAUL BLOSER: The variance is -- the code says that the back wall of the pool would have to be 55 foot from his rear lot line.

MR. CAVALERO: So it will only be 40 feet.

PAUL BLOSER: And this will be 40 feet instead of 55.

MR. CAVALERO: Those are my only questions.

Robert Mulcahy 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: Pretty straightforward. He has a wedge-shaped lot, a cul-de-sac. He is not going to be into the swale, drainage, not going to affect the berm. No 8 foot fence.

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

Robert Mulcahy made a motion to approve the application with the following condition, and Adam Cummings seconded the motion. All Board members were in favor of the motion.

Paul Bloser reviewed the proposed conditions with the Board.

DECISION: Unanimously approved by a vote of 7 yes with the following condition:

1. The requested variance will have no physical or environmental impact on the neighborhood or surrounding properties as this residential neighborhood has numerous properties that contain similar style swimming pools and the distance from Union Street is adequate for privacy and no obstacles with regard to traffic safety and possible future right-of-way encroachment.

The following findings of fact were cited:

1. All permit and inspections must be obtained by the Building Department throughout completion and Certificate of Compliance.
2. Any decks or structures added to pool will require additional permits through the Building Department.
3. Application of Mr. and Mrs. Nicholas Trifiro, owner; 43 Black Cedar Drive, Rochester, New York 14624 for variance to erect a 12' by 20' utility shed to be 240 sq. ft.. (192 sq. ft. allowed) at property located at 43 Black Cedar Drive in R-1-20 zone.

Nicholas Trifiro was present to represent the application.

PAUL BLOSER: This is pretty straightforward. I do have a couple of questions. I read in the -- it was on the construction of the shed, the materials being used, what it is made of.

MR. TRIFIRO: Regarding the aluminum siding or vinyl siding?

PAUL BLOSER: You had -- I think I read someplace aluminum siding.

MR. TRIFIRO: I made an error. It will be vinyl siding to match the house.

PAUL BLOSER: That is a concern I would have, based on the neighborhood and the --

MR. TRIFIRO: I understand.

PAUL BLOSER: -- and the style of the houses. And what is there, that the way it is written here, the size of it would look quite out of place. So to do -- I would want siding and roofing to match what you have existing on the property. It's a standard with us, what we do when we're posing conditions on something, that we would look very strongly at.

MR. TRIFIRO: Yes. And we have worked with the -- we -- with the builders to make sure it matched the actual house. So...

PAUL BLOSER: Based on your lawn and everything there, I would think you would want it to blend in very nicely also.

Are you putting a fence around this now?

MR. TRIFIRO: Our plan is to -- to put some privacy fencing from -- from the house out about 12 to 16 feet, and then down to where the shed would be, which would be 32 feet down, within the code of the Town.

PAUL BLOSER: Right.

MR. TRIFIRO: Then to -- then we would hope to be able to put the shed next to that to build off of our future plans.

Then it would be open for the time being until we're able to do the rest of our plan, would be to put a pool and patios.

PAUL BLOSER: Okay. So you're not going to do a fence right now?

MR. TRIFIRO: We're not going to enclose it right now.

MRS. TRIFIRO: We are doing a privacy fence right now.

MR. TRIFIRO: The privacy fence from the house to where the shed would be, we're doing now.

PAUL BLOSER: You're doing in conjunction with the shed now?

MR. TRIFIRO: That's correct.

PAUL BLOSER: Fence. What is that going to be made of, and what are you doing with that? How high?

MR. TRIFIRO: That is going to be a vinyl fence. Um, that is within the 6 foot. It is the 6 foot privacy.

PAUL BLOSER: Okay. Do you know what color that will be?

MR. TRIFIRO: That will also be a cream color that comes close to the color of the house.

PAUL BLOSER: It would be a cream, not going to be a bright white?

MR. TRIFIRO: No. It is not.

PAUL BLOSER: Vinyl, they're nice, but when you're putting in what you put there, I would want to it blend in nice, so colors will be a concern there. Okay.

As far as setbacks, we don't have any setback issues here. This is strictly the size of it.

You talked about two doors. Those will be just man doors, they're not overhead doors?

MR. TRIFIRO: No, just the regular shed doors that, um, we -- we have two sets, one for the -- on the --

PAUL BLOSER: Kind of like what is pictured on the drawings you submitted?

MR. TRIFIRO: Yes.

JAMES WIESNER: So the line that comes off the house 16 feet and goes 32 feet to the shed, that's -- that is indicated as a fence?

MRS. TRIFIRO: Yes.

MR. TRIFIRO: Yes.

JAMES WIESNER: That's all I have.

FRED TROTT: I guess I want to just -- this yellow line that is there coming down from the --

PAUL BLOSER: 16 foot going across and it shows a 32 foot going down. Those are your two fence lines.

FRED TROTT: Okay.

PAUL BLOSER: With the shed.

FRED TROTT: So you want to butt up against the side of the shed?

MR. TRIFIRO: The fence will -- will abut it right to the side of the shed, yes.

FRED TROTT: Okay.

PAUL BLOSER: Do you have any landscaping plans for along the fence line?

MR. TRIFIRO: Um, other than flowers and small bushes and --

MRS. TRIFIRO: And I think we're planning on putting some arborvitaes, possibly as just like a decorative. There is a possibility we're going to be doing some landscaping on the other side of the fence so when you look at it, it is not just complete fence.

PAUL BLOSER: From the neighbor's side.

MRS. TRIFIRO: Exactly. Like some arborvitaes and some flowers and mulch, and just to make it look aesthetically pleasing.

PAUL BLOSER: You have a large rear lot?

MRS. TRIFIRO: Right.

PAUL BLOSER: It will be a big shed, and putting the fence up there, it is going to be pretty ominous. One of the things I would like to see in consideration of the neighbors is some vegetation along that fence line that if you're doing a 6 foot high fence, I would like the vegetation to be able to achieve that height within a couple of years to -- to help do a nicer natural blend into that fence.

MR. TRIFIRO: Sure. I understand.

PAUL BLOSER: It will stick out.

MR. TRIFIRO: Right. You know, we're looking at some of that -- that -- it comes together, and -- I know we have some long-term plans, too.

PAUL BLOSER: What I would like to see is on the neighbor's side of the fence -- so I will say to the west side of your property, um, initially I would like to see some vegetation put on that.

MR. TRIFIRO: Okay.

PAUL BLOSER: Because that will have the greatest impact there.

MR. TRIFIRO: Sure.

PAUL BLOSER: From a visual standpoint.

Your future plans where your pool is going to go, I am assuming that is between the house and the shed and everything you're going --

MR. TRIFIRO: That's correct.

PAUL BLOSER: You will have vegetation into that?

MRS. TRIFIRO: Right.

PAUL BLOSER: Let's call this Phase 1. I would like to see something along there for everybody's benefit.

MR. TRIFIRO: That's more than --

PAUL BLOSER: Are you going to take patio or decking up to the fence on the east side of it?

MR. TRIFIRO: We don't know exactly how it is going to play out yet. We have a general idea, so that, um, right now it looks like it is going to be somewhat open. There will be patio on the other side.

PAUL BLOSER: Right up to it?

MRS. TRIFIRO: Yes.

MR. TRIFIRO: Yes.

MRS. TRIFIRO: That is the plan. And like Phase 3, after we get the pool in, is to have -- because it is -- the plan is to get an in-ground pool, so we are planning on having patio on the other side of the house, go up to the pool, and what is not patio is going to be poured cement, and then what is not poured will be landscaped. So as -- so it will go out from the pool.

PAUL BLOSER: Okay.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MIKE HUTHER, 45 Black Cedar Drive

MR. HUTHER: I'm the west neighbor to that line. Um, just to share my concern, we -- we built next door about two years ago. At that time, there was a premium value placed on our lot. One for aesthetics. It is a large lot, just like this one. And a view of the water that -- that is at the bottom end of that lot. When we built our house, we worked especially hard to locate windows and angle the house so we could take in that view. Um, if -- if this large shed, about the size of a one-car garage, goes up, it's -- it's going to be about 45, 50 feet directly out the back of my house, the way things are angled.

I'm very concerned that is going to impair the value of my home, at least by the premium value placed on the lot. And now I'm even more concerned, because what was described to me by the owners was a 4 foot fence is now a 6 foot fence. Um, and that upper corner is pretty close to the back corner of my house. So some -- so I'm concerned about the aesthetic changes to my backyard, to the view and to my property value. There's no guarantees, I understand that, but that is what I pay taxes on. And we have built there knowing that there were certain code restrictions in place in the Town, and, um -- I'm concerned about that.

Thanks.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I guess my question would be why are we fencing in a portion of the backyard?

MRS. TRIFIRO: It's mandatory with an in-ground pool that you have a fence around it. It's the law.

MS. BORGUS: I have an in-ground pool, so I know.

But I'm -- I'm -- I guess my question is about the -- about the area that is behind the shed, between there and the fence. The pool is not going to be there, right?

MR. TRIFIRO: Yes.

MS. BORGUS: Oh, the pool is going to be behind the shed -- between the shed and the fence?

MRS. TRIFIRO: Between the shed and the house.

MS. BORGUS: Between the shed and the house. But -- why the fence?

PAUL BLOSER: I will ask that all of the comments be made to the Board and not between parties, please.

MS. BORGUS: I guess why the fence? I -- I -- a fence within a yard -- I can understand the gentleman's point behind me. If he is a neighbor.

I guess why -- maybe you have the applicant explain why -- why would you want to fence in a portion of your yard between your property line and the back of the shed?

PAUL BLOSER: Okay. First of all, Mrs. Borgus, I am going to say this application tonight is not about the fence.

MS. BORGUS: Right.

PAUL BLOSER: There is no request for variance. A 6 foot fence and where they're putting it is within code. There is nothing we can say about it.

MS. BORGUS: I understand.

PAUL BLOSER: So the issue that we're looking at really tonight is the shed. I'm looking at an overall picture. We can't put any conditions of approval on a fence height. What we can say is if you're going to put it up, we want to blend it in, which is why I was talking about shrubbery. So whether it is 2 foot high, or 6 foot high --

MS. BORGUS: I know. This is a point of information only. But it does bear on the size of the shed if you look at it from a different way.

If he were to just put the shed back within the 8 feet of his property line, and -- and restrict it to the size the code allows, it would not be such a problem to the neighbor.

PAUL BLOSER: I understand your point.

MS. BORGUS: He still could have his pool, you know, and -- and do whatever he wants with a 4 foot fence, but, you know, that is immaterial. I just think that -- I just think from the neighbor's point of view, I can understand his -- his position. That's a lot to have out -- a big shed to have that far out in the yard.

PAUL BLOSER: That -- that close to the house --

MS. BORGUS: Right.

PAUL BLOSER: -- with the size of everything.

MR. HUTHER: It is out of proportion for the neighborhood.

MS. BORGUS: Thank you.

PAUL BLOSER: If there is no other public comment?

Robert Mulcahy 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: On the size of the shed, what is the -- it is a one-car garage, basically. What are we storing in there and what -- what is going to be the overall purpose of it?

MR. TRIFIRO: Well, the initial purpose, as a shed, would be for my tractor, snow blower, the normal things. Um, the -- the other purpose down the road would be for pool accessories, maybe, you know, finishing a small portion of it so that if I want to go in to use it to change, we could.

We actually walked into a sample of a shed that size, and -- as nice as this is being built, um, it looked like it would be very complimentary facing inward and it would have a function of storing furniture, pool equipment and other things that would go into that future enclosed area.

So when you looked at that as -- as a multiple -- you know, we're trying to not have multiple sheds and buildings around the backyard. We -- we thought this would accommodate, um, several possible future uses at that size, once it gets enclosed.

So we tried to look at the view, not only from our neighbor's backyard, but from our own. You know, we're -- we're looking at -- our property itself, um, is assessed somewhat above the rest of the neighborhood -- to keep as much of those views on the pond area that is part of our property open, that we can.

So we brought it closer to the house, so that we could keep as much of the back part of the yard open. And to reduce the amount of fencing that would be required up towards the pool, we tried to find a design that would abut the fence and become complimentary to the whole landscape.

So that seemed to be, working with the landscaper to do this design, the most appropriate designed place for it.

MICHAEL NYHAN: Another question, if I could. Are there any neighborhood rules or regulations, if you will, when you moved into the tract that would prevent or would address the issue of sheds?

PAUL BLOSER: Is there a neighborhood association?

MR. TRIFIRO: There isn't. There seems to be some loose rules, and I don't believe any of that applies to this, as more than one of my neighbors has oversized garage sheds already on their property. So it seems to already be precedent in the neighborhood.

MICHAEL NYHAN: Then just without looking at -- only one shed is permitted on a property or multiple sheds up to 192 square feet; is that correct?

PAUL BLOSER: Up to 192.

MICHAEL NYHAN: One shed or two sheds, you can't exceed 100 and --

PAUL BLOSER: It is accumulated square footage.

MICHAEL NYHAN: Okay. Thank you.

JAMES WIESNER: Can you clarify -- it says 10 1/2 on there. It is 12?

MR. TRIFIRO: It is 12.

JAMES WIESNER: 12 by 20.

PAUL BLOSER: 12 by 20. That is what I said. It's a one-car garage basically.

What are the side wall heights?

MRS. TRIFIRO: The 10 1/2 represents the height of the shed.

PAUL BLOSER: Of the peak?

MRS. TRIFIRO: Yes, the peak.

PAUL BLOSER: What are the side wall heights?

MR. TRIFIRO: I think they are 6' 6", the side wall.

PAUL BLOSER: Side walls are 6' 6".

The intent is with two doors, once you have it fenced in, you could access it from either side?

MR. TRIFIRO: That's correct.

JAMES WIESNER: Nice shed. It's a pretty good piece of property, over an acre in size. It's not like it is in a small residential area, either.

ROBERT SPRINGER: Did the roof have to extend above the walls as high as it is here?

PAUL BLOSER: Well, you have a peak.

ROBERT SPRINGER: I understand the peak, but how high does that peak have to be to

run off of water and --

PAUL BLOSER: At least a three pitch on that.

ROBERT SPRINGER: Just asking.

PAUL BLOSER: For the size of it, that would be about right. That is probably about a six pitch on this one.

ROBERT MULCAHY: Looks like a 6/12.

ROBERT SPRINGER: What if it was a one-sided roof?

ROBERT MULCAHY: It is pre-manufactured.

PAUL BLOSER: Design wise, in that neighborhood, you wouldn't want a one -- you wouldn't want a one-sided roof -- a shed roof. It would be just way out of place. There are so many roof levels on the architectural of the houses.

ROBERT SPRINGER: I understand. Just a question, that is all.

PAUL BLOSER: I am going to put a condition of approval that if this was -- if this is to go through, siding, trim, windows and doors and roofing to match house.

Paul Bloser reviewed proposed conditions with the Board.

ADAM CUMMINGS: Do we want to add a time frame for that rather than trying to buy plantings that are mature up to a 6 foot fence? Or do we want to just leave it as 6 foot fence -- fence height? Just a thought.

PAUL BLOSER: Plantings to be -- I am going to put a minimum of half of the fence height.

Paul Bloser further reviewed the proposed conditions with the Board.

PAUL BLOSER: What is the time frame for the shed and the fence?

MR. TRIFIRO: Well, we have to proceed with your guidance initially when we get our permits, and then, um, they need six weeks to actually build the shed and deliver it. Um, and the fence was supposed to be any time, so the fence could be started this week or next week, um, based on the schedule of the installer.

PAUL BLOSER: You're putting the fence in before the shed?

MR. TRIFIRO: Yes. So this way we can align the bed for the shed, once the fence is up.

Paul Bloser further reviewed proposed conditions with the Board.

Paul Bloser reread the proposed conditions for 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.

Adam Cummings made a motion to approve the application with conditions, and Robert Mulcahy seconded the motion. The Board denied the motion by a vote of 5 no to 2 yes (Robert Springer, James Wiesner).

Paul Bloser reviewed proposed findings of fact with the Board.

DECISION: Denied by a vote of 5 no to 2 yes (Robert Springer, James Wiesner) with the following finding of fact having been cited:

1. The requested variance will create an undesirable visual change in the character of neighboring properties and is inconsistent with neighboring structures as proposed.

MR. TRIFIRO: I have a question. Given a decline in the variance, I'm still within my rights to extend the fence if I wish and put a shed within the 192?

PAUL BLOSER: Within the -- with the code limits, yes. Again, the fence is not the issue here.

MR. TRIFIRO: So if I extended the fence and meet with my plan and then reduce the size of the shed, I would still be within compliance?

PAUL BLOSER: Yes.

MR. TRIFIRO: Okay.

PAUL BLOSER: Thank you.

4. Application of Mr. and Mrs. William Wood, owner; 235 Chestnut Ridge Road, Rochester, New York, 14624 for variance to allow existing utility shed to be 3' from side lot line (8' required) at property located at 235 Chestnut Ridge Road in R-1-15 zone.

William Wood was present to represent the application.

FRED TROTT: Chairman, I would like to be excused from this.

PAUL BLOSER: Yes. For this application, Mr. Trott has recused himself from this application.

MR. WOOD: Bill Wood, 235 Chestnut Ridge Road.

PAUL BLOSER: Mr. Wood, in reviewing the application on this, and going back into some history on the property and neighboring properties, and -- I have a few questions on it. A couple things. First, although over a year ago you were given a letter by the Town Building Department to bring the shed into compliance, within one year, and that was signed by -- I guess you and your wife?

MR. WOOD: Correct.

PAUL BLOSER: And we're at that juncture now, and now you're looking to not move it. And I guess additionally, I'm looking at reasons why. I'm looking at the lot map, and I see that there is room to shuffle this.

MR. WOOD: Actually, there is not really. It doesn't show it on the map, but the southwest corner of the lot, there is actually a hill there. It is probably about 4 or 5 foot high and comes out probably a good 10 feet into the yard where the telephone pole stands. So about the only thing we could really do with the shed is to turn it 90 degrees and -- and then move it in the 5 feet, so it would be directly beside the pool. Then one concern with that would be that the down slope of the shed would be right into the pool. So that could potentially allow someone to climb up on top of the shed and go swimming in the pool.

PAUL BLOSER: I'm sorry, it would allow what?

MR. WOOD: If we -- the way the slope is on the shed, if we were to turn it 90 degrees, then the slant would be going right into -- towards the pool.

PAUL BLOSER: In it or towards it?

MR. WOOD: Towards it.

PAUL BLOSER: Okay.

MR. WOOD: And it would be probably closer than the 3 1/2 feet to the pool that it is right now. Right now that front would be -- the northwest corner of the shed is 3 1/2 feet away from the edge of the pool.

PAUL BLOSER: Have you looked at the cost of what it would take to move it?

MR. WOOD: We got some estimates of anywhere 2, 3, \$500.

PAUL BLOSER: And the cost of the shed? What size is the shed?

MR. WOOD: 10 by 8.

PAUL BLOSER: You're about half the cost of replacement to move it.

MR. WOOD: Roughly, yeah.

PAUL BLOSER: What is the condition of the shed right now?

MR. WOOD: It's in good condition. I need to do a little touch up replacing a couple boards on the front. Probably due for a new coat of paint. Other than that...

PAUL BLOSER: How long have you been on the property?

MR. WOOD: We moved into the house in January of 1998, and the shed was there when we purchased the house. In talking to our neighbor on the west, who has been there since probably about 1950, he said the shed predates us moving into the house by probably at least ten years, if not more. So it would put it somewhere into the mid '80s.

PAUL BLOSER: Mid '80s.

MICHAEL NYHAN: Describe the slope again on the other side -- the opposite side of the lot from where the shed is now. Why couldn't it go there?

MR. WOOD: Right now, the slants go towards the west and towards the east. So if you were looking at the -- at the picture, it is going to -- towards the west lot line and the east lot line.

MICHAEL NYHAN: Slants of the shed. Now I'm looking for the terrain, the elevations of the terrain.

MR. WOOD: It slants towards the -- uphill towards the west.

MICHAEL NYHAN: So from your house you're looking uphill? Is that correct? In other words, from let's say where your pool is or the edge of the swing set to your lot line, how much does the land rise?

MR. WOOD: Um, well, it -- it is -- it is different elevations all of the way through. Like I said, the southwest corner is probably about 5 feet higher than the southeast corner.

MICHAEL NYHAN: Okay.

MR. WOOD: But it also slopes downward as you go towards the front of the yard. Probably about 2 or 3 feet.

MICHAEL NYHAN: Okay. Thank you.

ROBERT SPRINGER: Just for -- I guess common knowledge, why would you sign a statement that you are going to move it, knowing what you just told us?

MR. WOOD: We had signed that last year in order to -- basically to get off the bad list, but after talking to Town Counsel earlier this year, my wife asked him if it would be -- if it would still be okay to go through with the variance and she was advised yes, it would be.

ROBERT SPRINGER: You still have the neighbor situation related to where that shed is right now?

MR. WOOD: The neighbor had -- the neighbor had moved his shed.

PAUL BLOSER: To be code compliant?

MR. WOOD: Well, yes. It -- it is moved off of the fence post, yes.

ROBERT SPRINGER: Neighbor still taking exception to where your shed is?

MR. WOOD: He was never taking exception. The only reason we were found to be in violation was because when the Inspector came to look at the neighbor's shed, he looked at ours

and said, "Yours is not compliant either."

ROBERT SPRINGER: Thank you.

ED SHERO: I just have one. Looking at the survey, how did you determine the shed is 3 feet from the lot line?

MR. WOOD: How did I?

ED SHERO: I don't see any mark -- I don't see anything from the surveyor.

MR. WOOD: Oh. That is my measurements.

ED SHERO: Because I'm just -- you know, I'm going by -- by pacing it off, the measurements there, I have it less than 3 feet, and I would suggest that the Board does approve the variance, that this be followed up with the surveyor to determine what the actual setback is. Looking at it, I don't think you have 3 feet there.

MR. WOOD: Would I be correct in believing there is no stipulation from a pool to an outbuilding?

PAUL BLOSER: I'm sorry, Mr. Wood, I couldn't hear your question.

MR. WOOD: Am I correct in believing there is no stipulation for a setback between a pool and an outbuilding?

KEITH O'TOOLE: I don't think that is the issue. I believe the Building Department's concern is the distance between the shed and the property line.

PAUL BLOSER: And the property line.

KEITH O'TOOLE: And I have been reminded that according to the State Building Code, there has to be a 3 foot separation between combustible structure and the lot line. So this Board can issue a variance reducing it down to 3, but if you go below that and it is still combustible, it will not work anyway.

Nothing further.

PAUL BLOSER: Thank you.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Where exactly is this shed? Is that what is cut off at the bottom of the picture?

MR. WOOD: Yes. The bottom right corner.

MS. BORGUS: How wide is the lot?

MR. WOOD: 60 foot.

PAUL BLOSER: 60 feet.

MS. BORGUS: It's a lot of stuff to have on a 60 foot lot. Lot of stuff. It's hard to believe that that shed couldn't be moved out a few feet to comply with the code. It's already so crowded. I mean what -- you know, if you had to -- if you had to -- to move it, if it is in that -- in good condition, fairly good condition, it ought to be moveable. Is there a code requirement to -- maybe this was the question that was asked and I missed it. Is there a code distance that has to be kept between the pool and the shed?

PAUL BLOSER: Ed (Shero), could you answer that for us?

ED SHERO: Generally, yes. There is a 48 inch barrier, 4 feet.

MS. BORGUS: 4 feet.

ED SHERO: Generally, yes. You have to have a barrier to the pool and you can't use anything to climb on to get into that barrier.

MS. BORGUS: Uh-huh.

Is this shed the proper distance from the back lot line?

PAUL BLOSER: Ed (Shero), do you have a problem with the rear setback at all?

ED SHERO: Again, it is not -- the surveyor didn't put it on there, so I don't have anything as a measurement, as a guide.

MS. BORGUS: I don't think this Board has enough to make a decision.

PAUL BLOSER: I'm -- okay.

MS. BORGUS: Thank you.

Robert Mulcahy 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: I'm looking at this, and I guess I have questions also. 3 foot, and we have no guarantee it is 3 foot. We really don't know what the rear is on this.

And I'm also looking at the -- the distance between the shed and the pool, as it exists right now. And I see that as, having been a kid myself, at one point, a huge temptation. So there is a few issues here I'm concerned with. We have codes for a reason.

There is a lot happening in that corner. I guess what I would like to do is make a motion that we table this until we have a good instrument survey map and know what we have really got here for placement of this shed, or we can move on it as it is right now and have it be code compliant, which would then put it 4 foot from the pool and the 8 foot setbacks from the lot line.

KEITH O'TOOLE: May I add to that?

PAUL BLOSER: Yes.

KEITH O'TOOLE: You have a survey done here by James Leoni, who -- my understanding is no longer practices, so what you're in essence telling the applicant to do is go spend \$400 on a brand new map and then perhaps to come back here only to be told that they're not going to get their variance anyway. That would be adding insult to injury.

If you're going to go into that direction and impose the \$400 cost, I think the least you could do is flip it around, give them the variance down to the 3 feet and then perhaps then have them have the burden of demonstrating to the Building Department by the survey map it is in compliance, if that is even required.

Certainly when it comes time to sell the house, the updated survey will show the distances. In fact, I don't know why Leoni didn't do that here. It is usually required. And at that point, if they have to demonstrate that the shed is in compliance with Town Code, the Town can issue the letter of -- that it is X number of feet away approved, whether it is -- be 3 feet or whatever, and if that doesn't show up on the survey as 3 feet, then it's their problem.

It just seems to me disproportionate to impose a \$400 cost on a shed which on a good day, brand new, may not be worth it.

PAUL BLOSER: Okay. No. It is probably not worth with that.

MR. WOOD: If I could add one more thing. Regarding the pool and the deck and everything we have, we have permits and we have C of Os and everything, so everything has been done above board and approved already. The pool has been -- I believe this is our fourth or fifth season with it. So I would -- so I would think and hope that at the time it was -- everything was approved and the C of O was granted, that the measurement was taken.

PAUL BLOSER: Okay. Then I'm going to move forward and put a condition of approval on this. The rear and side setbacks need to be clarified.

Paul Bloser reviewed proposed conditions with the Board.

PAUL BLOSER: Ed (Shero), is there a permit required for this shed?

ED SHERO: No.

Paul Bloser further reviewed the proposed conditions with the Board.

ADAM CUMMINGS: Did we want to have it certified by a land surveyor or not at this point? Because anybody could go out and measure things and say one way and we're not putting it as a condition and making him go out and actually confirm those locations or those distances.

MICHAEL NYHAN: That again is something that will be required for the sale of the property in the future. I think you should just require an 8 foot setback on the back and 3 foot setback on the side.

ADAM CUMMINGS: Okay.

PAUL BLOSER: But who is going to verify it is what he is asking?

JAMES WIESNER: I mean --

ADAM CUMMINGS: Right now he could leave the shed and just --

JAMES WIESNER: The Building Department, less than 3 feet --

PAUL BLOSER: I don't think the Building Department is -- you can't go out and stake property out.

ED SHERO: That's correct. We do not.

MR. WOOD: There is an existing -- a -- a --

PAUL BLOSER: Corner stake.

MR. WOOD: -- corner stake in that back corner by the shed, so we -- we found it a couple months ago and dug it out. It is very readily visible.

ADAM CUMMINGS: I'm a civil engineer. I use land surveys all day long. I don't trust anything else.

JAMES WIESNER: But then it comes down to the cost of the shed, and the value of land surveying. I guess that is part of our decision.

PAUL BLOSER: Do we want it verified by a surveyor?

ADAM CUMMINGS: I do. I don't know how the rest of the Board feels.

MICHAEL NYHAN: When was this put in? 19 -- 1980s?

ADAM CUMMINGS: Right.

MICHAEL NYHAN: Absent going through an entire instrument survey, I don't know how you could do that.

PAUL BLOSER: I will just put they have to be verified to the stake.

MICHAEL NYHAN: Directly behind your property, is that a water tower? The house --

MR. WOOD: The southwest corner. Kind of off the southwest corner. There is a -- there is a dip down, and the -- 44 Brasser Drive, I believe it is behind us, directly behind us.

MICHAEL NYHAN: They're directly behind you?

MR. WOOD: Yes.

MICHAEL NYHAN: Their lot line abuts your lot line?

MR. WOOD: Correct.

PAUL BLOSER: With that condition of approval, I will move forward.

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.

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

DECISION: Approved by a vote of 4 yes to 2 no (Adam Cummings, Paul Bloser) with 1 abstention (Fred Trott) with the following condition:

1. The rear and side setbacks need to be measured and verified to the Town Building Department to achieve the requested variance. Measurement shall be completed from the existing corner stake located in the southeast corner of the lot.

The following finding of fact was cited:

1. The requested variance will have no physical or environmental impact on neighborhood.
5. Application of Shawn Wingate, owner, 1821 Scottsville Road, Rochester, New York, 14623 for variance to erect a 6' by 19' open porch 65 foot from front lot line (75' required) at property located at 1821 Scottsville Road in RAO-20 and FPO zone.

Shawn Wingate was present to represent the application.

MR. WINGATE: Good evening. Shawn Wingate, 1821 Scottsville Road.

PAUL BLOSER: Saw one of these just a couple doors down from you. Not quite as big as this, just the same depth, not quite as long. How are you building this or what are you constructing it of?

MR. WINGATE: Wood built 4 by 4 supports, going to be attached to the house and it is going to have 1 by 6 decking. And then around the entire perimeter of the porch, we're actually looking to do steps to keep it rain free.

PAUL BLOSER: How high will it be off the ground to the top of your deck?

MR. WINGATE: Approximately 21 inches, which I'm told falls within code to do without railing.

PAUL BLOSER: Are you building this yourself?

MR. WINGATE: I'm entertaining the idea of doing it myself, but I do have a contractor lined up to possibly do it.

PAUL BLOSER: You won't have any side railings going around it?

MR. WINGATE: No, sir.

PAUL BLOSER: Stairs on three sides; is that what you're saying?

MR. WINGATE: Yes, sir.

PAUL BLOSER: That is towards the driveway, correct?

MR. WINGATE: Correct.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Robert Mulcahy 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: There is one just a couple doors down. The original setbacks on those were in the 50, 55 foot time. That was all -- that was all code. Now it is 75 foot. The houses are all encroaching the setbacks, so...

There are, like I say, a couple. One of them is very new, just two doors down.

MICHAEL NYHAN: Which is how far back from the road, 65 feet? The one down the road.

PAUL BLOSER: Very close to this.

MICHAEL NYHAN: Okay.

PAUL BLOSER: The house setback is the same. The depth of the porch is about the same. This is just a little longer, 19 foot. The other one is probably 8 or 10 foot.

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

James Wiesner made a motion to approve the application with the following condition, and Robert Mulcahy seconded the motion. All Board members were in favor of the motion.

MICHAEL NYHAN: Does that include a flood plain permit?

PAUL BLOSER: Is that required on this?

ED SHERO: It is.

PAUL BLOSER: I am putting property building application and all permits required to be applied for through Town Building Department.

DECISION: Unanimously approved by a vote of 7 yes with the following condition:

1. Proper building applications and permits required shall be applied for and obtained through the Town Building Department.

The following finding of fact was cited:

1. The requested variance will not create an undesirable change in the neighborhood or surrounding properties since there are several other similar front porches.
6. Application of Charles King, owner; 24 Box Car Drive, North Chili, New York, 14514 for variance to erect a 7' by 16' deck 34' from rear lot line (40' required) at property located at 24 Box Car Drive in PRD and FPO zone.

Charles King was present to represent the application.

MR. KING: Charles King, 24 Box Car Drive, North Chili.

The proposal was corrected or -- or was incorrect on this, and it was apparently corrected. It should be roughly a 20 by 16 foot deck, 27 feet from the rear line. The builder spent some time with Kathy (Reed), I guess, a couple of weeks ago, and was told -- was told that that was corrected.

KEITH O'TOOLE: We received an amended map.

MR. KING: So the variance request is for 27 feet.

PAUL BLOSER: I did not get a copy of that in my package. 27 feet.

JAMES WIESNER: It's in the Building Department comments, one of the line items.

PAUL BLOSER: Okay.

ADAM CUMMINGS: There wasn't public notice, though. Is that correct? There wasn't public notice for the 27 feet until right now?

MR. KING: I was told that -- that there was no necessity to change the sign. I asked specifically about that when we corrected it.

PAUL BLOSER: The question is, was the public notified of this in time, or is this an administrative change?

KEITH O'TOOLE: I don't know what notice went out in the paper, so I really can't comment on that.

PAUL BLOSER: Ed (Shero), is that something you can comment on, do you know?

ED SHERO: To my knowledge, it was the 34 foot that went out.

PAUL BLOSER: That is what I saw.

MR. KING: Our builders spent a morning here with Kathy (Reed) and was told it would be corrected and there was no need -- I was asked about the sign and I was told there was no need to change it.

KEITH O'TOOLE: I don't think the sign is the critical issue. The real issue is the legal publication.

PAUL BLOSER: The legal publication is what I am concerned about, just what was presented publicly and what goes into the paper is different than what is here. So that -- so that presents an issue.

It sounds simple enough, only a couple of feet, but it is the legality of it. So we have to be sure we're doing everything by the letter of the law with this.

MR. KING: Who would be responsible for doing that?

PAUL BLOSER: It is just redoing the application to have proper public notice, which means I would make a proposal right now that we table this application until the August meeting so that the public is properly notified of the requested setback issues. So it is legally documented, the change. That's -- that's the law.

With that, I -- I'm going to make a motion that we table this until August so that we have proper public notification of the requested setback.

Do I have a second on that proposal?

FRED TROTT: I'll second it.

PAUL BLOSER: Vote on the motion:

JAMES WIESNER: I don't think it is that big of a deal. No.

PAUL BLOSER: It's legal.

MICHAEL NYHAN: So it is required then, you're saying?

PAUL BLOSER: It is required by law for proper notification.

MICHAEL NYHAN: Okay.

ROBERT SPRINGER: Yes.

ADAM CUMMINGS: Yes.

ROBERT MULCAHY: Yes.

FRED TROTT: Yes.

PAUL BLOSER: Okay.

This is tabled until August.

MR. KING: What do I need to do from this point?

PAUL BLOSER: If Kathy (Reed) has updated the request, this public notice that goes out is published in the newspaper. It's published on the internet of what is on the agenda, and there has to be a 30-day window on that. I think it is 10 or 12 days on the sign. It has to be published. So I would call Kathy (Reed) to make sure that that gets -- I mean I am going to put it through to her that -- that -- she will take care of it. It is administrative paperwork. It has to be done properly for public notice. That's the law. I wish I could change it for you.

It is simple enough. You don't have a big yard. There is not a lot of room to go with it, but it's -- but it is the law and we have to go by the law. So I apologize for your inconvenience, sir. Thank you.

DECISION: Tabled by a vote of 6 yes to 1 no (James Wiesner) for the following reason/finding of fact:

1. Tabled until August 24, 2010 meeting as the requested variance has changed and the general public did not receive adequate notice as required by law.
7. Application of Nicholas Riorden, owner; 1913 Westside Drive, Rochester, New York, 14624 for variance to erect a 22' by 8' open porch 50' from front lot line (75' required) at property located at 1913 Westside Drive in R-1-15 zone.

Nicholas Riorden was present to represent the application.

MR. RIORDEN: Nicholas Riorden, 1913 Westside Drive.

MICHAEL NYHAN: This section was amended after those homes were built; is that right?

PAUL BLOSER: Pardon me?

MICHAEL NYHAN: This is the section that was amended after those homes were built, correct?

PAUL BLOSER: Yes.

MICHAEL NYHAN: Okay.

PAUL BLOSER: How is your deck being constructed? What are the materials you're using?

MR. RIORDEN: Wood.

PAUL BLOSER: Pressure-treated?

MR. RIORDEN: Yes, pine.

PAUL BLOSER: Enclosed, a roof over it, railings.

MR. RIORDEN: As of right now, just open, no roof over it, no railings right now.

PAUL BLOSER: How high is it off the ground? There is really no description on it here.

MR. RIORDEN: I think it is 18 inches off the ground. Yes, 18 inches.

PAUL BLOSER: A railing around it or anything?

MR. RIORDEN: Not yet. Not that I know. My wife designed this one for me.

ED SHERO: I have been in contact with Mr. Riorden. We just had a couple of issues. We didn't have a permit for the wood deck and the pool and the pool to the house. He has indicated that he believes the deck was built prior to 1991, which would not require a permit, but an affidavit would have to be filed with the Building Department, and he is going to work on that. So I ask if the variance is granted, that it be conditioned on either getting us the -- the affidavit, or the proper permit.

Also, we have a little issue with the shed. The shed is about 2 feet too close to the rear lot line, and he has agreed to move that in compliance. It will take care of all issues on this one.

MR. RIORDEN: Yes.

MICHAEL NYHAN: Did you just move in last year?

MR. RIORDEN: Yep.

MICHAEL NYHAN: These were all existing issues?

MR. RIORDEN: Yes. Um, yes. For the -- I had the permit disclosures. We were trying to take care of most of that before I moved in, but as for the deck, I don't know. She said that she would give -- sign the affidavit to say it was installed before 1991. Because she has contact with the previous owner. So it is just a matter of time. Didn't really think too much about it, I guess.

As for the shed, that's probably going to be taken down, actually, instead of moved.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

MICHAEL NYHAN: The house itself isn't even within the setback.

PAUL BLOSER: Right.

MICHAEL NYHAN: Before any construction would begin on this, if we do approve it at all, the issues that are outstanding with this property need to be satisfied with the Building Department's requirements.

PAUL BLOSER: Right.

Paul Bloser reviewed 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 Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. The shed in the rear of the lot must be moved away from the lot line to achieve setback requirements.
2. The pool deck must have verification of date of construction or proper permits and inspections in order to bring the property into Code Compliance.
3. The items listed above must be obtained prior to issuance of permit for the deck.

The following finding of fact was cited:

1. The requested variance will not create an undesirable change in the neighborhood or surrounding properties since there are several other similar front porches.
8. Application of Donna Heller, 2675 Chili Avenue, Rochester, New York, 14624, property owner: Vanda Meyer; for variance to erect a 3' by 3'8" A-frame freestanding sign at property located at 2675 Chili Avenue in R-1-15 zone.

Donna Heller and Rick Mendolara were present to represent the application.

MS. HELLER: Donna Heller, 2675 Chili Avenue.

PAUL BLOSER: Have you gotten any -- you have got -- you have a hand drawing of the sign, what you're lettering is, handwritten in. You don't have a final -- of what you're proposing to use?

MS. HELLER: Well, we have a new name now. At the time we didn't have the name. That's the name of the place now under Vanda (Meyer).

MR. RICK MENDOLARA: Are you talking the construction of the A-frame?

PAUL BLOSER: Not so much construction as what it is going to look like.

KEITH O'TOOLE: The artist rendering.

PAUL BLOSER: The true rendering, or a -- a scaled drawing of what your final will look like.

MR. RICK MENDOLARA: Yes. Other than the --

PAUL BLOSER: Colors?

MR. RICK MENDOLARA: Other than the 4 1/2 -- the required 4 1/2 inch lettering -- Rick Mendolara, 9 Barns Swallow Lane.

I was going to have my company that -- works with graphics. We're going to create the sign with a PVC backing on it to go over the construction A-frame. It's a portable A-frame that would actually open up and set out into the property.

PAUL BLOSER: So --

FRED TROTT: Do you have a rendering of it?

PAUL BLOSER: No. That is what I was just asking.

MR. RICK MENDOLARA: We didn't really know at the time. We're just going to stay within our -- the code of the 4 1/2 inch lettering that was asked of us and the 4 inch numbering was -- was my understanding of this.

Right now, the -- we're in negotiations to buy, subject to attorney approval, the salon, so it would not be Hair on the Move. So we didn't have any graphic detail, you know. Our concern was just to have it built on that manufactured A-frame, plastic A-frame sign.

We didn't really realize it, the graphics was the issue. We just thought the standing sign on the property was an issue.

PAUL BLOSER: Okay. Um, background color?

MR. RICK MENDOLARA: White.

PAUL BLOSER: Donna (Heller), what are your hours of operation?

MS. HELLER: Tuesday through Saturday.

PAUL BLOSER: Time?

MS. HELLER: Um, Tuesday 9 to 4. Wednesday, 9 to 6. Um, Thursday, 9 to 8. Friday, 9 to 4 and Saturday, 9 to 3.

PAUL BLOSER: She did have a note, a handwritten note, "carrying in and out A-frame." I am assuming carrying out, you will only have it out during your hours of operation?

MS. HELLER: Yes.

PAUL BLOSER: Because if we were to move forward with this, um, with this application, that would be a condition of approval, that the sign only be out there during hours of operation. In that location it probably wouldn't last anyway, with -- it's -- that is a condition of approval I would put on it.

I would also put a condition of approval that will be no lighting on the sign, which daytime hours you wouldn't need it anyway. It is strictly a temporary sign.

MICHAEL NYHAN: What is the actual height of the sign, 44 inches or 36?

MR. RICK MENDOLARA: 44.

PAUL BLOSER: Off the ground.

MR. RICK MENDOLARA: And 36 on the base, on the bottom.

MICHAEL NYHAN: The part you're writing on is 2 foot wide?

MR. RICK MENDOLARA: Yes.

MICHAEL NYHAN: It will be placed -- is that in the center of the parking lot?

MR. RICK MENDOLARA: Correct. There is an entrance and an exit. We're going to have it about 7 feet from the building, just so we're -- so we're in zone for the entrance and -- the ordinance is correct for the allotted distance from the entrance and the exit.

MICHAEL NYHAN: Okay.

MR. RICK MENDOLARA: I just wanted to make note to the Board that we do have a stylist that might work half day Monday, so that sign might be out from noon to 4 on Monday. I don't know if Donna (Heller) mentioned that.

PAUL BLOSER: So you're adding a day to it?

MR. RICK MENDOLARA: Adding another half day on Mondays, yes.

PAUL BLOSER: So the name of it might not necessarily stay as Hair on the Move?

MS. HELLER: No. It is going to be Shear Energy.

PAUL BLOSER: One line or two lines?

MS. HELLER: Um, probably one. I don't know.

MR. RICK MENDOLARA: I think the -- I think the interest of the sign is we're trying to create some walk-in customers and the walk-in welcomes is what we're trying to promote here, obviously with the salon name change.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, Coldwater Road.

MR. RETTIG: It is my understanding that per our sign law, A-frames are not allowed; is that correct?

PAUL BLOSER: That is correct. That is why they're applying for a variance.

MR. RETTIG: Okay. Um, also, we have in our code and our sign laws, no signs in R-1 zone; is that correct?

PAUL BLOSER: Yes, that's correct.

MR. RETTIG: I think to allow these signs, even in this location, um, is to set precedent and open Pandora's box. Everyone and anyone can therefore ask for an A-frame sign. We have been through this before, with other specific home businesses without signs specifically, as specified by this Board in the past.

I don't think we need an A-frame sign, nor should we approve it.

PAUL BLOSER: Thank you.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: We have a code against A-frame signs for a reason. And if you want to see just how bad it can look, go over to Spencerport and look at some of the ones over there. Um, especially right on 31. They're terrible. I mean they're lined up, one after the other, just lines of them. It's tacky, it's horrible. What this lady needs is a sign on her building. Does she have a sign on her building? Is there a business sign on the building?

PAUL BLOSER: There is a sign in the window.

MS. BORGUS: No, no. But on the building itself? Identifying the building? The business?

MS. HELLER: There will be. The siding -- or the building was sided, so it hasn't been put back up, yet. Yes, there is a sign on the building.

MS. BORGUS: This is close enough to the road that anybody is going to be able to see the sign on the building.

I don't see a hardship here. It's a new business, but every new business would like to be exempted from our code.

If you allow this, you will have the doors swinging open and you will have people lined up here by the hundreds to get the -- a like variance. There is going to be no stopping it, once you start -- you give in on this.

Everybody wants walk-in customers. I don't care what business you're in, whether you're

in hairdressing, or barber shop, or whatever. Everybody wants a walk-in customer. Why wouldn't they? Is everybody going to get one of these signs? It's up to this Board to see it doesn't happen.

It is a residential area. There is houses on both sides. This couldn't be in a worse spot for a -- for a -- for a permit for a sign, any kind of a sign. She is entitled to a building sign. She ought to have a nice building sign. It is a very small parking lot, very close to the road. There is absolutely no reason for this.

Once you start to relax the code, there is going to be no stopping it. This should be turned down.

Thank you.

MR. RON MENDOLARA: I disagree with this woman here. Ron Mendolara. This sign -- this building does have a tendency such as a small building that sets back. Even with the sign that was originally on this building, which obviously is not there any more because it was sided, it is so easy to go by this building, that you do not see it. That is where they have such an issue with walk-in customers. She is mistaken. On the left-hand side of this building there is a large commercial dentist office. It is not residential there. Although it may still be zoned residential, it is a large dentist office. They actually have a large sign in their front lawn that is permanent, and you can see it very well.

We were just -- they were just trying to get a small A-frame in there, so that they could just catch some eye view as it goes by. And I'm sure it will be a very tasteful sign. So I don't really see an issue with putting a sign. Even though it is a residential property, it really is not -- it is permanently -- actually used as -- just a hair salon. Nobody lives there.

PAUL BLOSER: Thank you.

MR. RETTIG: Additional comment, notwithstanding what was said -- what I said just previously. But if you have an A-frame sign, you get 50 mile per hour winds, you get a sign like that blown into the road, that is not even safe.

MS. BORGUS: Yes. Thank you.

I don't care how tasteful this sign is. That's not the point. That will be the argument you get from the hundreds and hundreds of other businesses that come in. They will have a tasteful sign, too. That is not the issue. The issue is they don't look good. They're tacky, they cheapen up our main corridors. We're trying to beautify our town. We don't do that with A-frame signs.

And one of the conditions that you -- that this Board will have to go by, and you have to adhere to this, is that this alleged hardship has not been self-created. If this isn't a good location for a business and it is so easy to pass by it as we just heard, then this is not the place for this young lady to be setting herself up in business. She better look for some place that stands out a little more or is in a commercial area. There is -- that is not an excuse. That's not an excuse. This is -- this is not a good idea. Thank you.

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

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

PAUL BLOSER: Ed (Shero), are you aware of a building sign that has been approved for that previously?

ED SHERO: Apparently sometime in 1985 there was a sign. They were supposed to come in for an application for a permit for an existing sign. I have no record of that being granted.

PAUL BLOSER: That was when?

ED SHERO: 1985.

PAUL BLOSER: Okay.

ADAM CUMMINGS: Along those lines, I would like to have -- add another question. The hours of operation, the Land Use Variance that I see approved in '85 was for 8:30 to 5:00 p.m., Monday through Saturday, Thursday; and Friday, until 7 p.m.; no Sunday hours. I just like to point out that maybe your hours of operation until 8 aren't in compliance with your land use -- or your -- yes, your Land Use Variance. So I just wanted to point that out.

MICHAEL NYHAN: Good question maybe for -- I think this would be for Ed (Shero). The Zoning Board did approve a variance to use this property as a beauty salon as long as the current owner at that time operated it and owned it. Would it even --

ED SHERO: Generally the use variance runs with the property, not with the owner. I will defer to Counsel.

MICHAEL NYHAN: But they specifically stated in the paper, though, here, renewal of beauty salon granted as long as shop is owned and operated by Mr. Vin.

KEITH O'TOOLE: That's an illegal condition.

ED SHERO: I don't see that.

MICHAEL NYHAN: 1971.

ED SHERO: But I have deferred -- the last time it came before the Zoning Board was in August of 1985. For V. Meyer, so I would think that -- the last use variance would be the one that we would go with.

MICHAEL NYHAN: Okay.

ED SHERO: The hours, as Mr. Cummings said, the hours are limited, no later than 7 p.m., and that is only on Thursday and Friday.

PAUL BLOSER: Okay. It's only Thursday night you're looking for an extension on that anyway.

MS. HELLER: I have just always worked until 8:00, my late night for people that work.

PAUL BLOSER: I have put down two conditions of approval at this point if we were to move forward with this.

Sign only be displayed during operation of salon as presented.

Second, final design must be presented to the Town Building Department for approvals.

I should probably put a third one, based on the previous approvals, that the hours be updated as requested. If anything, it is actually less hours of operation on this application than what was previously granted. The hours aren't really a concern to me, but I think from a standpoint of the application, we would have to have the hours of -- listed on here. Particularly if you're buying the building and you're going -- ongoing this, we want it on record what your hours are. And part of that is if the sign is approved, it is during of hours of operation, so we would want to have those hours listed on file. You have given those to me. At this point I have those, those could be added, so...

The other conditions on the previous application, they still stand, so there is nothing I'm going to do with that. It is not part of the application at this point. We're just looking at the sign.

ROBERT SPRINGER: Did you want something on there the sign be removed based on the hours of operation?

PAUL BLOSER: My first condition of approval is sign only displayed during hours of salon operation as presented.

ROBERT SPRINGER: What if they don't?

PAUL BLOSER: Becomes a Code Enforcement issue. It's a code violation at this point.

ROBERT SPRINGER: Just so they know.

MICHAEL NYHAN: Pretty specific. They give in the code some stipulations around signs, but it is very specifically pointed out, no A-frame signs are permitted in this Town with the exception of temporary --

PAUL BLOSER: That's correct. That is why we're looking at a variance on this. The code is clear, they're applying for a variance to that specific item in the code. That is what this is for.

ROBERT MULCAHY: I don't like A-frame signs.

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Adam Cummings seconded the motion. The Board all voted yes on the motion.

Robert Mulcahy made a motion to approve the application with no conditions, and Adam Cummings seconded the motion. All Board members were in favor of the motion.

MICHAEL NYHAN: One other comment before we do that. Is it permissible, somebody trying to start a new business to have a sign for a month or two months or three months or whatever the case may be until the business gets started?

PAUL BLOSER: There are conditions where something like that has been done. Temporary advertising signs. 28-day limit.

ED SHERO: 20 or 30 days. There is a provision for -- once for every 12 months, a banner.

KEITH O'TOOLE: So the grand opening signs is permitted.

ED SHERO: For 30 days.

MICHAEL NYHAN: That is a banner, not an A-frame sign.

ED SHERO: That is correct. There are currently no A-frame signs allowed in the Town of Chili.

MICHAEL NYHAN: Okay. Trying to start a new business in Town. Like to see people be able to do that, but if the code is the code, okay.

PAUL BLOSER: Emphasizing that this application is for variance relief of the code. The code is very clear.

**DECISION:** Denied by a vote of 6 yes to 1 no (Bob Springer) with the following finding of fact having been cited:

1. The requested variance is a self created hardship. As this is still a residential zoning, an "a" frame sign will create an undesirable change in the character of the neighborhood.

Paul Bloser had a discussion with the applicant about the decision and the sign.

RON MENDOLARA: Which question, what about a permanent sign, located? Like I said, our whole thing, the area is asphalt there, between the road and the building itself, just like next door does, that is a residential property. So -- so a permanent sign located into the ground.

PAUL BLOSER: They can be applied for. Again, this is Residential. There is a -- there is a special use permit that was issued for this property because it is Residential. It was special purpose use for -- to run a business basically out of a house. It is still zoned Residential.

Yes. You can apply for it. There was a history in here that a building sign had been applied for before, but it never had been followed through on. So -- I mean you have options. It is just A-frames are the tough ones to get through this Board.

You can work with the Town. They will show you what the options are within the code, what is permitted, what is not, and again, if it is not permitted, what you would have to do to go through the -- through the process. And, you know, anything not within the code, you will be back here.

Thank you.

The meeting ended at 9:20 p.m.