

CHILI ZONING BOARD OF APPEALS  
August 23, 2011

A meeting of the Chili Zoning Board was held on August 23, 2011 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: Keith O'Toole, Assistant Town Counsel; Ed Shero, Building & Plumbing Inspector.

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

PAUL BLOSER: I will make a couple changes to that tonight. We'll start with signs. Anybody have any problem with the signs?

The Board indicated they had no problems with the notification signs.

PAUL BLOSER: Moving into the agenda, I will first hear Application Number 3.

3. Application of Shawn Wingate, owner; 1821 Scottsville Road, Rochester, New York 14623 for rehearing of prior variance request to allow a 20' x 8' open porch to be 60' from front lot line (65' previously approved for a 20' x 6' porch) at property located at 1821 Scottsville Road in RAO-20 & FPO zone.

Shawn Wingate was present to represent the application.

PAUL BLOSER: We did hear this last month. We had a Public Hearing on it, public comment. We did not have a full Board last month. The applicant has requested to have a vote in front of a full Board, which we agreed to.

Since that point, also, discussed the application with the Building Department. They at this point -- Mr. Wingate is in conformance with the Building Department, has agreed to their requests, and so hear we are. We're back.

I'm not going to have a Public Hearing on this tonight, because we already had a Public Hearing last time. We have already done SEQR on it. I'm strictly going to do a new vote with a full Board tonight.

And I guess, Mr. Wingate, do you have anything you want to add before we start?

MR. WINGATE: Yes. I actually have some pictures I brought along with me this time, if I may. Can I pass them out?

PAUL BLOSER: All right.

MR. WINGATE: What -- what I am looking to present to you guys tonight is simply three photos I snapped as of 7 a.m. this morning.

Driving down my road I did a quick survey of the first five houses I passed going northbound on Scottsville Road. What you will see is three of the five have houses or porches that are actually closer to the road than what I have built. And the reason I point this out is last time we were here, you know, you guys expressed your concern that you considered this a substantial change to the community that I live in.

And as you will see in the first photo, my neighbor's home extends well beyond the edge of my porch. If you -- if you take the numbers that I have, you know, as what they have, I simply took a laser distance finder from telephone poles, a constant, simply because I don't know where the right-of-way line is and took some -- some crude measurements.

So this (indicating) is a photo actually looking at my neighbor's home from the side line of my property, just to give you some perspective of how much further out their home is compared to the porch.

And second photo is three homes down, measuring from the same -- the same distance, I got 54 feet from the telephone poles to the edge of their home. As you will notice, it is -- it is 6 feet closer to the road than what I am asking for.

Then the third photo is simply the same thing. This home (indicating) actually had a -- this was the fifth house down the road. Measuring to the edge of the porch from that same line, I arrived with a number of 30 feet from the road. Obviously their home is a little further back, but, you know, the edge of that porch is 30 feet from the road.

And that is really all I have to present to you guys tonight.

PAUL BLOSER: Shawn (Wingate), did you put together a new print of the porch with the -- all of the dimensions on it and where your footers are located on this?

MR. WINGATE: I have not. But I can provide you with them.  
PAUL BLOSER: Okay. That will be required --  
MR. WINGATE: Absolutely.  
PAUL BLOSER: -- for the Building Department if we move forward on this. It will be a condition of approval. Does it show where exactly it is attached to the house, right and left, and how far it comes out, so your lot map would be sufficient, if you have that?  
MR. WINGATE: That is actually -- the lot map is what I originally have done my drawings on. I will take my original lot map --  
PAUL BLOSER: If you show this size, a separate sheet, larger view of the porch and where your footers.  
MR. WINGATE: Absolutely.  
PAUL BLOSER: The Building Inspector has been out. He did see the footers. That is how this was -- all came to being here. So what I am going to do is on conditions of approval, before we proceed with a vote on this, as submittal of a new print, porch dimensions, and please define your step on there also. You have one step up for the platform. So define the measurements of where your porch level is and where the stair is, okay?  
MR. WINGATE: Okay.  
PAUL BLOSER: Second, no additions to sides or overhead or enclosures of any type without Building Department approvals.  
Third, I'm going to put down that a new building permit be filled out and applied for based on the new sizes and setbacks. Okay?  
MR. WINGATE: Uh-huh.  
PAUL BLOSER: That will be required in order to get a C of O. I think we can close this thing up.  
MR. WINGATE: Okay. That is acceptable.  
PAUL BLOSER: So with those three conditions of approval, I will proceed with the Board vote.

Michael Nyhan made a motion to approve the application with the following conditions, and Robert Mulcahy seconded the motion. All Board members were in favor of the motion. First of all, do I have a motion to adopt this application with the conditions of approval as listed?

DECISION: Approved by a vote of 6 yes to 1 no (Fred Trott) with the following conditions:

1. A new building permit is to be applied for and obtained from the Building Department.
2. Submittal of new print/plan of porch dimensions to be sent to the Building Department.
3. No additions to sides or overhead, or enclosures of any type to the structure are allowed without prior Building Department approvals.

The following findings of fact were cited:

1. Porch was built larger than approved. Applicant asked for a new vote with a full Board present. We did not open for public comment as it was heard at the previous hearing and there were no requests made by any neighbors to be heard.
2. The increase in size of the porch is not significant in nature and will have no negative impact on environment or neighboring properties.

MR. WINGATE: Do you know how soon I can proceed with the permit process.  
PAUL BLOSER: You can go in tomorrow, if you like. It is a matter of record now. Get it done properly and in the future anything you do there.  
MR. WINGATE: Absolutely. It's a lesson learned. Thank you, gentlemen. Have a good night.  
PAUL BLOSER: I will go to the second application now of Ed Vandewater.

2. Application of Edward Vandewater, Amish Outlet, owner; 3530 Union Street, North Chili, New York 14514 for variance to erect a 9' x 1' double-faced addition to freestanding sign at property located at 3530 Union Street in G.I. zone.

Robert Fitzgerald and Edward Vandewater were present to represent the application.

MR. FITZGERALD: Good evening. My name is Rob Fitzgerald, Project Engineer with Avery Engineering. I'm actually representing the applicant tonight, Ed Vandewater and the Amish Outlet.

The reason I did come, two months ago this Board did have several questions regarding site plan. So we have since made those revisions as per the request of this Board.

Since then, there is also another letter issued by Dave Lindsay, Commissioner of Public

Works, and we also went through his -- most of those are just reiterating the comments they had and those now on the revised site plan, which I believe everybody has a copy of.

But in short, what this sign is the variance was granted for 150 square foot sign, roughly -- I think it is eight years ago. It has been erected since around 2003. What it was, there was an error. The bottom panel was 2 feet, and it has always been 2 feet. What Ed (Vandewater) did a few months ago -- Ed Vandewater wanted change the lettering on the bottom panel. The Building Department saw they were changing that and wanted to make sure they went through the appropriate procedure, and then they also dug into it deeper so the variance was only granted for the panel to be 1 foot in height.

So here tonight we're asking for another foot so it can comply with the appropriate permit..

Then also to -- he does look to change the lettering on that bottom panel so it would say, "West Side's Largest Furniture Store" at this point.

A lot of people drive by. Obviously they see the sheds. They can see the gazebos. They realize that that is what is being sold. They don't realize inside there is beautiful furniture, grandfather clocks and stuff like that. He is trying to get out there that there is other stuff and trying to get people in the building.

So I will answer any questions that the Board may have on the site plan. Ed Vandewater is here, as well, to answer any questions and hopefully we can move forward.

PAUL BLOSER: Thanks.

I will start by saying I have reviewed this since the last meeting, our request of what we wanted reviewed in the field. I had conversation with Mr. Vandewater with the Building Department and also with Dave Lindsay from the Highway Department. They -- all of us have done site inspection. We have gone through point by point of everything that we brought up, and I will say that Mr. Vandewater was very cooperative and eager to clean everything up as we wanted to do.

A lot of it is just what we call -- the last time was maintenance, update of prints and get everything on file and what is there.

Um, everything, as I can see on the print, has been modified as I requested, as the Board asked for on there. The -- the -- the parking lot, um, is all squared away now on there. The -- the dumpster relocation has been amended. The shed in question, in the back, um, is a unit that is for sale, so that -- that issue, I have got a point I want to make on that in a bit. The gardens out in front, the empty one that was made out of stone, at the time when we did the site visit, it was empty, and we just thought it was an unfinished something.

It is actually a display pad for one of the gazebos. And since he has put one out there, so it is occupied and done.

Um, the -- the clean-up of the site and the front gardens and on the little island out by the garages has been taken care of. The -- the questions we had about what was allowed on front for advertising, we reviewed every letter and every document that we had on file. And based on what is on file and what was set forth on the Planning Board site plan requirements, um, it -- at this point, they are in compliance.

It was a little vague. There was a lot of conversation on it in the minutes of the meetings of what to have and whatnot to have, but when it came right down to it on the conditions of approval, it was left fairly wide open.

Um, so with that -- he is in compliance. The questions we have, whether the existing sign was oversized or not, it does fall into what he was approved for, he is not oversized. It is, in fact, everything squared away.

So Mr. Vandewater, again, I appreciate your time. I know there was a little bit of anxiety through this, but you were very cooperative and I appreciate that.

MR. VANDEWATER: Thank you.

PAUL BLOSER: Now we're here for this sign. Just the addition on that bottom. Basically what you have done is painted over and put a new logo or description on there from what it was before.

MR. VANDEWATER: Exactly.

PAUL BLOSER: It is the same board. It is just a little larger, so we're looking for that extra on the bottom so it is 1 foot by 8 foot. So being double-sided, we're actually looking at 16; is that correct?

MR. FITZGERALD: Not sure of the width. I just know we have been concentrating on the height of it.

FRED TROTT: That's the same, right?

MR. FITZGERALD: Yes. It wouldn't be any larger than that. That is the bottom panel that is just being replaced. Actually that is the sign as was replaced.

As a condition two months ago, he asked us to remove the bottom panel, which we did do. We would like to put that back up. That is why we're here tonight.

PAUL BLOSER: I would also add at the last meeting we did request to have the sign be removed until it was approved or not approved and he had that down within 24 to 48 hours, so he was very, you know, prompt in going along with that.

MICHAEL NYHAN: The bottom piece, that is what it is going to stay, yes?

PAUL BLOSER: That is it. He took it down. It was up before. He took it down and is looking for approval to put it down.

MICHAEL CURLEY: One of the original conditions on the sign was a street number.

PAUL BLOSER: There was never a question for that before, but I imagine the space in between the top sign and the bottom sign you could put a building number in there, fit that in

somehow.

MR. VANDEWATER: Yes. I used to have that on there. When we took the bottom sign off, it came off.

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

MR. VANDEWATER: My name is Edward Vandewater. I'm the owner of the Amish Outlet. 3530 Union Street.

PAUL BLOSER: Thank you.

That would be a request that we have a street number updated on that.

MR. VANDEWATER: No problem. Colors are consistent with what we had before. Existing. This is again, just more paper work maintenance than anything at this point.

FRED TROTT: We are going to have the address on there as a requirement?

PAUL BLOSER: Yes.

FRED TROTT: Um, the other question is, it looks like "West Side's Largest." "West Side's" is separate. Is that intentional? Wouldn't it be one word?

PAUL BLOSER: No.

Okay. It is the West Side. As opposed to Westside Drive. It is two words.

FRED TROTT: Okay. I was never that good in English.

ED SHERO: None other than (inaudible).

PAUL BLOSER: You had a statement on here about -- Ed (Vandewater), I'm not sure if it was cleared up or not. There was a question on here about fence.

ED SHERO: I think the fence is regarding the piece of land that was sold off. You know what the fence goes into.

PAUL BLOSER: He owns both those properties.

ED SHERO: Right. That is the only thing I can think of that -- that limited it. I didn't write that one. (Inaudible).

PAUL BLOSER: Seeing as how he owns them, he has purchased that land, I'm not going to worry about that.

ED SHERO: Right.

PAUL BLOSER: That parcel.

ED SHERO: Well, you sold that little triangle piece?

MR. VANDEWATER: Yeah. I'm not sure exactly what you're talking about. Which fence you're talking about.

ED SHERO: The small parcel out by Boon Drive, I think your fence continues -- but you sold the little triangle off? And your fence, though, is still on it.

MR. VANDEWATER: It's their fence now. They can do whatever they want with it. I can take it down. I don't care. This is the first I have heard that was an issue.

ED SHERO: I don't think it is an issue, but that is what the fence is referring to.

PAUL BLOSER: Okay. I thought you were talking about the one on the other side. All right. So that would be up to them. They still have to curb that out and do what they want to do. You don't own it any more, so.

MR. VANDEWATER: Right, I guess.

PAUL BLOSER: The only question I had was on the -- on the shed directly east of the building, in the back there, you're set up right next to the building. Kind of a murky area. It is for sale. It can go at any time. However, you're using it for storage of items right now.

What I would like to see is that thing fold to the required fire code of 10 foot away. You can slide that one way or another so we have 10 foot clearance of an occupied shed. Even though it's temporary, it is used for storage right now until you sell it. I would like that 10 foot from the building in one direction or another.

MR. VANDEWATER: I have no problem complying with the request.

PAUL BLOSER: It is not permanent, it is just -- you do have the equipment to move it.

MR. VANDEWATER: Exactly.

PAUL BLOSER: But that is going to be a condition of approval.

MR. VANDEWATER: Okay. That's fine.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: When Mr. Vandewater was here and wanted to put his hours on the panel of the sign that now we're talking about enlarging, his major point, main point, only point, I guess, was that the traffic on the road was fast and he needed to let people know his hours of operation. He had to have the hours of operation up there. They were crucial.

Now tonight they're not crucial. Now he wants another message out there. I'm very concerned that a month from now a year from now he will be back in and want his hours of operation up and he will want more sign.

You can't just piecemeal this sign thing to death. There -- there is a limit. So just -- just so the Board -- I don't know how many of you were up there. I don't think any of were on the Board -- maybe Mr. Bloser was, but you weren't up here when he was here last. It was a regular pity party because he couldn't get his hours out before the public.

Bear it in mind, this is it. I -- you cannot have him keep coming back now wanting his hours back a short time from now because he has decided that he has changed his mind and he still needs the hours up, that it is still just as crucial as it was the last time.

The sign thing in Chili is completely out of hand, and I'm wondering if you're going to

approve this or thinking about approving it, are you also going to give every business in Town a panel that is 9 by 1 or 2 or whatever this is, so they can thoroughly explain what they sell? Or brag about their -- their "reputation," in quotes. I will put "reputation" in quotes. Are you going to do that? Is this message what we want on every business in Town?

Do we want a sign out in front of Wegmans that says, "Our meat is the best?" You know, "Eat five vegetables a day. We sell them here."

Um, you know, are you going to allow every business that? What makes that -- that sign necessary? I mean that -- that is the crux of Chili's sign law. We want the message as concise as possible, as critical as possible, as brief as possible on a size that is acceptable. I don't think that that fits the criteria.

Thank you.

MR. VANDEWATER: I would like to respond to that.

PAUL BLOSER: Let's --

MR. VANDEWATER: Can I? Okay.

STEVE GINOVSKY, 19 Hubbard Drive, North Chili

MR. GINOVSKY: Good evening, my name is Steve Ginovsky, 19 Hubbard Drive, North Chili.

First of all, with the sign there, I think the top part there says, "Furniture and gift showroom." The "largest," big deal. That don't mean nothing to me.

The second part that I -- I really don't think that bottom part is really necessary. I think people can read and with the other businesses that are there, it's going to look like another Henrietta.

Now, speaking upon that, in the past, even this winter, on the side of the road, there were -- Boon Road or whatever it is, you want to call it, a big van there, Amish Outlet. Put there on a Saturday and Sunday. It's totally out of whack. The Town of Chili does not need that. Is anything going to be put into the -- if any approval is given not to stick that van out there as a billboard? And if it is, who does a resident call on a weekend when it is put out there and then sit retracted back on a Monday morning? That needs to be addressed.

The bottom part of the sign, that doesn't mean nothing. "West Side," big deal, who cares? And it's not life and death. And what about the other businesses in the back? As I said, with Boon and also with the Fed Express, I think there should be some cooperation with that roadway as a monument type thing to make the Town of Chili sign ordinance look like something, not like a piece of garbage.

That's my feeling on it. I drive by there every day. And I think it needs to be done. Take a stand, please.

PAUL BLOSER: Thank you.

Mr. Vandewater, comment?

MR. VANDEWATER: Yes. Um, I just like to state for the record that since 1997 when I first purchased the property, and Ms. Borgus wanted her political sign out there on my property and I discarded it, she has been standing up against every application that I make. So I'm not so sure what her motivations are.

That's all I have to say.

PAUL BLOSER: Thank you.

MR. FITZGERALD: Real quick, as far as changing the sign, it is not something we're looking to do all of the time. Obviously it was pertinent or my client thought it was pertinent to have the address to direct people to it eight years ago. Eight years is a nice chunk of time and now we're kind of refocusing marketing efforts, if you will.

We're not changing letters every day here.

Will there be another one in the future? Who knows. Possibly. Business changes, it evolves and that is how they stay successful. That's all.

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

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

PAUL BLOSER: Board discussion. I will make a comment on the addition to the sign first. Um, well, while we may not agree that the sign is part of the Town's drive for what we want in signage, this is a minor change based on the overall sign. If Mr. Vandewater was to come back in for any other sign changes on this, I would say I would look at doing a complete new sign, based on what we're doing architecturally in Town.

The fact that there was a panel before and it was approved, he is just updating the verbiage on it, um, one of the things I look at this -- if you're looking at this sign dead on in this picture right now, it -- it -- the -- the sign is okay, but the structure itself, I have never liked. With that little panel there, it kind of takes away from some of that substructure that supports the sign down below. So I would rather have that size and have it a -- the little gap at the bottom right there, have that tightened up so it kind of disappears when he rehangs it. It covers up some of that from a visual standpoint. But that is my comment on it.

I would also, I think, put a request in here on a condition of approval that nothing else be added to that sign without a total sign resubmittal. So that would pretty much say this is it for

any additions to the sign.

JAMES WIESNER: I mean the panel really isn't much more than advertising and I can't think of a sign in Chili that has, you know, a statement or a saying such as that on a sign like that. So I think that this is really unique in what he is asking for and I'm not sure it is appropriate.

ADAM CUMMINGS: We can't really go off what the sign says. We're looking at the size of it.

PAUL BLOSER: The square footage.

ADAM CUMMINGS: It is 9 by 1. He could take the words off and put anything on it. We're just approving the size of it. In looking at the old variance, it said that one panel was supposed to be showing the hours of operation with a maximum of -- it says 12 inches by 9 feet, which is 1 foot by 9 foot, so this is in addition to that. The existing 9 foot by 1 foot.

PAUL BLOSER: Right.

ADAM CUMMINGS: Then it also says the street numbers should be on each sign face, so we recognize that that is lacking.

JAMES WIESNER: But it is also a change in sign from what was originally approved, correct?

ADAM CUMMINGS: Yes.

JAMES WIESNER: It was approved for hours and now we're adding this panel, which is --

ADAM CUMMINGS: That is my question. That panel is 9 foot by 2 foot?

MR. FITZGERALD: Correct.

PAUL BLOSER: It is now, yes. It was 9 by 1.

ADAM CUMMINGS: So hypothetically you could go 9 foot by 1 foot and scrunch those letters up and have the same exact thing written on it.

MR. FITZGERALD: Theoretically, sure.

MR. VANDEWATER: The sign was never 9 foot by 1 foot.

ADAM CUMMINGS: I'm just reading the variance that was on there. It says the sign was 10 foot by 7 1/2 foot double-faced, free-standing to be 150 square feet. I didn't do the math of how many square feet you have up there. But that is how it was in 2003. I'm just looking to clarify it.

MR. FITZGERALD: It is still less than the -- we're still less than 7 1/2 by 10. We got a little confused, too, where do you measure the panel? We're going from post to post because the upper sign is 10 feet wide, so the lower panel will be 10 feet wide. So it is attached to the two posts. If you go from letter to letter, is that 9 feet? Maybe that is how it was determined at the time.

PAUL BLOSER: They go by the panel, the size of the panel. If it is an oval top, we square it out, fill in the blank. We're using that as square footage. Just the sign. We don't take the posts into consideration. Certainly on a new design, yes, we do. By today's standards, the sign would never go through as a whole.

FRED TROTT: So --

ADAM CUMMINGS: He is just asking for this part of it to be 1 foot taller.

FRED TROTT: Yes, but it -- but it is 9 by 1 and he is saying it is 10 feet.

PAUL BLOSER: What was approved before was a 9 by 1. This size has always been up. He just changed. It was -- he painted over the hours and put this saying on here. It appeared to be a new sign, but it was -- it has always been there. It is just he painted over the hours and put this on it. So it is just the nomenclature change and that is what caught the attention of -- that is why it is here. So basically, he is looking for relief on what he has already had, just so that it is updated. That was part of our conditions on the last meeting, was everything needs to be updated. Let's get it all done. Get it all done at once and in the Town files, he -- he is complete. This is the last thing to pull everything into Chili. They're just loose ends. He has now satisfied everything, the whole list that we had. He is in conformance with everything. Dave Lindsay from the Highway Department is satisfied. The Building Department is satisfied. Jim Martin from the Planning Board has reviewed everything.

He does not see the need to go to a site plan review. He is satisfied with where it is at right now. So this is the one loose end that we need to clean up with a "yes" or a "no" vote tonight. So when this is done, I -- Amish Outlet will be in compliance with what the Town has requested and what was agreed to.

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

PAUL BLOSER: With Boon Drive be converted to a Town road, now, not a private driveway and the way that turning lane is and the truck traffic that is going to be coming in and out of there with FedEx, that will pretty much take care of parking the shed on the corner or parking the van on that corner for advertising. It is now a public road, so with this condition of approval, that will say again, no additional signage out front. He is maxed.

MR. GINOVSKY: Thank you.

PAUL BLOSER: He has a lot out there that catches your eyes and speaks for itself, so I think that would satisfactory what we're looking for at this point.

MR. GINOVSKY: Thank you.

PAUL BLOSER: There are a lot of old signs in Town I would like to see changed. We don't have the authority to do that. So what we have done now is put conditions of approval in the event that he does change anything for a total sign overall. Then he will be open to

Architectural Review, sign review for that sign. That goes with any -- with any -- any business in Town that would be doing the same thing. Everybody is on the same part.

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 Bob Mulcahy seconded the motion. The Board all voted yes on the motion.

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

DECISION: Approved by a vote of 4 yes to 3 no (James Wiesner, Michael Nyhan, Adam Cummings) with the following conditions:

1. Sign permit must be obtained from the Building Department.
2. Street number must be added to the sign.
3. No additions to sign or verbiage allowed without full sign review.
4. No additional site signs allowed on ground, building, or vehicle advertising without additional permits.

The following finding of fact was cited:

1. Application has been reviewed by the Building and Highway Departments. All questions of any other violations on the site have been satisfied. Variance requested for the additional sign size is not significant and, sign has already been up for many years and has caused no negative impact on environment or neighboring properties.
1. Application of Mr. & Mrs. Michael Graf, owner; 42 Andony Lane, Rochester, New York 14624 for variance to allow existing utility shed 6' from side and rear lot lines (8' req.) at property located at 42 Andony Lane in R-1-15 zone.

Michael Graf was present to represent the application.

MR. GRAF: Did you get the amended variance?

PAUL BLOSER: I believe so.

MR. GRAF: Basically, that is as written. Um, we -- we followed the -- we put a shed in in 1998 on the same footprint as the dilapidated shed that was there, did not get a permit and in the construction project we're doing, our second one since we have been in the home, we are now getting the permit and have paid the fine, but it is 1 foot 3 inches over the rear line.

In extensive discussion with the Building Department on this, and Dave Lindsay, and they said legally it has to be moved back onto the property, so we're asking for 1 foot off the rear line and the same 7 foot 6 inches or 7 foot 5 inches off the side line.

ADAM CUMMINGS: Actually, I -- just a clarification, actually this was for the side table. It says on the application that he is changing it from 8 feet on the side and rear to 1 foot rear and 7 foot 6 inches on the side.

The property card says his setbacks are 10, 40 but that is just setbacks, not per the shed structure?

ED SHERO: Right. The accessory structure of the shed would be 8 foot from the side and the rear.

ADAM CUMMINGS: Okay. I just wanted clarification on that.

FRED TROTT: As far as it being 1 foot from -- I mean -- could you go up further than the 1 foot that you're asking?

MR. GRAF: No, because the -- it would put it too close to the pool and there is a grade, about a 3 foot grade from the pool edge down, so it would -- it would be very hard to do that. There is actually some confusion over the lot line. At one time they said that where I was was actually in a conservation buffer zone between the park property and my property. Um, but I guess Dave (Lindsay) did some research on that and found it is actually Davis Park right there, right -- to the tree line.

MICHAEL NYHAN: You indicated that the shed is not visible, has trees on the Davis Park side. So the shed is not visible from the park as you look toward your house?

MR. GRAF: About 2 or 3 feet of the bottom of the shed. It is all pine trees that are maintained and landscaped and we actually have landscaping out into the park, you know, like -- just flowers and stuff, and we actually cut the grass there to make it look nice because there is a walking path right behind our property there. So we try to -- pretty much everybody in that stretch tries to maintain and make it look nice. Years ago it was very overgrown, very unsightly and the Town came through and cleaned it all up and it looks very nice now.

JAMES WIESNER: There any minimums from the State or County standpoint of -- of -- I remember an issue a few years ago, it was 3 feet from the property line.

ED SHERO: That 3 feet has now been changed to 5 feet from the State. And when that came to me for comments, that I would -- well, we would have to apply for a building permit and anything that is built within that 5 foot buffer would have to be fire rated, so it is a condition of a variance that would have to be the requirement. It would have to meet the State Building Code.

JAMES WIESNER: You don't get a variance for something like that?

ED SHERO: He could apply for a State variance, but I don't think he would be given one. He would have to have a hardship for why he couldn't do it.

JAMES WIESNER: So the law has actually changed from 3 feet to 5 feet now?

ED SHERO: Yes. It was changed last year.

PAUL BLOSER: That is something that -- on the conditions of approval we would put in, that the shed be built to State Fire Code. So it would be in compliance at that point. With the code.

MR. GRAF: I do have a question in regards to that. Because I actually spoke with the gentleman from the State. He said that the -- that that setback is for -- the fire code is for structure for fire spread. Because this is nothing but open land all behind my house, and again, I guess this would come back to Ed or Pat (Tindale), he said that that fire rating could be waived because there is nothing there. It is wide open. It's --

PAUL BLOSER: That I would defer back to the Building Department and the Fire Marshal to work out that.

MR. GRAF: It is not a zoning issue. It is a building code.

PAUL BLOSER: It's a code issue at that point. I would want the Fire Marshal involved with that. They would work that out with the Building Department on the construction site. We don't review or approve construction. We can recommend building materials as far as aesthetics and appearance and hoping it comes down to the safety side of things. We rely on them, and they have the last word.

MR. GRAF: Okay.

ROBERT MULCAHY: How close is that shed to the pool?

MR. GRAF: Um, right -- if we pulled it up to the 8 foot setback, it would be just shy of 3 foot away from the pool edge. Which talking to the Building Department, they said that is unacceptable. You can't have a structure that close to the pool, so it -- so we had talked about -- because they said it -- the State code at this time was a 6 foot setback and that would take it just outside of that, but it would still be like 4 1/2 feet. They said that was kind of close. They didn't like that. So because there is nothing there, that is why we were asking for the 1 foot off the property line. And I know -- I spoke with Pat (Tindale) about that. There is a 3-inch overhang. I said even that has to be inside the one -- inside the 1 foot.

ADAM CUMMINGS: What is on the northeast corner of the property?

MR. GRAF: There is a telephone pole there. Guy wires.

ADAM CUMMINGS: Is that what the squiggle is next to the inch mark?

MR. GRAF: I'm not sure.

ADAM CUMMINGS: It looks like a little guy running. I'm not sure of that symbol. I have to talk to the surveyor on that.

MR. GRAF: That is quite unlevel there.

ADAM CUMMINGS: Not possible to move the shed there?

MR. GRAF: Yeah.

PAUL BLOSER: Dave Lindsay has been spending considerable time on this, looking at options, where the lines really work. So he has -- that is why it has been pushed out for two months now?

MR. GRAF: Yeah.

PAUL BLOSER: For Dave to review it.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I'm confused. Is this a shed that this gentleman is going to rebuild, it did exist and now he is going to do something more with it?

PAUL BLOSER: I believe this was partially constructed and because of its location, he is now looking for a variance from what the assumed lines were to what they really are now. Now there is a setback issue.

DOROTHY BORGUS: So it is and it isn't built?

PAUL BLOSER: It is not finished. Based on the size -- I don't think he was going to need the permit on it or the --

ADAM CUMMINGS: It says it is 10 by 14.

MICHAEL NYHAN: Is the shed built?

PAUL BLOSER: He did need a variance for the shed, a building permit.

DOROTHY BORGUS: Did or didn't?

MR. GINOVSKY: Did not.

DOROTHY BORGUS: Did not need a variance for the size.

PAUL BLOSER: No, not for 140 square feet.

DOROTHY BORGUS: Okay. Because it is going to be 192.

PAUL BLOSER: Now that we have really defined where the buffer is there from the Town property, the easements with that -- that is why Dave (Lindsay) has been looking at placement, because there is some question up and down that line. He says everybody takes care



of the property up to that walking path. So they're kind of doing the Town a favor.

DOROTHY BORGUS: Well, you could look at it that way. You could look at it, too, that they're extending their yards.

PAUL BLOSER: Now, you know, this is what they're doing, squaring away. He is going to need a variance to continue building and finishing it.

DOROTHY BORGUS: I see. I'm confused, too. Now this shed is how many feet from the side lot line? 7 --

MR. GRAF: 7 foot 5.

PAUL BLOSER: This is to accommodate the grade that is back there.

DOROTHY BORGUS: It is how far over the back line?

MR. GRAF: 1 foot 3 inches.

MICHAEL NYHAN: It is no longer over the back line. You're moving it inside. 1 foot inside your property line?

MR. GRAF: Yes.

DOROTHY BORGUS: Oh, it is -- will be 1 foot inside the property line?

MICHAEL NYHAN: Yes.

DOROTHY BORGUS: I'm just looking at the drawing.

MICHAEL NYHAN: It is 1.3 feet over the property line. It will be moved 1 foot inside the property line.

MR. GRAF: And it is completely constructed. It was a finished, turn key, set and --

PAUL BLOSER: Drop in place.

MR. GRAF: Yes.

DOROTHY BORGUS: Um, I -- maybe this has an impact on your decision and maybe it doesn't, but I think that the Board should -- if they don't know about this situation, they should know.

When we have a Town park, everybody kind of feels free if there is not a fence there, they don't -- there is not a fence on their property, they kind of ease their way out into the park land. And that has been -- that is the case on Stuart Road with the County Park, and it has been a real problem if the Board doesn't know it in the -- what was Howarth's track there, south of Black Creek off of Union Street. They severely infringed there. Some of the sheds there are completely on the Town's property.

You know I think you have to draw a line here, fellows. Pretty soon everybody who is adjacent to any public land just thinks they can take it over. So unfortunately if this man has a built shed and the grade is such, he has a problem, but we have really got to enforce this, be keeping sheds off Town property and Town right-of-ways and Town easements and County property. You know you don't buy something next to public property and just assume you're going to gain, you know, a few feet. And sometimes more than a few.

So thank you.

PAUL BLOSER: Okay. Any other public comments?

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

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

MICHAEL NYHAN: You replaced an existing shed that was a foot and a half off the property line?

MR. GRAF: Same footprint.

MICHAEL NYHAN: You just replaced what was there when you moved?

MR. GRAF: Yes.

MICHAEL NYHAN: Now that property line has been determined you're moving that 1 foot inside your property line; is that correct?

PAUL BLOSER: It is no longer on Town property.

MICHAEL NYHAN: Okay.

JAMES WIESNER: There is plenty of room on the back side. Have you been mowing around it?

MR. GRAF: Yes.

JAMES WIESNER: No issues from that standpoint?

ADAM CUMMINGS: If there is a door on the back side, on the Town property, can I still store soccer stuff in there? (Laughter.)

MR. GRAF: No door, but you're free to -- I'm building a new garage, so you will have plenty of room in the shed. (Laughter.)

Paul Bloser reviewed the proposed conditions of approval.

PAUL BLOSER: You already have a building permit; is that correct?

MR. GRAF: Correct.

ED SHERO: There is no building permit for the shed. Is that what you're talking about, Paul (Bloser)? There is no building permit for the shed.

MR. GRAF: Yes, there is. It is hanging on the window right now. I paid for the shed and the fine, \$90.

ED SHERO: With the condition you were going to move it?

MR. GRAF: Correct.

ED SHERO: Okay. But that condition was that it was going to be moved behind the 5 feet. So I would ask then -- you're going to have to recondition that permit because you will have to rate the walls. Anything within that 5 feet. Or get a variance from the State.

MR. GRAF: Okay. Actually, I thought the condition was that it had to be moved onto the property. I don't think there was any -- you know, measurement conditions, it was just the 8 and 8.

ED SHERO: Well, at the time you asked for it to be 7 foot, 6 or 7 feet, it was outside the 5 feet. So the issue of the fire rated wall wasn't even an issue at that time. Now it is.

MR. GRAF: That's not for this Board, though, right? That is for the Building Department to --

ED SHERO: You have to get a State variance or fire rate the wall.

MR. GRAF: Correct. I will put 5-inch drywall on it.

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

Paul Blaser 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.

Michael Nyhan made a motion to approve the application with the following conditions, and Robert Mulcahy 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. Building Department final inspection is required.
2. Relief from required fire rated walls to be reviewed by Town Building Department and Fire Marshal for compliance.

The following finding of fact was cited:

1. The shed has been moved within property lines. However, setback is less than NYS requirements. Based on terrain this is the only spot available without major excavation. Applicant has been advised he will conform to required fire code construction requirements. This variance will have no negative impact to neighbors or environment.
4. Application of Chili Sports Entertainment, 328 Fisher Road, Rochester, New York 14624, property owner: Chili Ventures, Inc.; for variance to erect a second freestanding sign on property to be 5' x 3'2" double-faced externally illuminated at property located at 760 Chili Scottsville Road in AC & FPO zone.

Mario Gatti was present to represent the application.

MR. GATTI: Good evening. My name is Mario Gatti, and I own the clubhouse at the Chili Country Club. And what I am applying for is to be able to put in our own sign on the property where now there is an existing one for Chili Country Club. Um, in the packet, I put descriptions and drawings of what the sign should be. I have been in front of the Architectural Committee. I made the changes that they advised I should do.

Um, I put a photograph of an additional sign that is in the rear of the building for a restaurant, which normally doesn't -- I wouldn't need to put in there, but there was an issue with lighting that they weren't comfortable with, so I put it in this packet also.

PAUL BLOSER: Have you been before Architectural Review on this?

MR. GATTI: Yes.

PAUL BLOSER: I will add that --

JAMES WIESNER: We don't have a copy of it.

PAUL BLOSER: Of theirs?

JAMES WIESNER: Yes, what was said or --

PAUL BLOSER: I didn't get anything from them, so. I will put that down as a condition of approval anyway, that the Architectural does -- has signed off on it.

MR. GATTI: I understand they have done so. They approved it.

PAUL BLOSER: There was a sign out there when the previous restaurant was there and it was still a part of the Country Club. That restaurant when it went out of business, not that long ago, that sign was pulled down out front, but there has always been a sign up there for the restaurant, and then Vince Pompa, the owner, put the sign up for Country Club side of it and the -- the -- the clubhouse and the golf shop, so he has a sign permit for that.

So where he wants to put this is pretty close to where the original sign was.

MR. GATTI: It's within a couple feet of it. We just -- I'm getting closer to the building just to be within the codes. There is a -- it is a little too close to the end -- where the lot line

begins.

PAUL BLOSER: Okay. The lighting that you're requesting on here, um, it is externally illuminated, but it is from the ground -- ground lighting shooting up at it.

MR. GATTI: No, no, no. These -- the lighting is actually underneath the soffit of the little roof that is above it.

PAUL BLOSER: Okay. All right. Okay. I -- I'm sorry.

I do see that now on the print, how it is labeled.

This isn't really far off from what use to be up there.

Questions?

JAMES WIESNER: This encompasses a restaurant on the back. There used to be a party house kind of set down in. Is this behind the Party House where the restaurant is?

MR. GATTI: Yes. The whole building was still there, even the dining area that we're now using for our restaurant, portion of our restaurant, that was still there. All we have done is we have remodeled what used to be their locker room and actually remodeled the -- the old dining room and made it a sports bar and restaurant. The problem that we're having is there is no way to tell people where it is. So now that -- without lighting or anything else, the people that used to come, they still go to the party house thinking that is where things are at, and those doors are closed. Well -- unless there is an event going on. So if they don't walk around the building and find eventually these exits or entrances where we're at, um, they go home.

MICHAEL NYHAN: Two sign applications here, one for the back door and one for the front yard. Am I reading this correctly? Above the rear door is a fluorescent light or a lighted sign to go in? Is that right?

MR. GATTI: I included that because it is a similar -- originally I asked to do different type of lighting which the Architectural Committee didn't like, so based on their suggestions, I revised the type of lighting, the type of sign we'll have back there and the type of lighting that we'll use. So I included it in that package also.

But -- from my understanding --

PAUL BLOSER: This is the back of the building. It is not visible from the road or the driveways.

MR. GATTI: Correct. It will be attached to the building.

PAUL BLOSER: So when they're coming in at 9 or 18, they can see that the thing is there.

MR. GATTI: Correct. They can also see it from the parking lot once they get in. Where right now, they're totally lost.

PAUL BLOSER: Okay.

MR. GATTI: That's the biggest confusion, because there is a party house; and there is a restaurant with the bar. The new people know where the restaurant is. The old people trying to find us, continue to go to the party house, which is locked. So which -- we need a sign there, so they know where to go.

FRED TROTT: Um, no -- I guess no questions.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: I can understand this gentleman needs a sign. That sign is so busy, though. I can't read it from here.

Can you tell me what it says at the top? If you have a paper copy, I'm sure you can read that.

PAUL BLOSER: I can't because the machine is showing --

DOROTHY BORGUS: Maybe this gentleman can tell us.

MICHAEL NYHAN: Says, "The Clubhouse."

DOROTHY BORGUS: Oh, "The Clubhouse."

MICHAEL NYHAN: Below that, "At Chili Country Club," and then the street number.

PAUL BLOSER: It is just blurry because of that.

DOROTHY BORGUS: Maybe in real life it isn't that busy, but it looks terribly, terribly busy.

MR. GATTI: Part of the problem is there is all kinds of -- the dimensional lines on that drawing.

DOROTHY BORGUS: The print. I'm sorry, sir, I didn't clarify myself. The print, it just seems like a lot of, you know, print on a small sign. It -- it looks cluttered. I'm really -- I generally agree with the Architectural Review Committee and maybe they have their reasons, but I'm shocked they approved -- or maybe they did have comments on this -- you don't have them, I take it.

PAUL BLOSER: I don't have any comments, so I would put a condition of approval on this that Architectural does submit their approval for this.

DOROTHY BORGUS: What if you approve it and then you find their comments were negative?

PAUL BLOSER: Then it doesn't go through. I have to have their approval attached to this. That is why we put it as a condition of approval.

DOROTHY BORGUS: Then they would have to come back.

PAUL BLOSER: If it doesn't meet their standard, he would have to make a change, yes.

DOROTHY BORGUS: It just seems to me that "The Clubhouse at Chili Country Club," I guess that is what that says, it is just -- it seems as though that ought to be all in one color or

something, because it is so disjointed.

And do we really need the area code with the phone number? I mean, that is just something else that is unnecessary. And it just adds clutter. I guess I don't like the design. It is too much print and I just -- I don't like -- I don't like the looks of it.

I can understand he needs a sign. That is not the problem. But you could put a really, really nice sophisticated sign up there that would do the job and I don't think this sign is it.

Thank you.

PAUL BLOSER: Any other public comment?

BETTY GRIFFIN

MS. GRIFFIN: Betty Griffin. I just happened to be here tonight. I know what he is saying about the building. We had friends that tried to meet us one night and they couldn't find the entrance to the restaurant part. If there is a sign, other people coming in would know they park on the opposite side where the restaurant was before and they don't realize on the right side, facing the building you can go into his restaurant. There is no sign, no lights or anything. And I -- I just believe what he is saying is the right way to go.

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

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

PAUL BLOSER: I am going to put down on conditions of approval on this, a couple of things.

First of all, certainly that the building permit or the sign permit be obtained, and also, the -- that the Architectural Review Committee has reviewed this with their acceptance. So, in looking at the artwork on this, too, it's nothing centered on here, so I am assuming that is just a matter of everything is going to be centered?

MR. GATTI: Yes.

PAUL BLOSER: It is just a little out of alignment on the lettering, so.

MR. GATTI: It's just not drawn to scale. When we went to the 100 actual size. So I'm sure the logo probably could be a little larger as the young lady suggested. So we can adjust for that. Unfortunately, I'm dealing with a very small sign.

PAUL BLOSER: Well, you have applied for a 5 by 3 foot 2.

MR. GATTI: I'm not asking to change the size. Just the information on the sign she suggested, some of it should be fine-tuned, and I can agree.

PAUL BLOSER: Okay. And again, I -- you know, I'm not sure if you have been to Architectural, what their recommendations were, so we're going to look to them for recommendations for --

MR. GATTI: We spent meeting -- actually, I had John stop over to make sure whatever I was going to do was said and those were the changes that you are looking at, were based on the suggestions.

PAUL BLOSER: Okay. The third thing I'm going to put on here is your final drawing, once you're -- whoever is doing the sign for you, your final artwork, I would like it submitted to the Building Department, and we'll review it. They usually call me in just to verify that we're still within what we set for guidelines. So before you order it, proceed with it, whatever your final design is, get it submitted to the Building Department.

MR. GATTI: That's fine.

FRED TROTT: Are we going to put a condition of time, the timing that it is lit?

PAUL BLOSER: Um --

FRED TROTT: I'm just thinking we did that with the VFW -- or Legion, I'm sorry.

PAUL BLOSER: Yes, we can do that.

MR. GATTI: Only time I would need it from -- from dusk to -- to 2:30 in the morning.

PAUL BLOSER: Your business operation hours?

MR. GATTI: Yes.

PAUL BLOSER: You won't be lighting it during the day, anyway? Just at night.

MR. GATTI: No. It will be on a timer like the rest of the lights are. A few emergency lights outside, those end about 2:00, 2:30, I think. 2:30, because with -- we have to have a chance for our employees to get out, be able to see. That is the problem on that road. Especially our driveway, there is virtually no lights anywhere there.

PAUL BLOSER: So I will put sign illumination during business hours only.

MR. GATTI: Well, business ends at 2:00. I'm asking for at least half an hour after that.

ADAM CUMMINGS: Put 2:30.

MR. GATTI: You have to be able to close up and get out. It will be set on an automatic timer.

PAUL BLOSER: Maximum night hours lit to 2:30 a.m.

MR. GATTI: Thank you.

Paul Bloser reviewed the proposed conditions with the Board.

Paul Bloser made a motion to declare the Board lead agency as far as SEQR, and based on

evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and Adam Cummings seconded the motion. The Board all voted yes on the motion.

Robert Mulcahy made a motion to approve the application with the following conditions, and 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. Sign permit must be obtained from the Building Department prior to erection of the sign.
2. Approval from the Architectural Advisory Committee must be obtained.
3. Final drawing must be submitted to the Building Department prior to erection of the sign.
4. Sign lighting shall be limited to business hours of operation with power down no later than 2:30 a.m.

The following finding of fact was cited:

1. The sign request for the rear sign is obviously needed for customers. It cannot be seen from the road or any neighbors. The sign request in front is necessary for business recognition. In addition, the previous proprietor had always had a similar sign in size and nature but was removed as it was in a state of disrepair due to age. The addition of these two signs will have no negative impacts on environment or neighboring properties.

PAUL BLOSER: You open now?

MR. GATTI: We have been open for three months.

PAUL BLOSER: Good luck with it.

MR. GATTI: Thank you. We're doing pretty well.

5. Application of Leonard McGruder, owner; 109 Hillary Drive, Rochester, New York 14624 for variance to allow two sheds to be a total of 235 square feet (192 square feet) allowed at property located at 109 Hillary Drive in R-1-15 zone.

Leonard McGruder was present to represent the application.

PAUL BLOSER: Good evening.

MR. MC GRUDER: Good evening. My name is Leonard McGruder, and I'm residing at 109 Hillary Drive.

PAUL BLOSER: The shed you have got up there right now, the --

MR. MC GRUDER: The original, the original one you're referring to?

PAUL BLOSER: Okay. The one way out back.

MR. MC GRUDER: Oh, okay. That is the one I started to build, right.

PAUL BLOSER: Okay.

MR. MC GRUDER: The original one is the one right next to the house.

PAUL BLOSER: Okay. So you're looking to get -- do you have a building permit for the one in the back?

MR. MC GRUDER: No. I was told I wouldn't need one unless I kept it under 100 square feet. I was told I wouldn't need a building permit. Is -- I made sure that we kept it under 100 -- 100 square feet.

PAUL BLOSER: Okay. So this is just a variance because of the amount of square feet between the two of them.

MR. MC GRUDER: Right. Right. As a matter of fact, I didn't realize at the time that the -- of the allotment of square footage on the property, I didn't realize it at the time. I had a conversation with one of the ladies in the office and I explained to her that I just didn't have enough -- shed space, so I wanted to put up another shed. She said, "You got to make sure you keep it under, you know, 100 square feet if you put up another shed. Then you won't need a permit."

So that is why I started to do this without any further engagement with the Town.

In the paperwork that was issued to me, there was a statement -- there was a question asked, was this hardship caused by me, and, um, I think maybe you -- you guys probably already know about that. I was kind of tough for me to answer, but, um, what I did -- for the first two or three years, I tried using the garage, you know, for storage for equipment and lawn -- lawn equipment and stuff like that. I -- I would get these massive fumes I didn't realize I would get. You get them in the house, you get them all through the house. The house smelled like gasoline, so I just didn't have enough shed space to -- to house all of the equipment and stuff that I needed to care for for the property. I wanted to make sure that property is kept up. So this is my main reason for needing more shed space. I just don't have the space to store all of the equipment.

PAUL BLOSER: Okay.

How long before you anticipate this will be complete?

MR. MC GRUDER: Well, I'm hoping I can get it done before winter. I am working, so I kind of hit and miss at it, working part-time. But I really would like to get it done before winter, and I think I can, but I -- after I got the notice to -- to stop working on it -- I haven't done anything to it since that time, so I wanted to get it all put together and get it painted. So that is what I am hoping I can do, by winter.

ROBERT MULCAHY: Remove the small one.

PAUL BLOSER: You will maintain both sheds.

MR. MC GRUDER: Just the two larger. The little one, as far as I'm concerned, it is already shot. As soon as -- well, as a matter of fact, I'm not using it anyway. I don't even know what is in it. I think it is just some wood stored in it. But the condition of it -- I don't know how old it is. It was there when I moved there. But it looks like it has some age on it and it is gone. As soon as I finish the second one, I'm going to tear that one down. That one is coming down.

PAUL BLOSER: Okay. That be will be a condition of approval, that that third one be removed within 30 days of completion of the other one.

MR. MC GRUDER: Okay. Right. That -- that should be good. Unless we have a major snowstorm. I'm hoping I can finish this other one up before winter, so.

JAMES WIESNER: The shed is sitting on top of the easement back there. What is the easement for?

MR. MC GRUDER: I'm sorry?

JAMES WIESNER: Look at the property map. There is an easement called out. The shed appears to be right in the middle of it.

MR. MC GRUDER: The -- the new shed?

JAMES WIESNER: Yes.

MR. MC GRUDER: Or the little one? You referring to the little one?

JAMES WIESNER: If you look to the back of the property, where it has the double dashed line.

ADAM CUMMINGS: There two different lines there. The lower line is a -- is an overhead utility line.

The one above the two sheds is the easement line.

ED SHERO: Not an easement.

JAMES WIESNER: Not between those two lines.

ADAM CUMMINGS: No. The easement is farther up to the west.

JAMES WIESNER: So he is outside of it.

MR. MC GRUDER: I made absolutely sure that we were inside of our property line.

MICHAEL NYHAN: No questions.

FRED TROTT: None. He is within the -- on the side and setbacks, he is within that?

PAUL BLOSER: Yes. He is -- all of the setbacks.

FRED TROTT: It is hard to read on the print.

ED SHERO: Just one comment. When you came in for -- for some misclarification about whether electrical went to the shed or not?

MR. MC GRUDER: I'm sorry?

ED SHERO: There was electric going to the shed?

MR. MC GRUDER: The new shed?

ED SHERO: There was an electric line not going to the shed?

MR. MC GRUDER: No, no.

ED SHERO: No electric in the shed?

MR. MC GRUDER: No. Only portable stuff we would use from time to time, but no permanent electricity for that shed.

ED SHERO: You are correct, there would be no building permit required for that. If there was electric, we would require an electrical inspection but no electric, than -- okay.

MR. MC GRUDER: Right.

PAUL BLOSER: So no permits required at this point?

ED SHERO: That would be correct.

FRED TROTT: Why not build one big shed?

MR. MC GRUDER: I like the sound of it. I don't know if I can afford it -- what you're talking about. You mean like a 20 footer?

FRED TROTT: I take it, you got -- you get your 235, build one shed 235 and take down the other one. So you have one shed on the property instead of two.

MR. MC GRUDER: I don't know if I can afford that. You see I have already spent the money. But I do like that idea.

As a matter of fact, I thought about that, but -- but I would need permits, you know, and architectural drawings and stuff like that. So --

ROBERT MULCAHY: The one closest to the house is already built, right?

MR. MC GRUDER: Yes. Yes. That one --

ROBERT MULCAHY: He would have to tear that down. It doesn't make sense.

MR. MC GRUDER: I would love to do that, though, but I just can't afford it.

FRED TROTT: Could you add onto the one?

MR. MC GRUDER: No.

FRED TROTT: The one closest to the house.

MR. MC GRUDER: No, no. It is as it was.

It is just as it was. That -- I think that is a type that all of the homes in that area probably has, and I think it would -- probably was -- I'm guessing, but I think it was probably put there when they built the house.

ROBERT MULCAHY: That was there when you bought the house?

MR. MC GRUDER: Yes.

ROBERT MULCAHY: So your out-of-pocket for the new shed that is all --

MR. MC GRUDER: Right. Right. So far.

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

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MARYANN CONHEADY, 105 Hillary Drive

MS. CONHEADY: Maryann Conheady. I live next to him at 105 Hillary. The only concerns we have is he has been building the shed for three years. There is stuff all over, building supplies all over. All I want is when the shed is done, that it has a roof, and siding or painting and a door on it and stuff cleaned up from it.

I don't have any problem with it being the second shed on the property, because let's face it, the back of our property is a swamp. Okay? There is water there all of the time. Nobody goes back there. Okay? I'm just saying, I want it finished. I have no problem with the little shed by his house.

We all -- like he said, we all have them, but like from Home Depot. Everybody in our neighborhood was one. And as far as the other little shed, I never even thought it was on his yard. The kids call it the bee shed. It used to be filled with bees when we moved there. I don't think you have anything in that.

MR. MC GRUDER: No.

MS. CONHEADY: Who knows. I never been in it. You can hear bees when you walk by it. Nobody has been in it. I just want it so that it is finished with a roof and siding and -- and an end date, you know. I don't want it another three years.

But he said he would do it by winter, and I'm fine with that.

PAUL BLOSER: Okay.

MS. GRIFFIN: What is allowed in 1-15?

PAUL BLOSER: For -- for?

MS. GRIFFIN: For --

PAUL BLOSER: In the neighborhood?

MS. GRIFFIN: I guess we're the 1-15 zone on Hillary, and what is allowed in your yard for that? I mean, can you put up a couple of sheds?

PAUL BLOSER: You're allowed 190 square feet -- or 100 square foot without a permit. You can build something. But you're allowed 190, and anything above that, you have to apply for a variance for, and that is what he is here for tonight.

MS. GRIFFIN: I don't know his yard. I only see the front of his yard. But what I just wondered, how far, you know, is it? Is it right on top of a neighbors? Is it right on the lot line, all of the way around?

PAUL BLOSER: He is well within the setbacks required. He has to be 8 foot from the rear of any of the lot lines. He has to be 8 foot from them. He has -- he is within those.

MS. GRIFFIN: I'm not aware of this.

MS. CONHEADY: And there is also trees running the whole back, all of the way down our neighborhood. Like everybody's backyard, so you can't really see the neighbors' backyards.

MS. GRIFFIN: Oh, we can.

MS. CONHEADY: See, we can't.

MS. GRIFFIN: We're on the same side. So our -- so about four houses from his, we all have open space.

MS. CONHEADY: Oh, see, we all have the woods.

PAUL BLOSER: Okay.

MS. GRIFFIN: Just a question.

Bob 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 reviewed the propose conditions with the Board.

PAUL BLOSER: We want the same colors and materials so they look like they belong there.

MR. MC GRUDER: Right.

PAUL BLOSER: Not crazy colors or difference. Just like for like. It keeps it nicer looking on your property number one, but it is for the neighbor's benefit.

MR. MC GRUDER: Right.

PAUL BLOSER: Resale and everything else for the properties around you.

MR. MC GRUDER: Okay. Exactly.

PAUL BLOSER: One of the things I noted when I drove by is there is a lot of stuff around there, so with the garage now and two sheds, I'm going to put a condition of approval that no storage of lawn equipment, building supplies or any other outside storage -- everything needs to be in the shed or the garage? Ladders, it's lawn mowers, it's --

MR. MC GRUDER: Yes. It's a mess. That is what I am trying to get. Trying to get it straightened out.

PAUL BLOSER: Get everything cleaned up.

Completion date. What do we want to put down? The shed is up in the air now.

MR. MC GRUDER: It was -- three-quarters down. I'm three-quarters done with it, you know.

PAUL BLOSER: We need to get it closed up.

FRED TROTT: November 1st.

The Board discussed a proposed time frame condition.

PAUL BLOSER: I'm good with that. So this all needs to be done by November 1st. Okay? Solid couple months yet.

MR. MC GRUDER: Right. Right.

PAUL BLOSER: Everything cleaned up. Then you have got the month of November to get that little shed --

MR. MC GRUDER: Right.

PAUL BLOSER: -- torn down and get the materials out of it.

MR. MC GRUDER: Right. Yes, sir.

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 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 third shed, which is existing, must be removed (and all debris from inside) from the property within 30 days of the completion of the new shed.
2. Siding type, colors, trim and roofing materials to be consistent with the other shed and the house.
3. Storage of lawn equipment or building supplies or any other outside storage is prohibited.
4. Property and shed surroundings to be cleaned up of scrub brush, overgrown grass and weeds, and all other debris and building materials.
5. Completion of new shed shall be done by November 1, 2011.

The following finding of fact was cited:

1. While the size of the sheds are not significant in nature, the fact that it has been under construction for more than three years now is offensive to neighbors. Due to the size of the structures a building permit has not been required. Appropriate conditions of approval have been placed and when completed, this project will have no negative impact on neighboring properties.
6. Application of John Humnicky, owner; 38 Fenton Road, Rochester, New York 14624 for variance to erect a utility shed to be located in the front setback area, 10' from front lot line of the buildable part of the lot (55' req.) at property located at 38 Fenton Road in R-1-20 zone.

John Humnicky was present to represent the application.

MR. HUMNICKY: My name is John Humnicky. I live at 38 Fenton Road.

PAUL BLOSER: All right. From the road we can't see anything, so tell us what you got going on back there.

MR. HUMNICKY: Nothing. You won't let me. Um, yeah, I -- I was hoping to put up a shed. Actually, I wanted to purchase a -- it's an Amish prebuilt shed. It's very, very nice construction. It matches the house, the colors. And -- so I wrongly assumed that the front of my house was the front of my house, and it turns out when we applied, that my property is



land-locked between Fenton Road and Chestnut Drive, is it, or -- and I have 20 something neighbors. And you can't hardly even see my house from the road. My driveway is 250 feet, and so I have a very limited amount of lawn besides the fact. 7/8 of my property is wooded. The property is -- which surprised me how much terrain there is, in there.

And so there is very little level ground on the property.

But at any rate, where I am proposed on the maps that you have, um, to put the shed, um -- along that lot line, um, I have all sorts of sheds from everyone else's backyards in my front yard or what you guys are considering my front yard.

So -- which I don't -- you know, that is no problem. Their houses sit way out on Fenton Road. They're quite a considerable distance from me. So I talked to all of the neighbors and they're all -- they -- yeah, sure. They -- they kind of laughed, you know.

But it's a unique situation because the piece of property is land-locked, and the frontage is considered -- the way that my house sits on the property, the front of my house is actually the side lot. You know, the side of my house is the front lot. Um, I have some pictures. I don't know if it would -- if I can bring them up and put them on -- I don't know if they will show up.

Can I do that? It may or may not help you. This (indicating) one on the top, you come up the driveway, and, um -- and you can see my neighbor's sheds. There is one -- this is one house (indicating), two houses (indicating), and then there is a barn right here (indicating). This is a little parking area (indicating). The bottom picture -- it's a little burned out. Let me see if I have a better one of the driveway. Um, you come up the driveway, though, and -- and to this side of the driveway (indicating) is this stuff right here (indicating). Then to the -- to the other side of the driveway, you have this (indicating). And this is where I am proposing to put the -- the shed, back here (indicating). If you see, you can barely even see the neighbors' yards in the back there. Um, the -- the -- let's see if I have a better -- here is my front yard (indicating), and in the back here, it kind of shows how far back it would be from the actual front of my house.

Um, so it -- it is an odd situation. We're land-locked. I'm kind of trapped. So -- so if you add up to, um -- you guys have your -- the -- the setback. If you look at that plot map, the -- the front of my house, the -- the front edge of the property is 250 feet long. If you take the 65 feet that the house is set from that property line, subtract it from that 250, then subtract the 96 from the other side of the property line, you end up with 90 feet I have that I can put that, um, shed in. It has to -- that would have to fall in the back of the house and if you look -- this thing is kind of getting so much glare off it. It goes back to, like -- I could pass these around if you want.

The property is totally -- it's hills and gills and glacial -- I think they're glacial type deposits -- you know it would take an enormous amount of -- I would have to have a -- the property, um, at least somewhat bulldozed and then you will have erosion issues that would have to be taken care of and walls and everything. So long story short, my neighbors are cool with it. You guys, I know it is a unique situation. I'm hoping that you guys will allow me to put this nice looking shed back there.

MR. MYER: If I'm reading this right, the shed will be 10 foot off your neighbor's back lot line.

MR. HUMNICKY: Yes. If you went by the side setback, it is supposed to be 8. I will give it 10.

I will muck it up. I have it marked at 76. It actually falls -- I did -- in one of the pictures you saw, I dropped an ash tree. It had ants in it and stuff. Because of the roots and everything I wanted to shift it to 66 feet from that fence, so it would be 10 foot forward which is still well beyond the back edge of the house. So I would like to amend that to 66. But the 10 foot stays the same.

MICHAEL NYHAN: Okay.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

WILLIAM SHELTER, 91 Chestnut Drive

MR. SHELTER: William Shelter, 91 Chestnut Drive. I can see his house from my kitchen windows, and I can't -- I wouldn't even be able to see the shed, but I'm all for having him build a shed.

PAUL BLOSER: Okay. Thank you.

MR. HUMNICKY: Support. Thank you.

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

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

FRED TROTT: Which one are you planning on building or -- are they prebuilt?

MR. HUMNICKY: They're prebuilt. So it is the high side barn and the -- I believe on the back side you will find, um, all of the dimensions. 6 foot side wall. It is 10 foot to the peak.

Um --

FRED TROTT: You will match it to the house?

MR. HUMNICKY: The colors match the house. The white which is yellow, which I don't understand that myself, but -- and white trim with black shingles to match the house, so yeah.

PAUL BLOSER: Only condition of approval I'm putting on here is that the building

permit be obtained.

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 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 condition:

1. Building permit be obtained prior to shed placement.

The following finding of fact was cited:

1. This lot is peculiar in that it cannot be seen from the street and all sides of This lot borders up to someone else's back yard. The shed is consistent with neighboring sheds in size and style. Placement will not impact any neighbors nor is there any environmental impact. Placement of shed is the best due to the terrain of the lot without any major excavation.

The 7/26/11 Zoning Board meeting minutes were approved.

The meeting was adjourned.