

CHILI ZONING BOARD OF APPEALS  
September 22, 2009

A meeting of the Chili Zoning Board was held on September 22, 2009 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: David Cross, Adam Cummings, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Ed Shero, Building & 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: Any Board members have any problems with the signs, everybody posted?

DAVID CROSS: Motion to hear all of the applications.

JAMES WIESNER: Second.

The Board indicated they would hear all of the applications.

1. Application of Charles Kirk, owner; 31 Chi-Mar Drive, Rochester, New York 14624 for variance to allow existing inground swimming pool to be 3'4" from proposed enclosed porch (15' req.) at property located at 31 Chi-Mar Drive in R-1-12 zone.

Charles Kirk and an unidentified speaker were present to represent the application.

PAUL BLOSER: Tell me a little bit about what you're doing here.

MR. KIRK: Okay. So we had an existing sun room that we have removed in preparation for this project that was 9 by 24, and we're proposing to build a new sun room porch that is 14 feet wide by 11 1/2 feet deep. We have pictures of the previous sun room. And where we have -- expect the proposed sun room to go.

PAUL BLOSER: The old one is already off; is that correct?

MR. KIRK: That's correct.

PAUL BLOSER: Siding that is going on the new one, it looks like it is pretty much glass enclosed?

UNIDENTIFIED SPEAKER APPEARING WITH APPLICANT: Actual pretty much a screen enclosure.

PAUL BLOSER: One of the modular types?

UNIDENTIFIED SPEAKER APPEARING WITH THE APPLICANT: Yes.

PAUL BLOSER: Where the open space is for the back of the house, where the old porch came off, you have a blank space now. How is that being filled in and with what? The original length was --

MR. KIRK: It was 24 feet and now will be 14 feet.

PAUL BLOSER: Right. That extra spot now where the porch came off, just --

MR. KIRK: Just open patio.

PAUL BLOSER: Siding wise?

MR. KIRK: Open siding. The whole house was sided. The siding was left off when the old porch was put on, so when that was pulled off, it is still just siding.

PAUL BLOSER: So it is matching siding?

MR. KIRK: Matching siding with the rest of the house.

The new porch will be up at the same level the room it is coming off of. Instead we came down a couple steps to the patio level. The new plans, it will go straight out from the room that is adjacent there, right into this room. There will be steps down to the new room. We plan to have the door back about where the 11 -- 11 1/2 feet is, as close into that side wall as possible along there, facing away from the pool.

PAUL BLOSER: Is the pool fenced in?

MR. KIRK: Pool is fenced. It is shown on there -- shown on the picture there.

PAUL BLOSER: On the blueprint there.

That fencing, will that go -- it will not come in contact with the new sun room at all, correct?

MR. KIRK: Not -- not at all, no. It will stay where it is.

PAUL BLOSER: A comment that I do have from the Building Department is that if this was to go through, um, one of the conditions we would like to look at is making sure that the pool is up to code with alarms and motion sensors.

MR. KIRK: Sure. I -- I came in and talked with them about it, and they talked about that when I -- when I had submitted the application.

PAUL BLOSER: Okay. Just more so an in-ground pool than an aboveground pool. Burglars get hurt, they can sue people. (Laughter.)

ED SHERO: Just a note that the room that was removed was never permitted by the Town. And I do ask if they do grant a variance that the Board condition it -- this would have to have a set alarm on it. I ask all of the doors into the fenced area be alarmed and a motion detector put on the pool.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: Maybe I just had my question answered. I was thinking that the pool was never far enough away from the house even before this happened, but if the porch was built illegally, I guess that answers the question.

PAUL BLOSER: Correct. And now the porch is gone.

DOROTHY BORGUS: In a case -- in a case like this, is there a penalty then for somebody building illegally? I mean, we can -- it doesn't seem right to come in and fix everything right now. We have a problem. It seems to me there should be some penalty for ignoring the law in the first place.

MR. KIRK: It was an existing room when I bought the house. It was missed by the lawyer.

DOROTHY BORGUS: Poor lawyering again. That would have been found, I guess.

David Cross 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.

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

The Board discussed the application.

Paul Bloser reviewed some proposed conditions with the Board.

KEITH O'TOOLE: To clarify, Mr. Chairman, what we really want them to do is to conform to State Building Code, which covers alarms, gates, the whole thing.

PAUL BLOSER: That is why I put on the one -- all permits and applications per Town Code.

KEITH O'TOOLE: We don't want just the permits and applications. We want to have the work inspected and we want it certified as complete.

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 Fred Trott seconded the motion. The Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. All permits and applications per Town and State Building Codes to be inspected and approved by Town Code Enforcement.
2. Motion sensors and alarms to be installed on all fence gates and access doors.
3. All conditions to be compliant with NYS Building Codes.

The following finding of fact was cited:

1. Requested variance will not create an undesirable change to the neighborhood or the nearby properties.
2. Application of Mr. & Mrs. Marty Zsolnai, owner; 10 Spicewood Lane, Rochester, New York 14624 for variance to allow existing 10' x 12' utility shed to be 5 1/2' from side lot line (8' req.) at property located at 10 Spicewood Lane in R-1-15 zone.

Marty Zsolnai was present to represent the application.

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

MR. ZSOLNAI: Marty Zsolnai, 10 Spicewood Lane.

PAUL BLOSER: This is -- this was on the site when you purchased the property?

MR. ZSOLNAI: Yes. The survey is from the time we bought the house in May of 1999.

PAUL BLOSER: When did you buy the house?

MR. ZSOLNAI: May of 1999.

PAUL BLOSER: Do you know when the shed was put in?

MR. ZSOLNAI: No. Everything existed when we moved in, so.

PAUL BLOSER: Is this something you're making a change to, or are you selling the property?

MR. ZSOLNAI: We're planning to sell the property.

PAUL BLOSER: You're trying to get everything compliant with this one?

MR. ZSOLNAI: Correct.

FRED TROTT: Is this shed part of the sale? I mean if you -- could you take it down or would you lose the sale?

MR. ZSOLNAI: I'm not sure. We don't plan on taking it down. I would think it would be a plus to have it, as a sales point when selling the property.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

David Cross 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.

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

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

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

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following finding of fact was cited:

1. Requested variance will not create an undesirable change to the neighborhood or the nearby properties.

Note: A building permit is required.

3. Application of Daniel Boon, owner; 20 Berna Lane, Rochester, New York 14624 for variance to erect a 6' x 4' double-faced freestanding sign to be a total of 48 sq. ft. (32 sq. ft. allowed) at property located at 3520-A Union Street in G.I. zone.

Daniel Boon and Matt Boon were present to represent the application.

PAUL BLOSER: For the record, state your name and address.

MR. DANIEL BOON: Good evening. Dan Boon, 20 Berna Lane.

Um, coming in front of you tonight we're asking to go a little larger than code for a sign over Union Street. Basically, I will let my son explain it to you quick, if there is any questions on it.

Basically what we're asking to do is because of the speed down the street and how far we have to set it back, that we would just like something a little larger. We have a fair amount of our customers that don't want to buy the stamp and they always come into the office to pay their bill. It makes it hard, most of them are a lot of elderly people that want to do it, because they don't have anything else to do all day. We already had issues where they can't see it, and it -- just the speed of the road, I don't want to have an accident there. We're trying to get something a little larger to give them a half a chance to find us, okay?

PAUL BLOSER: Is this approximately being placed where your location sign is right now?

MR. DANIEL BOON: It will be back more. That sign really is not -- that's --

PAUL BLOSER: On that side of the driveway?

MR. DANIEL BOON: Yes. It has to come back.

PAUL BLOSER: Just away from the road farther?

MR. DANIEL BOON: Correct. It will be about where that is at, back in about another --

MR. MATT BOON: For the record, Matt Boon for Boon & Sons, 3520 Union Street.

This site plan -- I can probably explain it a little easier.

The sign that you're referring to now which is the temporary sign, just for informational reasons is -- it's approximately right here where my finger is (indicating), and the proposed sign will be right here (indicating).

The reason it needs to be right here (indicating), is this dark line right here (indicating), is the right-of-way, and in order to comply with code, we need to be 15 feet within the property from that right-of-way.

So that is part of the reason why we're applying to have the sign slightly larger than code. Code says it can be a grand total of 32 square feet, 16 per side. The one that is there right now is actually to that size. It is 4 feet by 4 feet, so 16 square feet per side. We're proposing this one to be 6 feet wide and 4 feet tall, so it will be 2 feet wider than what you see there right now.

Like I say, the biggest reason we're requesting a variance to do that is just because overall, this right here (indicating) is indicating a road sign that is just off the edge of the road, so it runs approximately right down through here (indicating). This measurement from the edge of the asphalt out to where the sign is is an approximate total of 35 to 40 feet off the edge of the road. Um, 45 mile an hour posted speed limit down Union Street right there, we're just looking to make the sign large enough so that someone coming down through there will notice where we are soon enough to safely signal and make the turn.

FRED TROTT: How far back is the other sign, the existing sign there? Is that where this one would be also?

MR. DANIEL BOON: No.

MR. MATT BOON: No. I don't know the exact dimension, but I know it is roughly right here (indicating), in accordance to this map. The edge of the asphalt is about right here (indicating).

So we have to go almost twice that distance to fall within right-of-way of code.

PAUL BLOSER: The posts themselves, are those just a wood post?

MR. MATT BOON: Yep. They're going to be 4 by 4, um, posts. They will be painted, so they will be painted to match. The sign colors will be -- going to be red and black, so the posts will be painted the same black as the detail in the sign, and then the -- the finial tops that are on top to kind of dress it up a bit.

DAVID CROSS: Lit?

MR. MATT BOON: No, not lit.

PAUL BLOSER: No lighting?

MR. MATT BOON: No.

PAUL BLOSER: My only comment on the posts themselves, being wood, um, I guess I would like to see them more 6 by 6 as opposed to 4 by 4, if that is possible. Not much bigger, but being back and the size of the sign, um, I think it gives it a little more presence of a little -- little heavier, little stronger. If that wouldn't be a problem. Something I would like to see myself.

We're not at a bad height like some sign requests have been, and there is a fairly good drop-off there.

MR. MATT BOON: Right.

PAUL BLOSER: So we have looked at doing some monument signs around -- and this one I think would look better in this respect, than trying to have it taper on Union.

Are you putting anything around the posts in the ground, any plantings or any shrubs or anything?

MR. MATT BOON: Possibly down the road. Initially, no. Possibly down the road we might do a planter around it.

PAUL BLOSER: Pretty much all gravel there right now?

MR. MATTHEW BOON: Yes.

MR. DANIEL BOON: Grass.

MR. MATT BOON: Mowed weeds.

PAUL BLOSER: I know. It has been really unfinished.

FRED TROTT: Do you plan on having your phone number on there?

MR. MATT BOON: No.

FRED TROTT: Why is that?

MR. MATT BOON: I guess I never envisioned someone actually stopping there to get the phone number off of it.

FRED TROTT: That is my only thing. I wouldn't want them to come back in two months and say, "Oh, we need space to put the phone on there."

You know.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: It's a good-looking sign, and it is very clean-cut, and with the speed there on Union Street, I can understand this man's request. He has to be back a certain distance and the sign he has there now really wouldn't do the job. If that is code, it's not big enough.

He should be commended, too, for the job he has done. That site is beautiful.

PAUL BLOSER: I'm getting to that.

DOROTHY BORGUS: It's quite an improvement. It is great. Thank you.

PAUL BLOSER: Thank you.

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

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

PAUL BLOSER: I think it is very reasonable. I think it is very tasteful. I thought about the phone number thing, too.

MR. DANIEL BOON: We just need to let them know where to come in. That's all. Basically that is all we really want it for. It is just to have them in -- guide them in the right place. It is 45 down through there and not many go 45. I'm just afraid something is going to happen, is all. That's why when I stood in front of you before, I never asked for the sign because I didn't think it would be a big issue. But now people are trying to find us, so...

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

PAUL BLOSER: What is the thought on heavier posts? I see the sign next door in 4 by 4s, and it really looks -- it is not a huge expense.

MR. DANIEL BOON: We'll beef them up. I'm all right with that.

PAUL BLOSER: Okay.

MR. DANIEL BOON: We'll make them 6 by 6.

Paul Bloser discussed proposed conditions with the Board.

Fred Trott made a motion to approve the application with the following condition, and David Cross seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following condition:

1. Post uprights to be upsized from 4" x 4" to 6 x 6".

The following finding of fact was cited:

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

Note: A sign permit is required.

PAUL BLOSER: Mr. Boon, I would like to echo what Mrs. Borgus said. The building is great. It looks better now than what it was brand new, some 30, 40 years ago. You did a great job.

MR. DANIEL BOON: We're proud of it. It came out well. It's doing a good job for us.

PAUL BLOSER: There was a lot of conditions put on you through site plan and everything. And from what I have seen, you have met and exceeded those conditions.

MR. DANIEL BOON: It's going well. We thank all of you.

PAUL BLOSER: We do appreciate that.

MR. DANIEL BOON: All right. Thank you very much. Good night.

4. Application of Richard Long, owner; 71 Bellmawr Drive, Rochester, New York 14624. for variance to allow existing 16' x 16' deck to be 20' from rear lot line (40' req.) at property located at 71 Bellmawr Drive in R-1-15 zone.

Richard Long was present to represent the application.

MR. LONG: We purchased the house back in June -- I'm sorry, May. Closed on it in May, and everything went well at closing.

In July, we got a letter from the Town saying that our deck did not meet code because there wasn't any permit on file. So we came down to do the application for the permit, and then we were told we need a variance because the deck is not 40 feet from the -- our neighbor's property.

The deck was there when we bought the house, and as far as we know, it has been there over 14 years.

PAUL BLOSER: The deck has been there over 14 years?

MR. LONG: Yes. On the tape map it shows that it is a concrete pad. Why, we don't know. But it is a deck. And just by looking at the deck, you can tell it has been there a while.

PAUL BLOSER: Couldn't really see it when I drove by, from the road. It is just not visible. I can see by the shape of the road and the -- what we see in the print, what you have got for lot shape, which -- it is not a square lot. So the size I don't have a problem with.

Um, I am a little -- I guess I got a question on the build of it, Ed (Shero), if you can answer. The notes I'm seeing here, the permit was applied for in May of 2009?

ED SHERO: Application was made by the previous owner, and just application. No plans, no plot plan.

When I went out there -- I don't know how the survey picks up the concrete pad, because it is clearly a wooden deck. When I went out there, a footing inspection would have to be verified. They didn't even make much of an attempt to do that. My understanding was both the buyers and the seller's attorney knew about the deck. I don't know if that -- so they knew at closing that you

had a problem with the deck. And it's -- it is going to have to be verified whether it will even pass the code.

Even if you get the variance -- it is very low to the ground -- that this deck will even pass code. It will be a condition that you ask for.

PAUL BLOSER: I would agree that would be a condition, that again, building codes would have to be -- all of the conditions have to be met, condition of approval.

That is for your safety as well as what the code is, just structurally, so that it is a solid deck.

DAVID CROSS: Are you agreeable with that?

MR. LONG: Yes.

DAVID CROSS: Like two months from the decision tonight?

MR. LONG: To get it inspected?

PAUL BLOSER: Yes.

MR. LONG: Okay. The Town does the inspection.

DAVID CROSS: 60 days.

PAUL BLOSER: Right. To -- permits.

MR. LONG: We did apply for the permit, and we were told you have to be inspected. They would come down and dig out by one of the posts to make sure it was in the ground properly.

PAUL BLOSER: Correct.

ED SHERO: We couldn't do anything without the variance first.

MR. LONG: Right. So we had to apply for the variance first. Before we can get the permit.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CARL MULANEY

MR. MULANEY: I live directly in back of Barb and Rich (Long). That -- that deck has been there at least -- I think if my memory -- about 14 years. It hasn't gone any place. Don't bother nobody, and I think it should be there. Because the lot -- the lot is narrow, and everybody should have a deck. And the fact it has been there for so long -- mine has been there for at least almost 20 years and hasn't gone nowhere's. It hasn't shifted, done anything.

I recommend that they -- that you okay their -- approve their application.

PAUL BLOSER: The deck itself, I -- I don't think is the question. It is -- there is building codes that have to be met, and we want to make sure that it complies to the building codes.

MR. MULANEY: Such as? Just out of curiosity?

PAUL BLOSER: Footer depth. How -- how the footers are put in and at what depth.

MR. MULANEY: Was this -- I just ask, was this law -- was this regulation that -- the depth of the whatever it may be, in effect, 14 years ago?

PAUL BLOSER: Yes.

MR. MULANEY: They just moved in. The house was there -- it may be Cheryl, she was there for a long time.

PAUL BLOSER: The structure has to comply.

MR. MULANEY: It has been that long?

PAUL BLOSER: If there was ever to be a problem with it structurally, you could be denied insurance coverage. The list goes on. The law is the law.

MR. MULANEY: I'm asking, every deck in the Town of Chili, the posts have to be a certain depth in the ground?

PAUL BLOSER: By code.

MR. MULANEY: They're all verified?

PAUL BLOSER: I can't say they're 100 percent verified, but as we come across them, they're being verified.

MR. MULANEY: Thank you.

PAUL BLOSER: There have been times when property owners have been made to redo footers and go deeper. The code is the code. We can't get around it.

MR. MULANEY: I just wonder because it is preexisting. The deck was there when they bought the house.

PAUL BLOSER: I understand. Appreciate your input.

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.

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

PAUL BLOSER: You can't see it from the road. It is a very mature lot, trees, shrubs. Neighbors behind them commented they have no problems with it. That would be an important thing to me to hear.

As far as the code, though, that structurally -- I'm adamant about codes for building purposes must be met structurally. So I would put a condition of approval that permits be filed within 60 days, going into the fall.

Paul Bloser discussed 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 Fred Trott seconded the motion. The Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Deck must be compliant with NYS Building Codes and inspected by Town Code Enforcement.
2. Location of deck accepted as proposed.

The following finding of fact was cited:

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

Note: A building permit is required.

5. Application of Melissa Jenkins, owner; 19 Adela Circle, Rochester, New York 14624 for variance to erect an 8 1/2' x 8' deck to be 25' from front lot line (30' req.) at property located at 19 Adela Circle in R-1-15 zone.

Melissa Jenkins and John Jenkins were present to represent the application.

MS. JENKINS: Good evening.

PAUL BLOSER: For the record, state your name and address, please.

MS. JENKINS: Melissa Jenkins, 19 Adela Circle.

PAUL BLOSER: Going by this, it looks like you're putting a small deck on the front?

MS. JENKINS: Correct.

PAUL BLOSER: It has been started. There are a couple other properties in the area that have similar -- these houses were built fairly close to the road. The codes were different for the setbacks when the houses were put in.

I guess I will ask the question here, have any of the footers been inspected on this?

MR. JENKINS: No. I went -- when I started -- I'm John Jenkins. I'm Melissa (Jenkins)'s dad. I live at 41 Spicewood Lane.

Melissa (Jenkins) was under the understanding when we started that she could repair what was there with the deck, and that is why the work got started. And Mr. Shero came along and asked me about it, and I said I didn't have a permit because I explained to him what I was told.

And he said, "Okay." He said, "but I don't want you to go any farther."

He helped me out and we measured it out, and we figured it was over the variance -- or I mean, the 30 foot property line, and he has been more than helpful, I got to say that. I mean I -- I definitely wouldn't have got started if I thought it was going to be a problem.

So he has told me what I have to do. I went down 30 inches on the original one and poured Sacrete around the 4 by 4s.

It's very solid, but I understand now there has to be a footer, and, um, if you allow the variance, the first thing I will do is dig the holes and give him a call and we'll go from there.

PAUL BLOSER: That is the procedure. That is fine. That will be a condition of approval, that it will be inspected and performed according to New York State Code. The size of it and the setback, I personally don't have a problem with it. I'm one voice up here.

From the road, it looks pretty square, pretty solid what you're doing construction wise. So we'll go from there.

JAMES WIESNER: What materials will you be using? Will it match the house and doors and materials?

MS. JENKINS: It will be wood, and I will probably stain it to match, um -- probably -- I would say probably just like a neutral brown. The house is tan with maroon shutters, so -- before I -- you know, before I decided to replace it, the steps that were there that were concrete were crumbling, and, you know, the metal handrails were bent. I mean, it was -- it was in pretty -- pretty good disarray, so it will look much nicer.

JAMES WIESNER: It is nice when the porch blends in with the house when you're done.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Paul Bloser discussed proposed conditions with the Board.

Jim Wiesner asked if they should condition the color of the deck.

MS. JENKINS: I will not go very dark with it. It will probably be pretty close. I would like it as natural looking as possible. So probably even a clear stain would look nice, I would think.

MR. JENKINS: She is the decorator queen. If it doesn't look good, she won't have it that way.

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

David Cross made a motion to approve the application with the following conditions, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Front deck to be inspected by Town Building Department.
2. Construction shall be in accordance with NYS Building Code.

The following finding of fact was cited:

1. Requested variance will not create an undesirable change to the neighborhood or the nearby properties.

Note: A building permit is required.

6. Application of Leszek Sobstyl, owner; 1 Rock Island Road, North Chili, New York 14514 for variance to erect a 16' x 20' deck to be 36.4' from rear lot line (40' req.), variance to erect a 12' x 10' utility shed in front setback area, to be 37' from side lot line (55' req. abutting a street) at property located at 1 Rock Island Road in PRD zone.

Leszek Sobstyl was present to represent the application.

MR. SOBSTYL: Leszek Sobstyl, 1 Rock Island Road.

PAUL BLOSER: The deck, um, is that pretty much going to go where the patio furniture is, in the back? I think I --

MR. SOBSTYL: I want -- I want to make the deck -- first, I want to make a shed, that's what you call it. I live on a corner lot, and there is a lot of traffic.

When I buy the house in 2002, there was not too many houses. Now we have too many houses. We have windmill in my master bedroom. I can't sleep. On the side, you put the shed on this corner, take this little bit noise off the street, you know?

Talking about the deck, I like to put a deck, pressure-treated because I don't want to raise up my taxes high because already I pay taxes so high for this, my house.

PAUL BLOSER: But this is going right in the back now where you have patio furniture?

MR. SOBSTYL: Yes. Built in the back, yeah.

PAUL BLOSER: I see the location of the shed. It is a corner lot. Again, it is an odd-shaped one. It is a small backyard. There is some nice shrubs, nice trees along the road there, to give you some shelter. Not a lot --

MR. SOBSTYL: Contractor was supposed to put in more because he put me less. After I lay the second rows, I put them in myself. I think they be growing and no noise.

The first thing you say lot is deep 160 foot. Later when we come to do it, the lot is 20 foot short, you know?

PAUL BLOSER: The deck, you're just going to do a pressure-treated wood deck, correct?

MR. SOBSTYL: Yes.

PAUL BLOSER: What will the shed be made of?

Mr. SOBSTYL: I like to make the shed for the -- the floor for pressure-treated and 2 by 4. I like to match to the siding of the house.

PAUL BLOSER: Okay. That is -- was white vinyl?

MR. SOBSTYL: I think so. It's like off ivory color. Off white or whatever.

PAUL BLOSER: You want to put the siding on to match?

MR. SOBSTYL: I would like to make it look nice, you know. Because 10 by 12 is too small.

FRED TROTT: Let's make it a condition that the shed match the house.

ED SHERO: We're not making the shed any larger, though, are we?

PAUL BLOSER: No.

ED SHERO: The shed is still -- I misunderstood you. You want to make the shed larger?

PAUL BLOSER: The shed is 12 by 9.

ED SHERO: 10 by 12.

MR. SOBSTYL: 10 by 12. (Inaudible) I have 115 deck with no tax. All of Chili you have 120 square foot. Do we have to make it 12 foot by 8 by 10, went to shrink out. In my personal opinion, to make it 12 by 12, because plywood is 4, 4, 4. It is easy to make. I work in the construction. I know exactly how -- to save the material. And I have -- know I pay more tax. I like to be putting in 12 by 12, because it is easy to make. It is very faster, you know. Because I have to -- I don't have to cut it down. It is very easy.

PAUL BLOSER: So which are you looking to do? The 12 by 10 or 12 by 12?

MR. SOBSTYL: Depends what you will -- what you tell me. If you tell me 10 by 12, I do 10 by 12. If you tell me 12 by 12, I would put in 12 by 12.

ED SHERO: It is 10 by 12 there now.

MR. SOBSTYL: My wife say, "Oh, you can put the -- the table, chair, you know, there is no room for the lawn mower. Where you put the grill?"

I said, "I don't know."

JAMES WIESNER: So the shed is existing then, if I understand the conversation back and forth. The 10 by 12 is existing --

MR. SOBSTYL: No, it is not existing. This is a corner lot, and with the cars driving 10 o'clock, 11 o'clock, you can't sleep, you know what I mean? I think if I put this -- the building in the corner, I think this noise would be like -- to push it off of the house. This is my personal opinion, you know? Because it is really hard way to sleep. Because before there was only 50 houses. Now they build this Ryan and the other tracts, they're growing up like mushrooms. Every house has four cars, people driving to -- like back and forth. You can't sleep. You can't even open the window without hearing TV in the house.

PAUL BLOSER: Again, I will ask you, do you want a 10 by 12 or a 12 by 12?

MR. SOBSTYL: What would be the difference?

KEITH O'TOOLE: Mr. Chairman, why don't you give him the 12 by 12?

PAUL BLOSER: We'll give you a 12 by 12.

MR. SOBSTYL: Okay. Thank you.

PAUL BLOSER: I don't have a problem with it. And I understand from building, it's a lot easier to put up. It is a lot less work in the end.

MR. SOBSTYL: Exactly.

PAUL BLOSER: So your siding, everything comes in 12 foot lengths.

MR. SOBSTYL: Yeah. Exactly.

PAUL BLOSER: So for the record, we'll change the application on the shed to a 12 by 12.

FRED TROTT: I just don't think it will help him with noise, to be honest with you. But I don't have an issue with the 12 by 12 shed.

MR. SOBSTYL: The worst thing is, you sit down in the room watching TV, you think the car driving is straight through your room.

FRED TROTT: Is your master bedroom on the second floor?

MR. SOBSTYL: Yes.

FRED TROTT: The shed won't help you, I don't think.

PAUL BLOSER: Coming off the hill, it might a little bit.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: Isn't this a great deal like the application on Chili Avenue a couple maybe three months ago that you reheard last month and the applicant was required to move a shed off a corner lot? Because it looked like a pump station?

PAUL BLOSER: Yes.

KEITH O'TOOLE: I would disagree with that.

PAUL BLOSER: However, I'm -- it is similar because it is a front setback, but --

FRED TROTT: This is a lot different.

PAUL BLOSER: -- this is a lot different. That shed was actually in the front yard of the house, in the very front yard.

DOROTHY BORGUS: I don't see where the shed will be on this map. Maybe my eyes are bad. Is there a --

MR. SOBSTYL: Right in the corner.

JAMES WIESNER: Right up here, Dorothy (Borgus) (indicating).

DOROTHY BORGUS: It is in the backyard.

PAUL BLOSER: It is in the backyard, but they call it front setback because he is a corner --

DOROTHY BORGUS: It is in the back?

PAUL BLOSER: Yes, it is.

DOROTHY BORGUS: Okay. Fine. Thank you.

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

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

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

ADAM CUMMINGS: Rear setback. You're saying to meet the rear setback is actually 40 feet. If you measure it off, he is not in accordance with that. Would we want to restate that as being the side setback?

ED SHERO: On the shed it is 8 foot.

ADAM CUMMINGS: Off the property line. The way ours is reading it is a rear setback, which is required --

ED SHERO: Of the deck.

ADAM CUMMINGS: Oh, okay. So the other setbacks don't matter?

ED SHERO: 8 foot setback on the rear of the property. Sides and rear is 8 foot.

ADAM CUMMINGS: I just wanted to clarify side and rear because it is a corner lot.

There really isn't a rear. It is two sides and two fronts.

PAUL BLOSER: Okay. Then when I did --

ED SHERO: Well, actually it is a side, rear and two fronts. The rear of the house is to the rear of the lot line.

MR. SOBSTYL: The back of the -- it is a big lot. So I got --

Paul Bloser reviewed proposed conditions with the Board.

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

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Shed is to be 12' x 12' in size. Rear setback to be in accordance to code or greater (8').
2. Front setback as proposed (Union Street side).
3. Siding to match house and roofing.
4. Deck and shed to meet NYS Building Code and to be inspected by Town Building Dept.
5. Deck placement to be as proposed in application.

The following finding of fact was cited:

1. The requested variance shall not have any adverse physical or environmental effects.

Note: Building permits are required.

7. Application of Daniel Mulhern, owner; 2 Hunt Hollow, Rochester, New York 14624 for variance to erect a 21' x 13' open porch to be 30' from rear lot line (35' req.) at property located at 2 Hunt Hollow in PRD zone.

Daniel Mulhern was present to represent the application.

MR. MULHERN: What we're building is an open porch roof over a patio, behind our house on -- between our house and the pool, and then there -- the backyard is enclosed in, and behind the pool and the fence line is 1,000 feet of common area.

PAUL BLOSER: Can't see anything from the road.

MR. MULHERN: Along the road there, Paul Road, are some pretty large pine trees.

PAUL BLOSER: Right.

You don't have a -- a huge lot there besides.

MR. MULHERN: No. They call it a patio lot. It is one of the smaller lots in the area.

PAUL BLOSER: Is this the wood structure roof?

MR. MULHERN: Yes, it will be.

PAUL BLOSER: It will be wood?

MR. MULHERN: It will be wood, yes.

PAUL BLOSER: Will you shingle it to match the house?

MR. MULHERN: It will be shingled to match the house.

PAUL BLOSER: Are you capping off the wood with trim?

MR. MULHERN: Um, yeah. We're still working on that. It will probably be vinyl or --

PAUL BLOSER: To match the house?

MR. MULHERN: Yes.

PAUL BLOSER: Now, there is already a deck there or a porch there? Concrete pad?

MR. MULHERN: No. Just concrete -- um, patio stone.

PAUL BLOSER: So you're just going over the top of that?

MR. MULHERN: Just going over the top of that.

FRED TROTT: The -- your lot goes to the back and then there is that common space?

MR. MULHERN: Yes.

FRED TROTT: How far is that, how wide is that common space, do you know?

MR. MULHERN: I -- I would say 1,000 feet. It's pretty big from -- from my lot line to the next lot line, it is quite a bit. It is quite a distance. It's 100 yards easy.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Paul Bloser discussed 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.

Fred Trott made a motion to approve the application with the following conditions, and Jim Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. Meets all NYS Building Codes and to be inspected by Town of Chili Building Department.
2. Roofing, siding, and trim work to match the house in color and materials.

The following finding of fact was cited:

1. Requested variance will not create an undesirable change to the neighborhood or the nearby properties.
8. Application of Jacquelyn Freed, owner; 3101 Union Street, North Chili, New York 14514 for variance to allow existing above-ground swimming pool to be 52.7' from side lot line (55' req. abutting a street) at property located at 3101 Union Street in R-1-15 zone.

Jacquelyn Freed and Robert Freed were present to represent the application.

MS. FREED: Just one correction to this. Where it says "52.7," it would be 51. It was measured incorrectly.

PAUL BLOSER: How old is the pool?

MS. FREED: It was just put up.

PAUL BLOSER: Did you put a shed back there, too?

MS. FREED: The shed was existing there when we bought the house. But I believe there was a variance filed on that shed at that time. At the closing of the house.

MR. FREED: Previous owner got a variance on it. Never followed through on getting it inspected. I didn't find out until he came down.

PAUL BLOSER: Anything else that needs to be inspected on this property?

ED SHERO: The pool has never been inspected only because it was never permitted, which we couldn't permit, because there was no variance.

MR. FREED: That's my fault. I assumed the builder was getting a permit, and I was wrong.

PAUL BLOSER: I'm sorry, I can't hear you.

MR. FREED: I assumed the builder was going to get the permit for me, and I was told he didn't.

PAUL BLOSER: For the pool?

MR. FREED: The middle of the afternoon he had the walls up. He said, "Where is the permit?"

I said, "I thought you were getting it."

On the paperwork it said I was responsible, so.

PAUL BLOSER: Did you have any electrical inspections on it?

MR. FREED: Yes. We have paperwork on it now. I brought that in.

PAUL BLOSER: The only condition of approval I will put on this would be that it -- all structures be inspected and code compliant through the Town and New York State.

MS. FREED: Okay. And I would like to make just one more correction to my name. It should be L-Y-N instead of L-I-N-E.

PAUL BLOSER: Okay.  
MS. FREED: Thank you.

Paul Bloser discussed proposed conditions with the Board.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: I just have a question. If this is a brand new pool, how could it not be put in the right place?

MR. FREED: I will answer that question. I never applied for a permit.

MS. FREED: It was in the same distance as the shed was, and we thought that the shed was --

PAUL BLOSER: Apparently it was the builder that did it.

MR. FREED: I told them where to put the pool.

DOROTHY BORGUS: Well, I guess it is there.

PAUL BLOSER: It's caught and it is being brought up to --

DOROTHY BORGUS: Thank you.

MR. FREED: As a matter of fact, I had him come over the next morning. He said, "You have a project going on here."

And I said, "Yes, I don't have a permit."

But it was just before nine, so I was heading this way.

James Wiesner 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.

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

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

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

DECISION: Unanimously approved, as amended, by a vote of 5 yes with the following condition:

1. All structures be inspected/approved by the Town of Chili Building Department and Code compliant with Town and NYS Building Codes.

The following finding of fact was cited:

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

Note: A building permit is required.

9. Application of Betty Glende, owner; 158 King Road, Churchville, New York 14428 for variance to allow existing utility shed to be 7' from new garage (8' req.) at property located at 158 King Road in R-1-15 zone.

Betty Glende was present to represent the application.

MS. GLENDE: I'm Betty Glende from 158 King Road.

PAUL BLOSER: Just reading the notes on this, you supplied the prints to the Town for the location of the garage?

MS. GLENDE: Yes.

PAUL BLOSER: The location and where the shed was going to be.

MS. GLENDE: The shed has been there 13 years.

PAUL BLOSER: Did you have an architect put this together for you, a package, the prints?

MS. GLENDE: Yes. My contractor brought in sketches and Ed (Shero) sent us to get architect drawings, and he has them. Somewhere along the line, nobody measured from the back of the wall of the garage to the shed, so when they did the final inspection, we found we were short 12 inches.

MR. TREAT: Mike Treat from Treat Properties.

We're actually -- the shed is crooked to the property line, and we're actually only off like 7 inches on one end and a couple on the other. So we're just requesting a foot.

Most towns require 6 foot between buildings. Town of Chili requires 8. I don't know why, but we're like 7 foot 2 inches to 7 foot 7 on the one side. So minimal, um -- she had a variance

for the shed. We showed proof of that. We had architectural plans. We wanted to keep the garage equal with the back of the house. And they put the thing in there crooked. That is all I can say.

ED SHERO: I can add, apparently there was a misunderstanding with the -- the shed was on the plot plan, and I understood it to be approximately 15 feet, and I thought that was from the new garage, but as it turned out in subsequent conversations, it was from -- there was an area that was blacktopped and it was just -- just a misunderstanding between the homeowner, myself and whoever put the numbers on the plot plan.

PAUL BLOSER: Any concern with this as far as fire code or anything?

ED SHERO: No. Like Mr. Treat said, 6 foot is required distance and it does meet that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

PAUL BLOSER: Shed has been there a long time. Pretty straightforward.

The Board discussed the application.

PAUL BLOSER: Are you looking at final C of O at this point?

MS. GLENDE: Yes.

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.

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

DECISION: Unanimously approved by a vote of 5 yes with no conditions, and the following finding of fact was cited:

1. The requested variance is not substantial in nature or character.

The meeting ended at 8:16 p.m.