

CHILI ZONING BOARD OF APPEALS
September 23, 2008

A meeting of the Chili Zoning Board was held on September 23, 2008 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: Jordon Brown, David Cross, Adam Cummings, Tracy DiFlorio, Robert Mulcahy, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Chris Karelus, Building Department Manager; Keith O'Toole, Assistant Town Counsel.

Dennis Schulmerich, Town Board liaison, was also in attendance.

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.

The Board indicated they had no problems with any of the posting notification signs. The Board indicated they would hear all of the applications tonight.

1. Application of Finn Donaldson, owner; 770 Marshall Road, Rochester, New York 14624 for variance to erect a 13 1/2' x 7' open porch to be 39' from front lot line (60' req.) at property located at 770 Marshall Road in R-1-15 zone.

Finn Donaldson was present to represent the application.

MR. DONALDSON: Good evening. My name is Finn Donaldson, Jr. I live at 770 Marshall Road.

PAUL BLOSER: It is not a very big porch. Previous setbacks used to be 40 foot. When the new codes went through several years ago, we went to a 60-foot setback in this area. We're looking for a 39-foot setback. There are a few houses up and down the street, as I saw, that had these porches already.

Just looking at the sheet here, what are you constructing this with? I didn't really see any --

MR. DONALDSON: It will be made out of Trex wood.

PAUL BLOSER: Okay.

MR. DONALDSON: There is a concrete stoop there now, and it is deteriorating, so instead of repairing that, we decided to put a porch on which is probably 5 feet larger and longer than the stoop is now, and 1 foot wider. We're making it all maintenance-free wood on the front, and it will be an open porch, just extending the roof out to the porch.

PAUL BLOSER: Okay. You are putting a roof over it?

MR. DONALDSON: Yes.

PAUL BLOSER: Shingles or a flat roof or --

MR. DONALDSON: Shingles.

PAUL BLOSER: Do you know what the pitch will be?

MR. DONALDSON: The pitch will be a continuation of the house.

PAUL BLOSER: So you will use a similar shingle?

MR. DONALDSON: Yes.

PAUL BLOSER: The concrete stoop I guess is coming out of there then?

MR. DONALDSON: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

David Cross made a motion to close the Public Hearing, and Jordon Brown 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: I see this as an improvement to the front of the house. It will look nice up there and be consistent with what is going on in the rest of the neighborhood. I didn't see any issues here for drainage or anything else.

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

Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 7 yes with no conditions, and the following finding of fact was cited:

1. Design is consistent with character of the neighborhood and has no environmental impact.

Note: A building permit is required before construction begins.

2. Application of Greg Kimmons, owner; 6 Mercedes Drive, Rochester, New York 14624. for variance to erect a 16' x 12' open porch to be 31' from front lot line (45' previously granted) at property located at 6 Mercedes Drive in R-1-12 zone.

Greg Kimmons was present to represent the application.

MR. KIMMONS: My name is Greg Kimmons, 6 Mercedes Drive.

PAUL BLOSER: Thank you.

The previous application, did you apply for that one?

MR. KIMMONS: No, I did not. I wasn't aware there was one prior to that until this point.

PAUL BLOSER: That was in 1952.

I have to read the details. I wasn't around then either, so.

PAUL BLOSER: There is a house across the street, not quite as big, very similar. As I went down the street, I saw several. It is a nice, quiet residential neighborhood.

How are you constructing yours?

MR. KIMMONS: I'm also using the Trex deck, same as Mr. Donaldson. I do have an older existing concrete porch area that isn't deteriorating, but it's -- if you look at my house, it looks like a box. I don't know if they were trying to do experiments on styles or what, but -- so anyways, I want to put something on there to level it out and make it look a little better. We are going over the existing porch itself and using the Trex deck so it is non-maintenance also.

PAUL BLOSER: What about your roof?

MR. KIMMONS: No roof. Open porch.

PAUL BLOSER: Full open porch?

MR. KIMMONS: Yes.

PAUL BLOSER: Are you doing this yourself or a contractor?

MR. KIMMONS: Yes, I am. I am doing it myself.

PAUL BLOSER: You're aware of the building codes and what is required?

MR. KIMMONS: Yes, I do.

PAUL BLOSER: Same type of conditions. You will need to pull a permit. Drawings submitted to the Building Department in detail, and again, if you dig footer holes, they have to be inspected before you can fill them.

MR. KIMMONS: Okay. I understand.

ROBERT MULCAHY: Do you plan to ever put a roof on it?

MR. KIMMONS: No, I do not.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Jordon Brown made a motion to close the Public Hearing portion of this application, and Tracy DiFlorio 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 Adam Cummings seconded the motion. The Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 7 yes with no conditions, and the following finding of fact was cited:

1. Application will have no physical or environmental negative impact in neighborhood.

Note: A building permit is required before construction begins.

3. Application of Kenneth Biggins, owner; 20 Chili Riga TL Road, Churchville, New York

14428 for variance to allow the total square footage of garage area, including a new 16' x 24' two-story detached garage to be a total of 1,015 sq. ft. (900 sq. ft. allowed), variance for detached garage to be 12' from side lot line (50' req.) at property located at 20 Chili Riga TL Road in A.C. zone.

Kenneth Biggins was present to represent the application.

MR. BIGGINS: I'm Kenneth Biggins. I live at 20 Chili Riga Town Line Road.

PAUL BLOSER: Yours is a little bigger, but you have a narrow lot, I see. Do you run any kind of business out of the house?

MR. BIGGINS: No, sir.

PAUL BLOSER: What kind of building are you putting up? Talk to me about the construction you're doing here.

MR. BIGGINS: This is a Duro Shed, pre-fabricated building, in Batavia. The -- I have several acquaintances that have put them up for various purposes, very well constructed.

PAUL BLOSER: This will just be a roll-off onto a slab?

MR. BIGGINS: I believe that's what they're doing.

PAUL BLOSER: For the most part?

MR. BIGGINS: It may be coming in sections. I'm not positive.

PAUL BLOSER: What is the siding going to be?

MR. BIGGINS: It's going to be what they call a smart panel, which is a -- it has a baked-on primer.

PAUL BLOSER: What color is it?

MR. BIGGINS: The primer is a tan color.

PAUL BLOSER: Is that going to be the final color?

MR. BIGGINS: No. I would do it in white, with black to match the house.

PAUL BLOSER: What is the roof?

MR. BIGGINS: The roof is a shingled roof.

PAUL BLOSER: You are putting an overhead door on it?

MR. BIGGINS: Yes, sir.

PAUL BLOSER: What is the size of that?

MR. BIGGINS: I believe it is 9 foot across and 7 feet high.

PAUL BLOSER: Will you put electric in this?

MR. BIGGINS: I will be, just functional electric for lights and power along the sides if I need a power tool or something like that. Nothing extravagant. Just need a place to work and park a car.

PAUL BLOSER: Okay.

MR. BIGGINS: And to store some stuff upstairs.

PAUL BLOSER: Electric will have to be -- you will have to pull a permit for that?

MR. BIGGINS: Yes, I know.

PAUL BLOSER: And get approvals on that and inspection. Are you doing underground?

MR. BIGGINS: Yes.

PAUL BLOSER: Driveway going out to it?

MR. BIGGINS: There is currently a run, a driveway out to it. First it will be stone. My thought eventually being pave that and replace the existing paved driving -- driveway at the same time.

PAUL BLOSER: On your drawings I'm assuming you have septic out there?

MR. BIGGINS: Yes, we do. And the septic is on the other side of where you see the -- the patio on the back of the building. So it is more to the other side of the driveway, or -- of the house primarily.

PAUL BLOSER: Okay. That would be just a concern. I would want you to show your leech field --

MR. BIGGINS: Okay.

PAUL BLOSER: -- layout to the Building Department and Plumbing Inspector so it is reviewed so you have proper clearances on that before you do any kind of excavation. I would hate to see you have to move it.

MR. BIGGINS: I wouldn't want to have to do that myself.

PAUL BLOSER: But there are codes around that.

MS. DiFLORIO: The shed that's currently on the drawing, that's the one that is going?

MR. BIGGINS: Yes. That is at the end of its life.

MS. DiFLORIO: So that will be gone?

MR. BIGGINS: Yes.

MS. DiFLORIO: Thank you.

DAVID CROSS: What is the height of the proposed structure?

MR. BIGGINS: 16 foot, I believe. I'm sorry, 18 foot from the bottom of the pad to the top of the building.

JORDON BROWN: Is there any way this could be a little smaller so you would need less of a variance?

MR. BIGGINS: From a width wide -- what we're trying to do is currently we have a very small one-car garage and in it is everything. My generator for the winter when the power goes out. I have a four-wheeler with a plow on it for plowing the driveway, and then my tools and basically the whole garage. That existing garage is full.

Then I have the shed that is going away, and that's got my lawn mower, my trailer for hauling leaves and whatnot, and all of that stuff has to go into this structure, and I still have to have room to park my car and not have anything in the existing garage so that my wife can park her car in that garage. So I -- if push came to shove and it was the only way I could do it, I suppose I could, but it would really put a bind on the -- what we're trying to achieve here.

PAUL BLOSER: This is about the size of a normal 1 1/2 car garage?

JORDON BROWN: I know. It is just --

MR. BIGGINS: If I can -- when you look at the overall square footage, of course, it's a two-story structure, so it is not a shingle --

PAUL BLOSER: Right.

MR. BIGGINS: The other thing that does for us, it's not a real large house, and my work area down in the basement currently has everything you can imagine that is in blue bins and whatnot, and that upstairs in the garage is going to help to clear up my current work area down in the basement, as well.

PAUL BLOSER: What is your anticipated time frame for starting this?

MR. BIGGINS: Um, hopefully within the next month. Um, of course, that would be -- depending on getting everything squared away, but I would like to get it up before the winter comes.

JORDON BROWN: I guess I just wonder if he has discussed this with his neighbors.

PAUL BLOSER: Have your neighbors discussed it? Have you discussed it with them?

MR. BIGGINS: I have. I see they're here.

JORDON BROWN: I guess we'll hear from them.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ELAINE ZUKAITIS, 6814 Chili Riga Town Line Road

MS. ZUKAITIS: I'm the neighbor directly next to Mr. Biggins on his north side where the garage will be. And we have drainage issues now. The spot where he wants to put the garage is always wet. His -- his lot is 575 and goes down to 570. It's downhill. So the drainage comes our way.

He has a septic system behind the house. He has a cement patio. He does have a one-car garage and it is a 100-foot lot. It was a 100-foot lot when he bought it and 100-foot lot now. It's the smallest lot on the road. If he puts a 16 by 24-foot cement slab and he has a pool in the backyard, where is the water going to go? Where is the snow-drained water going to go when he puts the driveway in and it is plowed over?

It is only 12 feet from the lot line which is less than a quarter of what the requirements are. There is also a drain, and I'm not -- Mr. Biggins really is not aware of this, but there is a drain there from the washer that comes from the house that was there that has been covered when they did the excavation for our new house, and that is also draining over there. He doesn't know about it. It's been there since the house was built, and our contractor just didn't catch it, so there is water coming from that also. But that area is always wet.

So I have an issue with the drainage and the driveway run-off, because there is not a lot of space for it to absorb into the ground.

Also, he is going to remove some vegetation, so something else to absorb the water is going to be gone.

They go from the backyard to the front yard on that side of the house. The other side is very tight to the lot line. I know he is taking the shed down. My question is if he is going to put a driveway next to his one-car garage and then drive around it, he is going to need space. Where is he going to put the snow? It is going to be on my lot line where I have drainage problems now. How is he going to get from the back to the front? He has only a 12 foot space from where he has -- his patio is to this new garage, unless -- it will end up being less than that to my lot line, so how will he get to the back to the front?

If he puts it at the back where it is high -- I understand he wants his garage, but I have no problem because I don't have any issues back there with drainage or anything else. It is just that area because of the slope. And it's --- it's really, if you're looking at the neighborhood and looking at the lot, I mean that is supposed -- Chili Master Plan, that's an open area, as part of their Master Plan, and that lot is really tight now with everything that is on it, compared to the other lots.

So I feel that the garage is really too big for the lot, but aside from that, I have a real drainage issue now. I have it now, and if he puts up another building, I will have a bigger issue.

Because I mean when we built our house, we had to put French drains in and the previous owners had to move their septic drain -- or not septic, but sump pump drain because we were having issues, so I -- I just think it is too large for the lot.

And besides the drop and the drainage issues. My biggest thing is the drainage issues.

Anything else? My twin sister Eileen. Anything else I forgot?

Do you have any questions for me? I mean, I saw David (Cross) was out there looking the other day. I drove by and -- I know you have all taken a look at the lot. I do have my -- my survey with the --

PAUL BLOSER: Could I see that, please?

MS. ELAINE ZUKAITIS: I also took some pictures, which I am sure you have got.

Mrs. Zukaitis explained her survey documents to the Board at the dais.

MS. ELAINE ZUKAITIS: Here is the existing garage. This is 25 feet to the lot line. You can see where his driveway is now. He will put a driveway back here and approximately -- he said 12 feet from here (indicating).

CHRIS KARELUS: This is the lot line.

MS. ELAINE ZUKAITIS: 12 feet from the lot line, but just behind the garage here he is going to be putting this structure. He also has a pool here (indicating), patio, and then my other question is if he is going to move the driveway, I don't know how wide he is going to make the driveway next to the garage, but --

MR. BIGGINS: Certainly no wider than is necessary to get to -- from the front to the back.

MS. ELAINE ZUKAITIS: That is my other concern, how wide will that be because he has to go around the edge of the garage.

MR. BIGGINS: Same width as the current driveway.

CHRIS KARELUS: Mr. Biggins, would you be interested -- I know Duro Sheds usually don't come gutter-equipped with them, but for the size of this structure, just for the Board's purpose, on the base of it, so if you look at the size of it, it is below what the Town requires for square footage. It is just the second floor loft space that requires it to need a variance for size. So the base size is allowable, if you look at just a 16 by 24.

Would you be willing to work with the Town, because again, I understand any impact on any drainage problems is always a negative, but there are ways you could work with Commissioner of Public Works to try to do French drains or a gutter system to direct it. Chances are Duro Sheds don't become gutter-equipped and a lot of drainage sheets to a ground.

MS. EILEEN ZUKAITIS: It is still drains to our property.

PAUL BLOSER: Ma'am, if you're going to speak, you need to identify your name and wait to be called on, okay? Thank you.

MS. EILEEN ZUKAITIS: I'm sorry. I apologize.

CHRIS KARELUS: Maybe we can work on that and that is something the Board could consider, as well.

One other point I want to bring up, the area is AC in character, but I brought a tax map for this purpose. These are probably one of six homes in this area that really do have that smaller lot size. I'm sorry, I forgot your name.

MS. ELAINE ZUKAITIS: Elaine Zukaitis.

CHRIS KARELUS: Their house and probably a half dozen in the area that are generally out character (inaudible).

MS. ELAINE ZUKAITIS: On Chili Riga Town Line Road?

CHRIS KARELUS: Yes.

MS. ELAINE ZUKAITIS: Rest of the lots are all 200 feet or better. There is only one house that is 100-foot. The rest are all 200 or more.

CHRIS KARELUS: Generally lower lot size, nine.

In this section (indicating). That is generally it.

MS. ELAINE ZUKAITIS: I understand that they're smaller than the area, but all the other lots are at least 200 feet, where this one is only 100 feet, so this one has half the area of all of the other houses on the street. There is only seven of us on Chili -- on that section. I mean, it's a small area.

MR. BIGGINS: If I could answer Mr. Karelus' question, I would absolutely be willing to work with the Town to alleviate any concerns there might be about drainage. Whatever is necessary to make sure that is taken care of, absolutely.

CHRIS KARELUS: I think the issue Mr. Biggins has and the adjacent property owner is the creek, this (indicating) runs north of that property, everything in that area drains in that fashion. They are in a wooded area, so I mean any impervious you add to there does change the ground condition run-off, but it is not something that can't be made to work if he is willing to work through an engineer to get a solution with the Commissioner of Public Works.

MS. ELAINE ZUKAITIS: We already have a swale in --

CHRIS KARELUS: That's out to the creek, correct?

MS. ELAINE ZUKAITIS: No.

CHRIS KARELUS: Tributary or --

MS. ELAINE ZUKAITIS: There is a tributary right on the corner lot, Little Mill. But the swale has been put in to take care of that and we have no issues there at all. That is why I -- we have no issues there, and we have no issues back. Even by his pool, we really don't have issues. It is only in that one area, and I do believe it's because the septic system is there, and -- the septic -- the septic system is there. He has a pad for the patio. He has got the garage, and everything goes down --

CHRIS KARELUS: Do you have sandy soils in that area?

MS. ELAINE ZUKAITIS: Absolutely beautiful soil that has all been there for years and years. Very good.

MS. EILEEN ZUKAITIS: Clay.

MS. ELAINE ZUKAITIS: The topsoil, but -- the rest of the soil is clay. It is a clay area. I didn't know what you meant, but I do have a layer of topsoil, but if you dig more than 6 inches, it is clay.

MR. BIGGINS: Actually, I have a bobcat, and I was out doing some cleaning up in the back of our lot where it was previously just wild, and I dug pretty decent trying to level that out and I don't recall hitting any clay back there.

CHRIS KARELUS: Just a question I ask. But we can --

PAUL BLOSER: How big is your lot?

MR. BIGGINS: Um, it's a very deep lot.

MS. DiFLORIO: 535.

MR. BIGGINS: 535 feet. Thank you.

ROBERT MULCAHY: How does that water affect you when you -- it drains down into your property?

MS. ELAINE ZUKAITIS: It drains down in right where my garage and actually house are, so it is draining right in that section.

ROBERT MULCAHY: Does it saturate the soil?

MS. ELAINE ZUKAITIS: It does.

ROBERT MULCAHY: How bad is it?

MS. ELAINE ZUKAITIS: I have to tell you, I never have dry soil there. And it was -- it goes onto the driveway. Especially in the spring when it is really moist I get a lot of ice, and I actually had to have French drains put into my house so that everything drains away, because my basement flooded three times before it got taken care of, and then the previous owners, there was also the sump pump drain. They moved that, but they moved it to the -- they took it from straight out and moved it sideways so it runs along the edge of the lot line.

MR. BIGGINS: If I could make a couple of comments. I believe that the elevation continues to go down from their lot, and there is wetland or -- it is permanently wetland and the stream that you mentioned on the other side of that. I would think, first of all, that a lot of that water is going to continue to run past your lot, and secondly, that is a pretty new house you're living in, and to your point about me purchasing a narrow lot, you purchased a lot that was the grade that it is now. I mean --

JORDON BROWN: You should address your comments to the Chairman.

MR. BIGGINS: Okay. I apologize.

My point is, I certainly didn't impact their choice of where to put the house and what grade it was going to be at. And by all means, the topic seems to be the drainage of the water, and whatever engineers would recommend that I do to alleviate that concern, I am more than willing to do.

CHRIS KARELUS: What I can do for the Board, if this unit were put in, just the base size -- impervious area is based on the base size -- the way the site drains, it -- it would impact it if it were 50 feet away from the property line or 12 feet away from the property line. It is still in the water shed that attributes to these properties.

MS. ELAINE ZUKAITIS: I would like to address this. When we had the house built, we owned over five acres and we subdivided -- the Board subdivided and we built this new house. And we did have to put a lot of fill in to build the house. The -- where -- the area where the driveway is, that is level. You have to go -- the front, the whole front is level, because I have a septic system. And then it tapers off and it tapers off very slowly in the back. They did an excellent job on that.

As far as where the creek is, that is wet in the springtime, but in the rest of the area it is not wet. My neighbor comes and dumps all his grass over on that area. We have lived there for -- had the house for -- since 1954 we had the property. So I'm -- you know, since 1954, I can tell you when it has flooded and when it hasn't. It really gets high in the spring. The only time it flooded was when they changed the road pipes, and it flooded then, and they came back and replaced the old driveway and the new piping system and we never had any problems before. And there is a lot of fill in there for the purpose of drainage, and that's why they put a swale up here (indicating). This area is always dry (indicating).

ROBERT MULCAHY: So what you're saying then is you had engineers come in and do the drainage for you, and they did a good job for you?

MS. ELAINE ZUKAITIS: They did a very good job. Avery did it. They did an excellent job. We used all local people from Chili to do all of the work.

ROBERT MULCAHY: So the engineers did the job.

MS. ELAINE ZUKAITIS: Yes. They did a good job.

ADAM CUMMINGS: Do we have a drawing what was engineered out there or does this accurately portray it?

MS. ELAINE ZUKAITIS: This accurately portrays it. It's supposed to drain through here, but there is never water here (indicating). Is always dry here (indicating). I have a problem here (indicating). The only thing I can think is because of the septic system drains straight down and doesn't go this way. It goes to the swale.

ADAM CUMMINGS: It is pretty flat.

MS. ELAINE ZUKAITIS: It goes from 574 to 570 at the driveway. 569 at the other edge of the driveway. So it is a slope. We are downhill. But from there to there -- because we have -- we have a large lot, so it goes down fairly low.

MR. BIGGINS: If I can make another comment. If you go down the road, each lot steps down, as it comes towards their house. It is the way that the grade is of the road. Every time you go from one property to the next, it steps down a little bit more and a little bit more. So it is not as if the one property is causing the onslaught of undue water.

MS. ELAINE ZUKAITIS: I will say that that is true. Also, each house on the road is stepped back from the house next to it, and ours is stepped back twice as far as the rest of them. And ours is level. Where that area is has always been level. We just filled from the house front. We never touched any of the back area at all, because it has always been high. The only place we

really filled was right at the house.

As I say, we have lived there 54 years. Where -- there has always been an issue in that area with the drains from over here (indicating). And there is a drain there. I don't know where it is, but before they built the house, and it has got to be the washer or dishwasher or something, because it always has soap in -- in it. I don't know where the drain comes from, but I just know it is there.

ROBERT MULCAHY: Mr. Biggins, is your pool street level or down?

MR. BIGGINS: It's an in-ground pool.

ROBERT MULCAHY: I think that is in-ground, but is it down? Is there a grade in your backyard? I didn't see the fence or the pool back there.

MR. BIGGINS: Oh, there is a fence all of the way around it. It is at grade in the front and then the grade goes back, so the back part is exposed, but yes, it is at grade.

MS. ELAINE ZUKAITIS: I have a picture of the pool. It is graded down. One side is in ground and the other side is up a little bit.

JORDON BROWN: Earlier you were stating something about working with the owner to try to address the drainage issues. Can you share with us what you're thinking about that and how much you think you could alleviate that issue?

CHRIS KARELUS: What the Board has done in the past is we'll ask him to either go through an engineer, or if they go through a competent contracting company that can give us detail enough to try to get some routings or design of dry wells. They call them support channel French drains systems on his lot where they can see the water directly away from the north property. I will work with (inaudible) to make sure the Commissioner of Public Works would approve the plan with the owner.

JORDON BROWN: That would be a condition that we can put on this. You are saying that would be acceptable to you?

MR. BIGGINS: Absolutely.

MS. ELAINE ZUKAITIS: I have a question for the Planning Board. The 12-foot variance that he is requesting from the lot line, um, it -- it is 50 feet in that area, but what is it in other subdivisions in Chili? Not subdivisions, because that is really not a subdivision. What is it in other areas? 12-foot seems, for an open area, which is what it is supposed to be, that seems awfully close compared to other areas.

PAUL BLOSER: What is --

CHRIS KARELUS: What I can speak to is to put a comparable zoning code. If we use the R-1-12, they have approximately 90 or 100 foot wide lots which are comparable to the eight or seven in the area. I believe the side setbacks are only required at 10.

MS. ELAINE ZUKAITIS: Chris (Karelus), keeps saying it is a 100-foot lot, but all the other lots are 200-foot frontage. That is the only lot with 100 foot frontage.

PAUL BLOSER: He is staying on a typical 100.

MS. ELAINE ZUKAITIS: Typical 100.

PAUL BLOSER: What is the size of your existing shed right now?

MR. BIGGINS: It is a 10 by 12.

PAUL BLOSER: 10 by 12.

MR. BIGGINS: Or bigger. If you can just give me a second.

TRACY DiFLORIO: The one next door is 125.

MR. BIGGINS: It is a 10 by 12.

JORDON BROWN: Clearly this is an emotional issue for you. Clearly it is an emotional issue for you.

MS. ELAINE ZUKAITIS: I just think it is too close to the lot line, and I have already got drainage problems. That is what I am saying. If it were a smaller building and weren't so close to the lot line, I wouldn't have an issue. But it is really close to the lot line, and it is a large building. And it's 18 feet tall. You know. If it were a one-story garage -- I'm thinking of okay, where -- and a French drain is wonderful. It has got to be kept clean.

JORDON BROWN: Just so you understand some of the things that concern you are not part of the variance request. I just want to explain that to you.

MS. ELAINE ZUKAITIS: My biggest concern is the drainage issue and the fact it is only 12 feet, which is less than a quarter. I understand that 100-foot lot has different variances, but I also want the Planning Board to know that is the only 100-foot lot on the road. The rest of them are all 200.

MS. DiFLORIO: No, they're not.

MS. ELAINE ZUKAITIS: There is one 150.

ADAM CUMMINGS: 125, 131, one that is 108. And I can't read these.

MS. ELAINE ZUKAITIS: Can I see?

ADAM CUMMINGS: I need magnifying glasses for that.

There was a discussion off the record.

ADAM CUMMINGS: This one here is 250.

MS. ELAINE ZUKAITIS: It's a double.

ADAM CUMMINGS: That is 125. That is 125 there. The one next door is 100. And then there is an L-shaped lot that I don't know what that width is up there. And then this one -- this one over here is 131 (indicating).

MS. ELAINE ZUKAITIS: All right. I'm sorry. I misspoke.

JORDON BROWN: It's okay.

MS. ELAINE ZUKAITIS: I still think it is too big. Well, because I can just see all of the water flowing down.

PAUL BLOSER: Are there other comments from the audience?

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I was in the Building Department late today and looked at the paperwork this gentleman put in, and unless I wasn't reading it right, it says he has no usable garage space.

MR. BIGGINS: That's true.

MS. BORGUS: But yet he has a garage.

MR. BIGGINS: Yes, ma'am.

JORDON BROWN: You should address it to Chairman again.

MS. BORGUS: Which is, I mean, a contradiction. I mean, not having any garage space means you don't have anything. He has a garage.

I, for the life of me, don't see how you get a 16 by 24 foot garage back past his -- his building and into the backyard. There is not enough room.

KEITH O'TOOLE: There's room.

PAUL BLOSER: He can get it back there.

CHRIS KARELUS: These come in sectioned on trailers. In reality, the drive aisle, driving on his property, the 2 feet or so might overhang the property. It is swung into the property, but nothing will encroach on the neighboring property when it is brought in. These are prebuilt units, the Duro Sheds.

MS. BORGUS: I envision this as a built shed.

CHRIS KARELUS: They usually come in big sections. Maybe the wall might --

PAUL BLOSER: They couldn't get it down the road 16-foot wide. It would have to come in sections.

CHRIS KARELUS: Generally they're sectioned.

MS. BORGUS: And I -- where would he put snow? Because we have a lot of snow, you know, especially in that area. It is Black Creek Park, and there's a lot of snow that comes down up there. That is why there is so many cross-country skiers and what have you. Where is he going to put snow? If this lady already has a drainage problem, she is likely to have a bigger one come winter. It is an issue. I believe it is an issue.

How high is his house?

PAUL BLOSER: It's a two-story house.

MS. BORGUS: Oh, okay. You see there is no map, no drawing, other than what this lady provided. It's a public hearing, and I haven't seen anything.

PAUL BLOSER: Okay.

MS. BORGUS: Or there (indicating).

Now, I guess it is not clear to me after this discussion about an engineer just how this job would work, if it were permitted. Is this gentleman going to do his own buying and then hire an engineer and -- I mean, is this going to be a combo job? Is he going to get this contracted out? That ought to be clarified, because that's what goes wrong on a lot of these things, we get somebody to do a little piece and a little piece and it's a mess when it's finished because there hasn't been anybody, one person overseeing the project.

I, sitting here listening to the conversation between the applicant and his neighbor, I -- I wonder myself why anybody would buy such a small lot and they think they could put so much on it. Not small in size, but small in width. When you buy a lot 100 feet wide, you don't expect to do a lot of these things. It would seem to me he is expecting to do probably a lot more than most people would do with a 100-foot lot. You can't put 10 pounds in a 5-pound bag. That's a fact. His neighbors shouldn't have to pay for it because he is trying to do that.

I, myself, would not want that building that big, that high, that close to my line. And I wouldn't want to deal with any more drainage issues. I'm sorry. I don't think this is a question so much of an excuse maybe to give this man his variance, but I would just say it's a question of he has to go with what he has got. He has a 100-foot lot and he is probably maxed out the way he designed it.

So thank you.

PAUL BLOSER: Thank you.

MR. BIGGINS: Can I say one more thing to the Board before you close it?

PAUL BLOSER: Yes.

MR. BIGGINS: Honestly, I don't think I'm asking too much. To answer the lady's question, to the Board, like I said in the beginning, you absolutely -- I cannot -- my wife can't park -- she has a Nissan Sentra and she can't park in the garage because currently I have tools. I apologize I have tools, but I have a toolbox on the side of my garage. I have a four-wheeler in there that still has the plow on it from last year. It is the main reason I use that, to plow the driveway. And by the way, I plow the snow down toward the front. I start at the garage and plow the snow down toward the front. It is a sensible way of doing things.

I'm just looking for a garage for my wife to park her vehicle, a garage for me to park my vehicle. I do my own brakes, oil changes, all those things. I just like to be able to do it out of the rain, if I can, and I'm certainly not asking for anything that's extravagant.

It's a very nice, very well-put-together structure. They do excellent work. I have several friends that have them for various purposes and they're very well made.

And again, the one legitimate concern from my standpoint that I have heard pertains to the

drainage. And I -- I have said repeatedly that I'm more than willing to work with the Board and Chris (Karelus) has made it clear that he wouldn't accept the go-ahead for the plan until I did meet whatever goes -- was necessary with that.

JORDON BROWN: You understand that would be at your own expense?

MR. BIGGINS: Absolutely.

MS. ELAINE ZUKAITIS: If I may address the Board. I understand Mr. Biggins' issue, but he bought the lot at 100-foot -- a 100-foot lot. I know he feels he needs more, but that should not be the issue when you decide. The issue should be is it too close to the lot line.

Are there going to be drainage issues? How is it going to be for the area? And that should be the issue, not how much he has in his garage.

Paul Bloser made a motion to close the Public Hearing portion of this application, and Tracy DiFlorio 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'm looking at a few figures on it. Number 1, it's a narrow lot. If I look at -- even if it was a one-story shed, one-car garage, it's going to reduce the square footage enough so we wouldn't even be hearing it for building size. The footprint would remain the same. Therefore, drainage would remain basically the same.

By removing the existing shed that is out there, you're reducing the square footage.

If he brought the second-story level down so that the outside footprint was reduced -- footprint of the second floor, so you would go to a different truss system to reduce -- have a knee wall on the outside or a sloped wall so your usable floor space is different, so you would have to be reducing it by 115 square foot.

The shed is eliminated. Now, the shed does not become an issue based on size. What we're really looking at here is drainage issues. If he puts this up and eliminates the existing shed, we're eliminating about 130 square foot on the shed. So the footprint of the proposed shed is 384. If we're reducing -- or eliminating the existing shed, by another 130, we're at 250 square foot now that we have on the ground instead of 130. Being 12-foot off the lot line, we are shifting it.

I can understand the neighbor's concerns. There are ways around that. I'm looking at the lot, where things are placed right now, and again, this is going to be -- depending on where his leech field is, and what he needs for setbacks from that is really going to determine where he can really put this. Without that identified on this sheet, we really don't know where that thing is.

What I would like to say is maybe look at moving it in a little bit more. Instead of the 12-foot setback, maybe a 20-foot setback. And in between the lot line and the barn at that point, consult with the Town Highway Department and engineer to review adequate drainage, French drain, to remove things, water away from there, so if it is displacing any water it might create from the roof lines.

Most of these sheds don't have gutters. I guess I would like to see possibly gutters put on there, and is he going into a leech field to drain the water away. That would be something he would have to talk to the contractor on, someone that has a decent knowledge of water flow.

Again, I will refer that back to the Town Engineer, Highway Department to get the approval on a site plan layout of the site.

The overall increase in square footage really is not significant. It is more placement, I think, is the issue here.

The other thing I can think of is he possibly get together with our Conservation Board, maybe Pat (Tindale) or someone on the Board to consider some type of vegetation between the lot line and the shed to absorb some of that water. There are trees that are very common to the Chili area that will take a lot of groundwater out of the ground he may not have there. If he is removing vegetation, additional vegetation of the right type would help offset that. So I'm looking at him working with the Conservation Board to do some adequate water-sucking trees. A full grown willow tree will take 500 gallons a day out of the ground. They're not the cleanest tree, but they do remove a lot of water. You see a lot of them in the area. Even properly set back away from your in-ground pool or in the back, could divert -- with drainage, it could divert the drainage to the trees and get it out of the ground.

Paul Bloser reviewed the proposed conditions with the Board.

PAUL BLOSER: I want to see a site plan. If this is going in there, if he is putting a concrete base, there is going to be excavation done, that means stone work. Is he going to be raising it? Is the floor elevation going to be higher than ground level right now, what level and how much fill is being brought in to accommodate that. I would want to see the Highway Department, the Building Department looking at a decent set of prints on what you're doing back there?

MR. BIGGINS: Sure.

PAUL BLOSER: So I think there are some bits of information missing.

My number one right now is your septic field. You have a pool back there. It says, "in-ground." So you have got displacement there. Septic field. You have got to be so far away from that with any structure. The fact that you have another concrete slab in the back there, near your house, it's tight, and I mean not only for the consideration of your neighbors, but you don't

want your whole backyard to be a swimming pool. You're putting in driveway, and that can alter some of the drainage. I think in your best interest you have some issues to be, I think, laid out and make sure you know what what you're getting into also.

For your well being, as well as your neighbor's and the Town's. I think that would be the fair thing. Even to propose a setback at the point I think without knowing where everything is on this lot, I -- I would want to see some more details myself.

PAUL BLOSER: What I would like to propose at this point, with these conditions, um, almost we would have to look at it again to know that -- what is going on with it. I don't think we have really good information. Myself, I would like to make a proposal that we table this until some of these issues are -- we have a better understanding as a Board to make a good decision.

The building by itself, eliminating your shed, I don't see it. There are a lot bigger sheds on smaller properties in the Town. We want to do what is right for everybody, all parties concerned on this. So I guess I'm going to make a proposal to the Board to consider tabling it, pending further information. Septic field locations.

I would like the Plumbing Department, Building Department to look at that location, where it is going to fall with the setbacks. The shed certainly would come out.

I would like the Highway Department, Town Engineer to look at this for drainage issues, and whether he talks to an arborist or the Conservation Board to get an idea of maybe some trees they can put back there to absorb some of the water.

With that -- with those conditions completed, come back to us with a more detailed package to -- I think would answer a lot of our questions and solve a lot.

Simple thing, it's really not. I think there are too many unanswered... Size of it, I'm not concerned with. It's placement more than anything else for a lot of reasons. I think that I would rather have a better idea what you're doing back there.

Comment brought up was who is actually doing the work, and especially the excavation. I would like to see that. Especially if you're putting a driveway back there, how it is being constructed, if there is drainage along the sides of the driveway and how much it is going to raise the elevation. It's a stone bed, how many layers, what kind of stone? Are you putting a base in, another layer of smaller stone on top of it? Detail what you're doing for a driveway, because that will affect your drainage also.

Do you have any questions on that?

MR. BIGGINS: The only question, and maybe you're just going through different -- I don't know, corrections or whatever you had mentioned, but the 20-foot setback as a --

PAUL BLOSER: I was just throwing a number out there. If I was to say let's take and move it in 20-foot, I don't know where the septic field is. I might be putting a corner of that garage right over the corner of one of your leech lines. So without knowing where that is, I don't think I can even propose an alternative location, nor do I think you can based on what you have given us tonight. I think we have some holes in the --

JORDON BROWN: If we can reduce the amount of variance that you're requesting, that is our duty, and we don't know if that -- if that is possible until we get some of this information.

MR. BIGGINS: I understand.

PAUL BLOSER: There are two issues. One is the setback. One is the size of the building. Our biggest concern right now is the setback and drainage and how it affects drainage, so I would like some more detailed information on that. Just for everybody -- everybody's comfort level here.

Do you have any more questions?

MR. BIGGINS: Not at this time.

PAUL BLOSER: Thank you.

Board, do you want to proceed with a vote --

ADAM CUMMINGS: I have a couple of comments. Just a concern I have, we're so worried about drainage and we do -- well, say the one variance, the side lot line, 50 feet is required. We have already established it's 100 feet wide. It reminds me of a past project where the shed has to be in the middle of the parcel because there is no way they can meet that variance with that piece of land.

PAUL BLOSER: You need to put a shed, but it's 100 foot wide. You're literally landlocked with any structure.

ADAM CUMMINGS: Exactly. We were talking about maybe shifting it over. If drainage is so important on that side and you do shift it over, now you're increasing the amount of pavement or impervious area he needs to get to the shed, there will be even more drainage going over to that neighbor's property. And once again, mitigation can be done, no problem.

And like you said, about the square footage, um, he knocks it down a little bit, we don't even see him for a variance.

PAUL BLOSER: For the size of the building.

ADAM CUMMINGS: For the size of the building, so that is a moot point.

PAUL BLOSER: Do you understand what I was saying about the size of the structure? You have a 16 by 24. Your second story is 16 by 24. That is assuming you have got 16 foot high and 8 foot side walls on both floors, approximately.

MR. BIGGINS: No. The height -- because it is a gambrel roof, it goes down to, I think, 5 feet or something on the sides.

PAUL BLOSER: Now, if you show me a usable square footage on the second floor, of --

ADAM CUMMINGS: They calculate it.

MR. BIGGINS: I actually asked that question, and maybe I wasn't asking the right person,

because that was a question I had. Do you really count the whole upstairs if you can't, in fact, walk all of the way?

PAUL BLOSER: We count what is usable floor space. So if that is -- studded out area gets decreased, so my usable floor space is less, that reduces -- you would have to reduce that by -- you would have to get that down to about 60 -- about 598. You still need a setback variance, but you're not looking at the the building size. The building size -- your footprint is going to stay the same.

Setback really is the issue. I just need more details for drainage. Your septic. Um, and what we're doing there. Again, I would like to see that if you're removing some vegetation, to put it in, I would want to see replacement vegetation with something that will absorb water.

MR. BIGGINS: She mentioned removing vegetation, but unless we're counting grass, there is one half dead tree about this big (indicating) that I have to remove that -- that's the only thing that --

PAUL BLOSER: Then I guess I would still want to look at some type of planting proposal --

MR. BIGGINS: Sure.

PAUL BLOSER: -- that would promote water disbursement. It would take water out of the ground.

MR. BIGGINS: Actually, I misspoke, there is probably four of those small trees.

DAVID CROSS: And for providing buffering.

PAUL BLOSER: Also something with this -- height to it that would give some buffering and kind of blind it out a little bit.

MR. BIGGINS: Actually, again, that -- you saw -- some of you folks saw the lot. There are humongous maple trees all along there, and the maples are on the other side of the shed and actually surround it. As far as the height goes, nobody will see anything until the dead of winter. Those trees are very big.

PAUL BLOSER: On -- between the shed and your lot line, though --

MR. BIGGINS: Yes, and onto the neighbor's property, as well.

MS. ELAINE ZUKAITIS: The maples are on our -- my land. The maples are on my land.

PAUL BLOSER: At this time, um, Board members, are you prepared to -- which way you want to go on this? Do you want to hear it, or do you want to table it?

JAMES WIESNER: I guess the question is do we gain anything by tabling it?

PAUL BLOSER: I don't think we have adequate information to make a decision.

JAMES WIESNER: We have done that with conditions, too.

DAVID CROSS: You can make it a condition that it meets septic system setbacks from the structure.

ADAM CUMMINGS: Then drainage. We really can't cover drainage.

DAVID CROSS: And drainage.

PAUL BLOSER: For the Highway Department?

JORDON BROWN: We can accomplish everything you're talking about without tabling it by making it conditions, as well.

PAUL BLOSER: That is why I am putting it out there.

JORDON BROWN: Just a thought, but it does save a step.

JAMES WIESNER: Where is the lowest point on your property?

MR. BIGGINS: Actually, right, um -- as you go back behind where this garage would be, the lot line drops off and probably would be the perfect place with very little effort to put a dry well. It, um -- as we mentioned before, and I don't know if she has pictures of the pool, the front of the pool is level with the property, the grade, but as you go about halfway back, and it's a 40-foot back pool, it grades off pretty fair, probably I would estimate 3 1/2 to 4 feet.

JAMES WIESNER: This is beyond the pool?

MR. BIGGINS: Going to the back of my lot.

PAUL BLOSER: Put it up on the screen.

Thank you.

MS. ELAINE ZUKAITIS: This is the corner edge of his pool (indicating), and this is where he wants to put it (indicating), and it slopes this way and then back up (indicating). So it is level behind it, and then it slips down to this edge (indicating) and back up this way (indicating). Because the pool entrance is right here (indicating), right about there (indicating).

ROBERT MULCAHY: I would say move on with conditions.

JORDON BROWN: We were just talking. Theoretically, with the work that we're requiring as the conditions, I'm hopeful that maybe the current drainage problem will be improved, so overall, it might be a win/win situation.

PAUL BLOSER: Very good.

MS. DiFLORIO: That is what I was thinking. She might end up with a lot better off with him doing this work.

JORDON BROWN: That would be the goal of all these conditions.

PAUL BLOSER: There you go. Okay.

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

Tracy DiFlorio 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.

Paul Bloser reviewed the proposed conditions with the Board.

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

1. Septic field to be identified to the Town Plumbing Inspector prior to permit issuance.
2. Removal of existing shed within 45 days of Certificate of Occupancy.
3. Meet with Town Highway Department/Town Engineer to review adequate drainage for proposed layout and approval.
4. Consult with the Conservation Board for plantings to promote water absorption and all-season buffer to north property line.

The following finding of fact was cited:

1. With the approved conditions of approval, this application will not have any adverse physical or environmental impact on the neighborhood and will be consistent with character of neighboring properties.
4. Application of Wegmans, c/o David Kittrell, 100 Wegmans Market Street, Rochester, New York 14624 for variance to erect a vestibule to be 40' from front lot line (50' req.) at 171 Weidner Road in G.I. zone.

Art Pires was present to represent the application.

MR. PIRES: Good evening, Mr. Chairman, members of the Board, my name is Art Pires with Wegmans Food Markets. I'm here in lieu of Mr. David Kittrell who made the application. Once again, Mr. Kittrell is part of the Wegmans organization, as is I.

What I would like to do is provide the Board with exhibits which in essence reflect what is on -- up on the board there, an aerial showing the location of the proposed vestibule, a couple of renderings of the site plan which give an enlargement showing the setbacks from the right-of-way, elevations, a couple of site photos of the building itself and then a little detailed plan.

As Mr. Chair just read into the record, the vestibule, and it is simply that, a small vestibule, one story, on the north side of the building -- the site plan, and you have a copy of the same here, but for the sake of the audience, the north is up on this plan. This is Widener Road right here (indicating). The location at the -- at basically the back side -- on the side of the building, but at the back end of it is the proposed vestibule. You can see that in breath and scope it's a very small addition, considering the size of the entire building. It is certainly minimal, and our proposal as far as setback, we're asking for a 40-foot setback relative to -- I understand code is 50, and actually the -- the actual plans we have submitted are approximately 42.9 feet, but we have 60 for a 40-foot setback just to give a little leeway for the event during construction it's off a little bit.

Once again, a very nominal proposal, certainly not detrimental to any of the adjacent properties. Certainly in character from our point of view, and not detrimental to any part of the welfare, health and safety of the community.

As far as the distance, you can see there is an over -- an aerial view here, and you have a copy of the same, but basically you can see the aerial. That is the location there. You are almost 800 feet from that location, to Scottsville Road. It is certainly not impacting anybody coming along Scottsville Road.

The photos themselves speak to the matter that this is from a vista -- a view from Scottsville Road, looking down Widener Road. Here again, we have -- show an arrow pointing to the proposed location, barely visible from Scottsville Road.

The lower photograph indicates the existing door there that is the approximate location of where we're proposing the vestibule. The intent of the vestibule is to consolidate for security purposes entries for both our employees to that facility, as well as tractor-trailer truckers that come into the facility. It's a storage of frozen product only, not a processing center, strictly storage, once again, and at the same time being a food center, it's high priority for security and -- of product.

The elevation is also shown, and you have a copy of the same. It's a -- basic majority of it is glass with some aluminum, bronze-colored aluminum framing, once again, a very basic of application, nominal in breath and scope, and certainly not a significant impact on anyone.

With that, I would be happy to address any questions that the Board or staff may have.

PAUL BLOSER: This is all glassed in as I'm deciphering this?

MR. PIRES: In essence, it is. The framing itself is the bronze aluminum, but in essence, it is glass, correct.

PAUL BLOSER: Is this one of these panelized engineered structures?

MR. PIRES: I do not have the specific answer to that. I don't know that. I -- I can confirm