

CHILI ZONING BOARD OF APPEALS
September 24, 2012

A meeting of the Chili Zoning Board was held on September 24, 2012 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Paul Bloser.

PRESENT: Adam Cummings, Robert Mulcahy, Michael Nyhan, Robert Springer, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Michael Jones, Assistant Town Counsel; Ed Shero, Building & Plumbing Inspector

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

PAUL BLOSER: Our Town Counsel will be joining us in a few moments. He is in another meeting right now.

We'll go over signs first.

ROBERT MULCAHY: I saw them.

The Board indicated they had no problem with the application notification signs that were posted.

PAUL BLOSER: Then we'll move right into the agenda.

1. Application of Daniel Boon, owner; 351 Morgan Road, Scottsville, New York 14546 for variance to allow the total square footage of garage area, including a new 40' x 60' detached garage to be a total of 3,323 square feet (1,200 sq. ft. allowed) at property located at 351 Morgan Road in AC zone.

Daniel Boon was present to represent the application.

PAUL BLOSER: Evening, Mr. Boon.

MR. DANIEL BOON: Good evening, all.

PAUL BLOSER: I will let you start with what you're proposing here.

MR. DANIEL BOON: I stand in front of you tonight. I'm asking to put up a 40 by 60 pole barn for storage. It will -- I'm requesting to have 16 foot sides on it, and two 14 foot doors. One of the reasons I need 14 foot doors -- I could do with one, but it would look better with two on them because I will put two doors on the front. One is I own a 40 foot RV that I want to be able to put inside.

So I -- I own three farm tractors and a few hot rods and other toys that I would -- that's why I need this building. So I stand in front of you tonight to ask if we can put this thing up.

You see where it is going. The pad is already there. As you all know, I built this house a few months ago, and -- with the intentions of doing this. So it is kind of ready for it.

PAUL BLOSER: Going through -- Sintelli (phonetic) is doing the building?

MR. DANIEL BOON: Yes, sir.

PAUL BLOSER: This is a timber base frame construction.

MR. DANIEL BOON: Yes. It be pole barn construction timber and then all metal on the outside, all painted metal.

PAUL BLOSER: The roof is also metal?

MR. DANIEL BOON: The roof is also metal. It will have four windows on it, two on each side.

PAUL BLOSER: You already have the pad for this out there, correct?

MR. DANIEL BOON: Yes, sir.

PAUL BLOSER: Will you have electric out there for sure? Are you putting gas?

MR. DANIEL BOON: Electric is already there. It has already been approved. I say electric. The panel box, 100 amp service is already standing there. I put that out there and had it approved at the time for my RV because I park it there and it has a 50 amp service there. I done that with the intentions eventually I would put another building up.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

MICHAEL NYHAN: This is zoned Agricultural, correct?

PAUL BLOSER: Yes.

It is very consistent with the property size and what is in the neighborhood right now. Just about everybody out there has a barn. He has the square footage to support it. He is certainly far enough away from the road where there won't be any problem out in the front.

As far as the two doors go, from an architectural standpoint, I agree with Mr. Boon that it would look better to have equal size instead of two oddball sizes next to each other. It will look nice. From the road, it won't look like a 14 foot door anyway.

MR. DANIEL BOON: The way the building will be positioned, it will be pretty tough to even see the doors, really. And it's 600 feet off the road.

PAUL BLOSER: Yes. You will barely --

MR. DANIEL BOON: Up on the hill. So there is a lot of things you have to do going by -- you will see the building, obviously, but...

FRED TROTT: Siding to match?

PAUL BLOSER: Excuse me?

FRED TROTT: Just match everything?

ADAM CUMMINGS: Color wise.

MICHAEL NYHAN: It will be metal.

MR. DANIEL BOON: It be metal. Just basically it will be like a sand tone sides and it will be -- burgundy -- that house has burgundy shutters and burgundy door, so it will be in the same scheme as the house. The only thing I went with is an all burgundy roof and trim that way. It will have wainscot, 48 foot of burgundy up and then sandstone just to give it some style, some looks. I kind of broke it up so it will look nice.

MICHAEL NYHAN: Will there be lighting on the building?

MR. DANIEL BOON: Lighting on the outside?

MICHAEL NYHAN: Yes.

MR. DANIEL BOON: No.

PAUL BLOSER: For conditions of approval -- and this is consistent with what we have done with any other structure like this.

Paul Bloser reviewed proposed conditions of approval with the Board.

MICHAEL NYHAN: This is a 40 by 60 building?

MR. DANIEL BOON: Yes.

MICHAEL NYHAN: Okay. Thank you.

MR. DANIEL BOON: Thank you.

JAMES WIESNER: The other 920 square feet must be a garage?

MR. DANIEL BOON: A garage on the home, 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 Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

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

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

1. No type of business can be run or operated from this structure without proper permits as required.
2. Colors to be consistent with that of the main structure.
3. There is to be no storage of any type of agricultural or recreational vehicles on the outside of the structure.
4. All required permits and inspections must be completed.

The following finding of fact was cited:

1. Based on the size of the property, the structure size is not substantial. The type and size is consistent with neighboring properties. This structure will not have a negative effect or environmental impact on neighboring properties.
2. Application of Nathan Stefl, owner; 520 Paul Road, Rochester, New York 14624 for variance to erect a 26' x 36' detached garage 17' from rear lot line (40' req.) and 5' from side lot line (10' req.) at property located at 520 Paul Road in R-1-15 zone.

Nathan Stefl was present to represent the application.

MR. STEFL: Good evening. So, you summed it up. I would like a 26 by 36 detached garage, 17 feet away from the back lot line and 5 feet away from the side lot line.

Current Town setbacks are 10 foot from the side and 40 foot from the back. Currently there is a shed that is 8 foot from the back --

There was a pause in the meeting for a passing train whistle.

PAUL BLOSER: Okay. Sorry.

MR. STEFL: Currently there is a shed that is 8 foot from the back and 5 foot from the side, so the shed pretty much already sets a precedent as far as the setbacks are concerned. I will be bringing it forward to 17 feet, not the 8 feet. The 5 foot setback will be the same.

PAUL BLOSER: You already tore out the other garage?

MR. STEFL: Yes. It was becoming a safety hazard. It was very poorly constructed a long time ago, did not have a proper footer and basically the roof was pushing out the walls to the point where they were starting to crack and break. And my wife was actually starting to become concerned for my safety every time I went in to do any thing, so no matter what, I knew I was going to be building some type of new accommodation. So I chose to take the time during the summer when the weather was nice to take it down.

PAUL BLOSER: Okay. I will make a few comments I guess to start with. I know what was up there before, and I'm looking at the architectural drawings of what you're proposing to put up. We do, for the record, have a letter from the Preservation Board commenting on your efforts to maintain the look of this property by adding this garage in the style of the house, so it will be very -- you are in the historic site; is that correct?

MR. STEFL: It is not an official historic site. I have been -- I have received a letter of commendation and certificate from the Historical Society basically thanking me for working on the house and maintaining it.

PAUL BLOSER: A certificate issued by the Preservation Board, Historic Preservation Board, correct?

MR. STEFL: Yes.

I do also have a newspaper article from the Gates-Chili Post that documents what we did to the house as well, if the Board would like to take a look at it. I have it here.

JAMES WIESNER: The question I have is, the in-ground pool back there, was that something that you put in?

MR. STEFL: No. That was installed, I believe, in 1987.

JAMES WIESNER: So previous owner?

MR. STEFL: Yes.

JAMES WIESNER: Only question I had.

PAUL BLOSER: What is the -- do you know what the distance is, because it is really not clear between the pool and the proposed garage?

MR. STEFL: It will be 13 feet.

MICHAEL NYHAN: What is the height of the building, with the cupola on it, the maximum height?

MR. STEFL: Without the cupola, I believe it came to 17 feet, I want to say. It's -- I just have obviously the rough sketches, so I believe it was between 17 and 19 feet without -- and with the cupola, it will probably add another 2 1/2 to 3 feet. So it would still be lower than anything on the property.

ROBERT SPRINGER: If am I correct, that -- there is a shed on the property now that is going to come down?

MR. STEFL: That will be replaced, yes, with the garage. That is where the garage -- I would like to make it bigger because I want to eliminate the shed.

ROBERT SPRINGER: The old garage that was taken down was about 600 square feet?

MR. STEFL: 23 by 76.

ROBERT SPRINGER: You replaced it with 900?

MR. STEFL: Yes.

ROBERT SPRINGER: What was the size of the shed?

MR. STEFL: The shed is approximately 14 by 16 right now.

ROBERT SPRINGER: Basically you're just replacing the shed -- the old shed and the old garage with one unit?

MR. STEFL: Correct.

ROBERT SPRINGER: About the same size.

MR. STEFL: About the same square footage, yep.

FRED TROTT: Any thought to trying to move it like 6 feet over instead of the 5?

PAUL BLOSER: You need the setback for the pool.

FRED TROTT: Oh, you do.

ADAM CUMMINGS: So you need 10 from the pool. Could you move over 3 feet and ask for an 8 foot variance instead of 5?

FRED TROTT: Any thought to that?

MR. STEFL: I could probably accommodate that. I'm a little leery about getting that close to the pool, for obvious reasons.

ROBERT MULCAHY: I guess my question is what do you need such a large building for?

PAUL BLOSER: It is the same square footage as what he has now, between the one he

tore down and the shed. So he will have one building instead of two on the property.

ROBERT MULCAHY: Okay.

MR. STEFL: I also have some toys, as well, so...

FRED TROTT: Everybody has toys but me.

ADAM CUMMINGS: That means you have the land to store their toys. (Laughter.)

ED SHERO: I just have one comment, more a question. Is there a second story in this barn, in the garage?

MR. STEFL: No. That was -- it was going to be just storage for pool toys and lawn furniture and whatnot. I have been in the process of basically moving everything that was in the old garage as much as I can into the basement.

ED SHERO: Okay. Just be aware we include that as square footage. That puts you at 1800 square feet which would then require another variance, so just be aware of that.

MR. STEFL: Right. That will just be uninsulated storage space.

ED SHERO: No further questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I like Mr. Cumming's suggestion. In fact, I had come up with that on my own after -- I tried to look at that drawing. Might I suggest that when you get a drawing that -- that you could get something that is readable. That drawing is awful. You know, sometimes you have to start fresh. That is very confusing. It is hard to read. I certainly am having a hard time reading it. I'm sure the Board is. I just think it wouldn't hurt to start with a clean drawing once in a while.

How old is that drawing? Is there a date on it?

ADAM CUMMINGS: 2001.

MS. BORGUS: Well, I think when you want to keep coming in for variances, you have to come up with a fresh drawing.

But I do agree with Mr. Cumming's idea. I think if you were to move -- I would rather see a little less space between the pool and the building than have anything crowded on the property line like that.

The other thing, I stated the map is hard to read but clue me in, what does it say along that left edge -- it looks like B -- like a reading test. BLKTR?

MICHAEL NYHAN: Blacktop.

MS. BORGUS: What is that?

MICHAEL NYHAN: Blacktop.

MS. BORGUS: Blacktop what? There is something after it.

PAUL BLOSER: Driveway?

DOROTHY BORGUS: No. There is something after "blacktop."

MICHAEL NYHAN: 1.1 feet W.

JAMES WIESNER: East. It extends across the property line by that much.

DOROTHY BORGUS: So you're saying this man is over on his neighbor's property right now at least with his driveway?

ADAM CUMMINGS: Uh-huh.

MS. BORGUS: That's a problem right there.

Now, as far as the numbers go, I heard he is replacing this with the same square footage. My numbers don't agree with that. How did you arrive at that number, that they're alike? What was -- what is being replaced with what is being torn down? I get 876 feet for the garage and then 224 feet for the shed. You're talking 1100.

ROBERT SPRINGER: The old garage is 600 square feet.

MS. BORGUS: 600.

ROBERT SPRINGER: Right. The shed --

MS. BORGUS: Is 224.

ROBERT SPRINGER: -- is 224. And I come up with 822.

MS. BORGUS: Okay. It is in the same ball park then.

ROBERT SPRINGER: The new one is 936, so it is --

MS. BORGUS: Right. Got you.

ROBERT SPRINGER: So it is close.

MS. BORGUS: I got you.

Now, he mentions that that shed being where it is positioned was -- is precedent for allowing a bigger building to be that close to the property line. When that shed was approved, I believe what, 1989, was that allowed to be? Did he get permission to have it 8 feet from the property line?

ADAM CUMMINGS: 5 feet.

MS. BORGUS: 5 feet.

PAUL BLOSER: Already been there.

MS. BORGUS: So he has gotten permission already to put one building against the property line?

PAUL BLOSER: Yes.

MS. BORGUS: Is this height going to be a problem -- I'm sorry.

ED SHERO: I think at some point the shed might have been replaced, because the Zoning Board give permission for 10 by 12 utility shed. On the survey it is 10 by 12, and it must have

been replaced at some point after the survey was done because it is now 12 by --

ADAM CUMMINGS: Now 14 by 16.

MS. BORGUS: So --

ED SHERO: The variance is for a 10 by 12 shed. If you look at the map, it is 10 by 12.

ROBERT MULCAHY: This is all screwed up.

MS. BORGUS: This whole thing is very messed up. I think you need to start with a clean drawing and a real understanding of footages here. I mean, as was pointed out, there is no -- there is no footage designation that I saw between the building and the pool. I think you need to know what you're dealing with here, and with that drawing, I don't know how anybody can figure that out.

I'm wondering, the height issue was brought up. Is that a problem or isn't it? With the cupola, is -- does that exceed height restrictions?

PAUL BLOSER: No. It is not higher than the house at that point.

MS. BORGUS: Doesn't matter how high it is as long as it is not higher than the house.

PAUL BLOSER: That's the way the code reads.

MS. BORGUS: I still think you need to figure out is this a different shed than the one that was approved? If so, then the 8 foot -- or the 5 feet precedent, as the gentleman calls it, I think is -- is moot, because if this is a different -- different size, then it's not the same size. It shouldn't be the same permit.

Thank you.

DAVID SIMPSON, 6 Oxford Bend

MR. SIMPSON: Good evening. I'm David Simpson. I reside at 6 Oxford Bend, directly behind the subject property for this motion tonight.

I object to the location and the size of the proposed structure. The minimum setback in Chili is 40 feet. The variance applied for would move the structure 23 closer to my lot line than the zoning law allows.

The proposed building size is 26 by 36 for 936 square feet. This is the size of a small ranch house on a 100 by 200 foot lot.

As such, the view from my backyard would be a blank wall, 26 foot wide and approximately 22 feet high, and that is without the cupola. My rough calculations -- my calculations from this rough sketch as part of the package indicates to me that the peak of the building without the cupola is about 22 feet.

No amount of landscaping in my yard would ever block the view to this structure. The attached garage recently removed from the property was 22'9" by 26'. The new garage will be approximately the same -- a new garage with approximately the same footprint could be constructed in the same location or as a freestanding structure near the end of the driveway without the need for zoning variances.

Existing shed on the property is not located within the zoning setbacks. Now I understand that this shed was erected as all -- evidently with some other variance sometime in the past before the current owner bought the property.

The current back setback is about 9 feet. On the side, setback is about 5 feet. Survey map indicates the shed size to be 10'3" by 12'3."

Since this owner has lived in the property, the shed has been enlarged to 13'3" by 16'3." In the current variance application, the owner stipulates that no zoning variance was applied for to enlarge the shed.

Assorted pool supplies are hung from the back of the shed in off season and construction materials are being stored behind the shed. I take great pains to keep my property in a park-like condition for my enjoyment and the enjoyment of my neighbors. It is my desire to have neighboring property owners do the same, and I don't think that this variance if it were approved would be anywhere close to providing the enjoyment of my property in the backyard.

Thank you.

MORRIS SARFATI, 518 Paul Road

MR. MORRIS SARFATI: Good evening. I do have some photos. I don't know if you would like to pass them around to look at them, or...

My name is Morris Sarfati and I reside at 518 Paul Road. This is my father, Benjamin Sarfati. He also resides at 518 Paul Road. We're the neighbor to the east of the Stefls who are proposing to put a garage up.

We are in complete opposition of this garage to be put up. Granted that he will be putting up about the same amount of square footage that he is occupying now, but we are taking a building that is 26 by 36 feet and putting it in one spot.

We have an issue, and if you look at the pictures, we have a concern about the water runoff off this building and going into our yard. We sit certainly much lower than the neighbor. At least 3 feet and maybe more. We haven't shot a transit on it, but by the naked eye, by the pictures you can see that we are certainly lower.

When the original shed that was put up in the back, I believe -- I think that the variance at the time -- or the setbacks at the time were around 8 feet. They did give them -- whoever owned it at the time got a variance to put that shed there.

This does not set precedent. This is a new construction. As soon as he tears down this barn, the precedent of being 5 feet, being grandfathered in as a variance becomes a moot issue. It is no longer valid.

We asking that he moves his building within the 10 -- over the 10 feet or the 10 feet for the setback on our side. Probably not enough considering the amount of water, but with what the rule is, it is 10 feet. If he has an overhang from his garage, which probably I would imagine is another 2 foot overhang, that brings us even closer to the lot line.

If he moves in, and I don't know -- I have been told that the -- the -- the setback between the pool and the building is 8 feet. I heard tonight 10 feet which -- I don't know which one it is. If he moves the building over 8 -- takes it back over 5 feet and brings it into compliance, he still has 8 feet between the pool and the edge of the garage that he is proposing to build.

Also, with respect to the usage of the property, there is -- has -- was a garage that was torn down.

There is a shed on the property. There also has been a front porch that has been put on that is not part of the map that is showing on there that also occupies space. Our understanding of the density of usage of property in the Town of Chili is 25 percent. My numbers and -- are pretty close, but he is going to be over. If not, he is going to be very close to that density.

We also have concern about the snow removal or what is going to happen with the building if he puts that size of a building in. If you look at the pictures in the back, as well, the water runoff from this proposed building will also run -- because there is a slope on the property line going back down toward Mr. Simpson's property who is directly behind this, as well.

Our main concern here is a water issue, getting flooded out. We have had some water issues in the past. We have had a lot of heavy rains. Adding a building this close to the lot line or even having a structure this large, um, is not conducive for the neighborhood.

I went around the neighborhood, around Paul Road, Adela Circle. All of the garages in the neighborhoods are attached garages to their house. There is only two I found within a mile of our home that are detached from the home, and they are consistent with the landscape of the property. Most of them are 20 to 25 feet. 20 by 25.

I would ask that if there is any questions, that we have somebody come out and inspect it. We don't know if anybody from the Zoning Board has been out to take a look at this property. And we would like somebody to come out and look at it. So that's all I have for now.

PAUL BLOSER: Okay.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: If, indeed, a porch has been added on this house, and I believe it is a sizable front porch, this is all of the more reason we need updated maps when you people take applications in the Building Office. 11-year-old maps just won't do.

Michael Jones arrived to the meeting.

MR. SIMPSON: This map was first created May 16th, 1986. It was not 11 years old. It's --

ADAM CUMMINGS: To correct that, it was then redated several times.

MR. SIMPSON: I understand that.

MR. MORRIS SARFATI: There is no updates showing the porch on the map. It doesn't show the extension of the shed that is out in the back.

PAUL BLOSER: The porch was permitted in 2003.

MR. MORRIS SARFATI: We're talking about density and using up space, and that is not anywhere included in this.

ART GARVIN

MR. GARVIN: I live next door to Nathan (Stefl) on the other side by 26 Paul Road. I have no complaints against his -- him building a garage or anything. He is consistent with the house and every improvement he made on the house has always been to better standards, so.

PAUL BLOSER: Okay. Thank you.

MR. STEFL: May I rebut?

PAUL BLOSER: You can address the Board, yes.

MR. STEFL: As far as the blacktop 1 foot east, that issue was made by a previous owner, and the fence line actually does line up with the lot line.

As far as the shed is concerned, yes, I expanded the shed. When I originally did it, I called the Building Office and I explained exactly what I was going to do and I asked if I needed a permit or a variance. I was told at that time, no.

I can understand Mr. Sarfati's issue with the water runoff. He has some issues there. They're preexisting issues. I'm not allowed to exacerbate that situation. I appreciate and understand that.

But I also look at his house and I see that gutters are completely undersized. They do not come far enough away from the foundation. And as part of building -- a -- a homeowner, you have to take care of your property, as well. A French drain behind the house would take care of that.

I called up the Chili Highway Superintendent to see if we could possibly do something for Mr. Sarfati. Unfortunately, Paul Road is a County Road, not a Town road. He also said that since it is one structure that is being affected, he probably couldn't do very much for it except make some suggestions.

As far as drainage to Mr. Simpson's property, he is actually not below grade of mine. He is actually the highest point in the area. It may not seem it, but he also irrigates his lawn, which

saturates the ground, which inevitably prevents rainwater from absorbing in. That would exacerbate the problem, as well.

I do appreciate other people's comments as far as moving the garage in towards the property to expand that lot line offset to the side. And as far as Mr. Simpson's comments about building debris and whatnot behind the shed right now, that stuff would be moved inside if there was a building. I can't put it inside the shed right now because I don't have enough room.

Thank you.

PAUL BLOSER: What year was that house built?

MR. STEFL: 1855.

PAUL BLOSER: Mr. Stefl, I'm going to see if you know the question -- across the road, in and the block surrounding, are there any other houses that old?

MR. STEFL: From what I have been told by the Historic Society, the first house on the road was The Carriage House or the church that is now there. That was put in, I believe in 1852 or '53, is what I was told.

Then our house was put in across the road a few years later.

MR. SIMPSON: The drainage issue to my lot, the back of the lot behind it, the subject property, while Nathan (Stefl) says my house is the highest in the area, it is the house. The lot tapers to the lot line. Back past my garden is lower than his lot line, past my border there.

Irrigation, I don't irrigate to saturation. I couldn't afford to do that. I don't irrigate in the spring. No sense in doing that. So the irrigation I do is minimal to keep the grass green during the summer. During the summer months, that becomes a non-issue, as well.

Again, I want to be clear on this back setback. A 40 foot zoning requirement moved to a 17 foot setback, that's just doesn't make sense to me.

MR. MORRIS SARFATI: Mr. Stefl is asking us to make changes to our home, put gutters on and drainage things in and whatnot for the comfort of his property, and for his home. We have been there 40 years and we haven't had many issues at all, other than a little water. All right? Not uncommon.

But when you start to put a building like that in there and we're told we need to do this or that to our property, that isn't right. If he wants to put a garage in, we're not against him putting a garage in, but he needs to put something in that is conducive for the size of the lot that goes with the home.

I'm all for him putting a garage back up in the same spot that is better than what he had before. We never had a problem with any water in that situation way, shape or form and that is where our position is with this, is that we maintain the 10 foot setback off on the side and that if he is to build it, we recommend he be building back into the same spot that he was in.

Thank you.

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

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

PAUL BLOSER: First, I will ask, just for clarification, Ed (Shero), is the swimming pool 8 or 10 foot setback to any structure, on an inground?

ED SHERO: We don't have any code against it -- addressing it.

PAUL BLOSER: Okay.

ED SHERO: We have a 15 foot code with primary residence, but this is obviously not primary residence.

PAUL BLOSER: I know we have had a couple sheds or decks that went up recently. We maintained I believe it was --

MICHAEL NYHAN: I think that was the deck attached to the house. It had to be set back from the house.

ADAM CUMMINGS: Yes.

PAUL BLOSER: Okay.

ROBERT MULCAHY: I'm just wondering why he couldn't move it towards the house.

ADAM CUMMINGS: I do think there could be some shifting of it, and maybe even resizing it a little. Just throwing some numbers matching it up to the edge of the pavement that is there now, you can gain about 10 feet to the south, which would increase the distance on the rear setback line, minimizing that setback and shift it to the west, minimizing the setback on that side lot line. And if you make the building a little bit smaller, you can actually make it within the 10 foot.

So for instance, one hypothetical that I'm throwing out there -- it's up to the applicant -- is if the building is shrunk down to -- this is not construction standards by any means -- a 26 by 27 foot structure is equivalent to his garage and existing shed that was permitted, the 10 by 12. That square footage is equivalent. The side setback would be met at 10 feet and then he would just need a variance of approximately 27 feet from the rear lot line instead of 17. Just a hypothetical for the applicant to think of.

PAUL BLOSER: For a two-car garage and to put cars in and still have storage space --

ADAM CUMMINGS: Yeah.

PAUL BLOSER: -- you start getting 24, 25 deep, there is nothing left.

ADAM CUMMINGS: Yep.

PAUL BLOSER: He is trying to use it for storage plus vehicles.

ADAM CUMMINGS: Well, it is the same situation he had before. He had a garage with a storage shed.

PAUL BLOSER: So you're asking why not keep it the same, basically as to what the previous garage was?

ADAM CUMMINGS: The previous garage and the 12 by 10 permitted shed, not the enlarged one. The 5 foot side setback variance granted in '89 was for the 10 foot by 12 foot.

PAUL BLOSER: Okay. I guess I have a question on that, as -- for Counsel.

MICHAEL JONES: Yes.

PAUL BLOSER: When a variance is granted for an out structure, the variance carries with the land.

MICHAEL JONES: Yes, it does.

PAUL BLOSER: Does that also carry for that size structure, or can you increase size of the structure without altering the variance? You have given a variance for 5 foot for an out structure?

MICHAEL JONES: Correct. So the setback is what carries with the land. It is not specific to the structure. The structure can be rebuilt, modified or whatever, but what carries with the land is --

PAUL BLOSER: The setback that has already been granted.

ADAM CUMMINGS: As long as the setback is still achieved. If a new building was put at the same center line of that existing building, they may have gone over the 5 foot setback.

The survey map we have right now is -- is a 10 by 12 structure.

PAUL BLOSER: I know what you're saying. But if they maintained with the new structure, the 5 foot setback --

ADAM CUMMINGS: Yes.

PAUL BLOSER: Right now that --

ADAM CUMMINGS: Actually, at that point we can't do anything on that side setback.

PAUL BLOSER: On the side setback. So that has already been granted. That carries with the land.

ADAM CUMMINGS: Yep.

MICHAEL JONES: Correct. I don't know if the new structure would be at that setback but that setback was --

ADAM CUMMINGS: We're talking about the rear, 17 feet.

PAUL BLOSER: On any kind of structure -- this is what we talk a lot about at a lot of meetings, when we set a variance, any Board, who cares. Well, here we are. Somebody else's problem. This is what comes back.

ADAM CUMMINGS: We can still shift the building to the south and minimize that rear setback.

PAUL BLOSER: I think that is our option right now. Maybe cutting down the depth of the building and sliding the whole building a little bit forward.

I can see any kind of structure back there, a garage, you almost need a setback variance from the rear.

ADAM CUMMINGS: Right. Correct.

PAUL BLOSER: So it is what can we do to achieve that.

ADAM CUMMINGS: And by shrinking the depth, it would also cut the height down.

Well, I didn't look at --

PAUL BLOSER: One of the things that I picked up on that is -- this is -- architecturally, the designer has tried to achieve slopes, angles and everything to that of the main structure --

ADAM CUMMINGS: Yep.

PAUL BLOSER: -- to carry some architectural value. And actually, it will increase the value of that property and anything around it, if it is more consistent with the character.

ADAM CUMMINGS: Well, may or may not.

PAUL BLOSER: May or may not. But in theory, that's -- I would rather see one structure than two structures.

ADAM CUMMINGS: Yeah.

PAUL BLOSER: The other thing, moving forward if we take this to a vote, a condition of approval would be I would like to see the back of the house finished off before anything else is started, so that siding is all tied in, matched. That hasn't been done, and I would -- this would be an assurance that that would be taken care of for everybody's sake. So I would put that as a condition of approval.

ROBERT MULCAHY: I agree with that.

PAUL BLOSER: Drainage, we don't have that much -- we're almost the same square footage right now, so runoff is going to be almost the same. Almost the same --

ADAM CUMMINGS: For that one structure, but for the whole site it would be nice to have an updated site plan.

PAUL BLOSER: Well, that would be a condition of approval also, that the site map --

ADAM CUMMINGS: To show the deck that was granted, the variance and probably any permits that would have been necessary. If they weren't obtained already.

Mr. Stefl, are you against shrinking the building at all?

MR. STEFL: Well, I don't want to loose square footage, and I -- I understand the -- what you were saying, bringing it forward, but if you take a look at the main house drawing -- if you don't mind, I will come up here.

So see right here (indicating), that is part of the existing house.

PAUL BLOSER: Right.

MR. STEFL: Right there (indicating). If I bring this forward, it is going to be extremely difficult to pull a car into the second bay on the right-hand side.

ADAM CUMMINGS: Well, it must have been pretty difficult to pull cars into the existing.

MR. STEFL: We had to do two three- or four-point turns in order to get in. And I am looking at this property as something that my wife and I will grow old together in. I can't see a 75-year-old woman doing a five-point turn to get into a garage.

One quick question to Assistant Counsel. You said the side setback is already determined and was given through a variance.

MICHAEL JONES: Yes. The only thing I qualified that response is, the variances run with the land, but so do the conditions on the variance. So there may have been a condition placed on it that would also be important to understand. I don't see it on the Board action property card, but if the variance was granted and there is a condition that it is conditioned upon, such as the size of the building or something like that, that would control. I don't think that is the situation here, though.

MR. STEFL: So does that include the back variance that was given for that?

PAUL BLOSER: There is no record of a back variance.

MICHAEL JONES: I don't know about the back variance.

MR. STEFL: Probably 8 feet before the 40 feet was invoked.

ADAM CUMMINGS: That was old code, preexisting, nonconforming. This would have to conform to the current code.

MR. STEFL: What is the State code?

PAUL BLOSER: For rear?

MR. STEFL: For rear and side.

ED SHERO: The 8 foot is still code. It is accessory structure or shed would be 8 feet, which is what it was. So apparently a variance wasn't asked for that. As far as State Code, side setback minimum is 5 foot.

ADAM CUMMINGS: That would still require a variance plus.

MR. STEFL: Just putting that out there.

Any other questions while I'm up here?

ADAM CUMMINGS: So you're not for a smaller structure?

MR. STEFL: Like I said, I would like to at least keep the same square footage what I got. If I'm going to be pulling down another building, I got to -- I got unfortunately, a lot of lawn equipment, a lot of pool stuff. Anybody here who knows, if you have a pool, have you got ladders and solar covers and all that good stuff that needs to go someplace for the winter. I really would like to get it inside. Like Mr. Simpson said, right now it is outside. I have them hanging up on the outside of the shed because I can't get them in the shed.

MICHAEL NYHAN: I would like to make just a few comments for the Board discussion. The runoff is different for two structures, one large, one smaller one. Two different areas of piece of property than for one large structure in one spot. So we can compare the square footage and say the runoff is gonna be the same; it will be different.

PAUL BLOSER: May be different because of the location, but you're displacing overall approximately the same amount of water.

MICHAEL NYHAN: Right. But one location instead of two locations.

And I think we have seen that there -- looking at the property from discussion, there are several alternatives to either reduce square footage for the need for any type of variance to the current code. So I think -- I think that is something that needs to be considered, is there alternatives. And maybe some of those alternatives needs to be reviewed and looked at before -- to eliminate or reduce any of those.

And then lastly, I think this is substantial. It's more than 50 percent of what the code permits for rear lot line and it is 50 percent for a side lot line, so it is a substantial request, and it will be a large structure if you're almost 20 feet high in this type of area that is a residential area with a lot of homes very close to each other and this piece of property.

Those are my comments.

ADAM CUMMINGS: Well, the 5 foot side lot line, we're not voting on tonight, is my understanding, because it has already been granted.

MICHAEL NYHAN: It has been granted for this structure -- it was for a shed in the back.

JAMES WIESNER: Based on conditions, though.

ADAM CUMMINGS: I don't know if it was made as a condition. As it is written on the property card for this property, it's a 5 foot side setback. That's what they're asking for. It carries with the land. It doesn't matter what size structure unless it is specified as a condition.

JAMES WIESNER: Which we don't know tonight because we don't have the ruling.

ADAM CUMMINGS: All we have is -- is six words in the note section from 1989.

JAMES WIESNER: Somewhere there were meeting minutes.

MICHAEL NYHAN: I would read -- my interpretation was it is conditioned for utility shed to be 5 foot from the side setback, period.

So if we're not voting on that, are we voting on anything?

ADAM CUMMINGS: There would still be the rear lot line, whatever -- whatever we decide. We could minimize that variance.

PAUL BLOSER: By shortening up the building or sliding it forward.

MICHAEL NYHAN: Okay.
FRED TROTT: My concern --
MICHAEL NYHAN: Counsel --
FRED TROTT: My concern is -- is --
MICHAEL NYHAN: Can we have a determination from Counsel, because the 5 foot does apply to the new structure when a building is a garage?
JAMES WIESNER: How many square feet is he really allowed? But it is attached, and you only get 192 square feet, right?
PAUL BLOSER: Only if in the summarization of that variance there was a condition of approval that was for that size building.
JAMES WIESNER: But I'm saying the square footage of that outbuilding is not being voted on, not being regulated? You're saying --
PAUL BLOSER: Which outbuilding?
ADAM CUMMINGS: The detached garage.
JAMES WIESNER: The detached garage. Because it's a minimum or maximum 192 square feet.
ADAM CUMMINGS: For accessory structure.
JAMES WIESNER: For accessory structure.
PAUL BLOSER: It's not part of the variance.
ADAM CUMMINGS: It's not listed.
MICHAEL NYHAN: It's an accessory structure, not attached to the house.
JAMES WIESNER: Good point.
PAUL BLOSER: So that was kind of an oversight from the Building Department. Are you discussing that now?
MICHAEL JONES: Yes.
Was there a question whether this is attached to the house?
ADAM CUMMINGS: We know it is not attached to the house. Whether it qualifies as an accessory structure subject to the square footage of 192 square feet, or if it is -- there is a separate definition for detached garage with a different square footage. I don't have my book in front of me.
ED SHERO: There is. The proposed building is not an accessory structure. There is -- very limitations on an accessory structure. If you have a wooden combustible floor, you can't put a car in it, and a garage gives you must have broader ability to work within that.
ADAM CUMMINGS: We don't see that square footage, you're saying?
ED SHERO: 1200 square feet. That is why I made the point if there was a second story in it --
PAUL BLOSER: We would be going over.
ED SHERO: You're allowed 1200 square feet for a garage.
ADAM CUMMINGS: This one is 600. Or 598.
PAUL BLOSER: So the -- an additional variance would be required for building size.
ADAM CUMMINGS: But it could be smaller or it could be pushed forward or to the south.
MICHAEL NYHAN: Alternatives.
ADAM CUMMINGS: Yes.
MICHAEL NYHAN: Substantial.
JAMES WIESNER: I wouldn't be against having two structures here just because of the way the property is sited. I know we try to steer away from that, but there is not a lot of room in there and he is working with a fairly stifled area.
FRED TROTT: I'm also concerned about the 5 foot. We have had people come to this Board that when they had the actual survey now, they're under that. And -- looking at it, it doesn't look --
ADAM CUMMINGS: The current shed there now is bigger than the one shown on this surveyor's map, so there is a high probability that it is over that setback variance.
FRED TROTT: I think you're cutting it a little too close.
ROBERT MULCAHY: The other thing I think I see is the overhang on the garage. We count that also, as I understand it, as part of the building. Is that from the overhang to the lot line -- is that 5 feet or is that 4 feet?
PAUL BLOSER: You have a 2 foot overhang.
Do you know what overhang is?
MR. STEFL: Overhang would be 1 foot, and I was told by the Building Department that that is actually not included.
ROBERT MULCAHY: We have two different stories because we have been told it is included. Is that right?
ED SHERO: We may be talking about two different things with an overhang. If there is a shed with an area -- if you have a shed and you built this area off the side of the shed that you put firewood on, that area would be included.
If it is an overhang such as I believe -- don't quote me on this, a 12 inch overhang on --
PAUL BLOSER: Eave.
ED SHERO: On an eave, we would not include that. It would go to the exterior wall.
JAMES WIESNER: I think it has to be structural more.
ED SHERO: But there is limitations how far -- you can't have this and have a 5 foot overhang on it either. It is pretty specific what you're allowing. I believe it is around 12 inches.

Multiple side conversations were had by the Board members.

ED SHERO: The fireplace was an exterior wall, not an overhang.

FRED TROTT: I'm thinking the one with the carport.

ED SHERO: Carport is -- in building code -- area of a carport, even though it doesn't have walls, area is included.

ADAM CUMMINGS: This is not a carport.

ED SHERO: Right.

Multiple side conversations were had by the Board members.

PAUL BLOSER: I will write some conditions of approval in case this goes forward.

ADAM CUMMINGS: At this point we're leaving it as the requested variance?

MICHAEL NYHAN: Correct.

ADAM CUMMINGS: No minimizations.

I'm just pointing it out to the applicant if you wanted to change anything -- we're about to vote on your application. If you wanted to propose anything to minimize your variance request, I would recommend doing it now because if it does get voted down, you have to wait a year before you reapply for a variance.

MR. STEFL: A year?

ADAM CUMMINGS: Yes.

PAUL BLOSER: Yes.

MR. STEFL: Well, then I would be willing to go to 32 instead of 36. Actually, that would put me approximately to what I have right now.

Do you mind if I take a minute to do the math?

PAUL BLOSER: I will be a second here.

ADAM CUMMINGS: That would move it to 21 feet with no movement to the south. Which would put it less than 50 percent. Still...

MR. STEFL: 26 by 32 would put me at pretty much exactly what I have right now for square footage.

PAUL BLOSER: Mr. Stefl, did you want to make an adjustment on that size then?

MR. STEFL: I'm sorry?

PAUL BLOSER: Did you want to make an adjustment on that size then before we vote?

MR. STEFL: I think if it will appease the Board and my neighbors, 26 by 32.

PAUL BLOSER: Okay.

ADAM CUMMINGS: So that would be from the 17 feet requested to 21.

MICHAEL NYHAN: From 40 to 21 setback?

ADAM CUMMINGS: Yes.

PAUL BLOSER: I will put structure size to -- we're going with 32 then. 32 by 26. 26.

And I will put another one on here that 5 foot previous -- 5 foot --

ADAM CUMMINGS: I'm still going to dwell on this pushing it to the south. I understand trying to push cars to the left and go in there, but with -- the former garage was up there, if that pavement was extended over, that is the side where the man door is. I still think pushing forward there would still be enough radius to pull a car into that, since the left 6 feet or the 5 feet will probably be the man door. So.

MR. STEFL: What are you suggesting?

ADAM CUMMINGS: I'm suggesting moving it forward approximately 5 or 6 feet. Not necessarily right up to the edge of where it's calling out 9 1/2 feet difference between the block garage, but moving it forward approximately 5 or 6 feet, so that it's 3 1/2 feet or 4 feet off of that -- where the edge of the block garage used to be.

MR. STEFL: That was the plan to begin with.

ADAM CUMMINGS: Oh, I do see it extending. Sorry. Moving it further down.

MR. STEFL: It will be coming in approximately 4 to 5 feet to begin with.

ADAM CUMMINGS: I read the wrong line. Sorry. I meant to say 25.9 line where the existing garage was, if you move that 5 more feet from where your hatched line is.

MR. STEFL: Right. That was the original plan. Oh, from where the hatch line is.

ADAM CUMMINGS: From your -- your hatch line is -- now you're saying it is 4 feet to the south -- I will point at it (indicating). Right here you're saying that is 4 feet from the --

MR. STEFL: From here to here (indicating), that was going to be a 4 foot.

ADAM CUMMINGS: I'm saying shift that down another 6 feet and bringing the driveway apron over to match that, with that radius, because the man door is on that side. Your car is not going to be driving there. I think you can still make that turn radius.

MR. STEFL: It will bring it to -- if you want 10 feet, then it will be 16 feet.

ADAM CUMMINGS: Yes.

MR. STEFL: You to me is about 16 feet. I don't drive a Prius.

ADAM CUMMINGS: Well, this is where your door is going to be.

MR. STEFL: I understand that. It will be 18 inches off the pole from the west side. The 30 inch door. Another 18 inches. It will be extremely tight.

ADAM CUMMINGS: Oh, I'm not saying that. I'm just trying to minimize your variance.

MR. STEFL: I understand you're trying to work with me, and I appreciate it. I do. I do.

From coming from 17 feet to 21 feet, considering we're at 8 foot right now with that shed --

ADAM CUMMINGS: I was just throwing it out there.

MR. STEFL: I appreciate it. I see where you're coming from. I'm putting up where I'm coming from, too.

ADAM CUMMINGS: So I think 21 feet is where we'll stay.

PAUL BLOSER: All right. From the rear.

For conditions of approval, I have put down the previous 5 foot Zoning Board approval of 7/25/89 carries unless there is a condition of approval -- this says the variance is limited to the proposed structure or shed. If there is a condition of approval placed, there is nothing there, in the comments, then the 5 foot stands. Okay?

Am I correct in that, Counsel? How I read that?

MICHAEL JONES: Um, so I would just suggest that if that is the Board's determination, you more specifically say that the previously granted 5 foot setback will apply to -- to this structure unless -- I didn't catch all your language, Mr. Chairman.

PAUL BLOSER: Unless there is a condition of approval that said the variance is limited to the proposed shed.

MICHAEL JONES: That I'm okay with. Okay. Just the first part, you make your determination that the previous one applies to this structure.

PAUL BLOSER: Okay. Thank you. Very good.

The second, materials must match house and type and colors. The rear of the house must be finished with like siding and materials prior to construction on the garage.

Number 4, an updated site map with engineer's stamp must be submitted upon completion of construction but before C of O is issued.

Number 5, all necessary permits and inspections to be completed.

Number 6, structure size to be 32 by 26 and placement no less than 21 foot from the rear lot line.

ADAM CUMMINGS: Can you change "the engineer" to a "surveyor"? Engineer can't stamp a location map. Only surveyors can.

PAUL BLOSER: Done.

ADAM CUMMINGS: Thank you.

PAUL BLOSER: Anything else the Board would like to see on those conditions? Any other comments?

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

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

DECISION: Denied by a vote of 5 no to 2 yes (Robert Springer, Paul Bloser) for the following reason/finding of fact having been cited:

1. While the proposed structure, as presented, is of a very pleasing and complimentary design to the main structure and period, the requested setbacks of this proposed structure is considered by the Board as excessive and the impact on the neighboring properties will be significant. Several neighbors expressed concerns of the height and water drain-off from the roof onto their properties. While the Board made suggestions for options, the homeowner stated that moving the structure closer to the main structure would not fit his needs. The Board's decision is that the requested variance is significant and would have a negative impact on neighboring properties.

MR. STEFL: Quick question, as far as the rear is concerned, is it for the variances on the side and the back, or can I propose --

PAUL BLOSER: The variance on the side carries.

MR. STEFL: But can I propose a different variance before that time?

PAUL BLOSER: On the back, if it is a different application than what the current one is.

ADAM CUMMINGS: Substantially different.

PAUL BLOSER: Substantially different, yes.

MR. STEFL: Okay.

3. Application of Mr. and Mrs. Daniel Scally, owner; 40 Keith Terrace, North Chili, New York 14514 for variance to erect a 14' x 28' two-story accessory building (pool house) to be 784 sq. ft. (192 sq. ft. allowed), variance for pool house to be 17' high (12' allowed) at property located at 40 Keith Terrace in R-1-12 zone.

Daniel and Debbie Scally were present to represent the application.

MR. SCALLY: Well, good evening. I'm here with my wife, Debbie (Scally), to request approval for variance to erect a 14 by 28 accessory structure on my property in the backyard at

40 Keith Terrace to be prefab constructed and delivered on site and placed on the property.

The foundation would be crushed stone base, and 14 by 28, it would be 17 feet at the peak. I have already discussed this with my neighbors and they see no objection to that.

PAUL BLOSER: So we're not looking at any setback issues. We're just looking at the sides?

MR. SCALLY: Yep.

PAUL BLOSER: Thank you.

MR. SCALLY: Actually, what is not shown on the survey map, in the very -- I'm looking at right here in the very bottom right-hand corner there is an 8 by 10 existing structure, shed, which will be -- which, I guess, is included in the total square foot -- there, we go.

So if I were to point this out (indicating). There is an existing 8 by 10 there right now. Which has been there for, I don't know, 15 years.

ADAM CUMMINGS: Right on the property line?

MR. SCALLY: Um, no. Actually, um, there is a fence behind it. My fence is 3 foot into my -- into my property line, so it's 4 -- it's at least 6 foot would be my estimate. I didn't actually measure it.

PAUL BLOSER: The -- that shed, the intent is to do what with that one then?

MR. SCALLY: Um, if need be -- right now, it's completely full. The -- um, proposed structure would, um, eliminate that shed from the corner.

PAUL BLOSER: Okay.

MR. SCALLY: Or replace it, if you will.

PAUL BLOSER: Usually what we do on something like this -- we didn't get it on the other one, but when there is an existing shed and you will incorporate the contents into the new structure and destroy the old one or have it removed, we give you like 60 days after completion to make that process happen. So you don't have to get it out of there before you start construction or whatever, to give you sometime to move your stuff around.

What is your timeframe for doing this if it were to go through?

MR. SCALLY: The construction would start off site and probably be, um -- would be four weeks to five weeks before it is delivered on the property. Then in the meantime, I would have to, um, put the foundation.

PAUL BLOSER: Then probably what I would do in this case with winter coming on, I would give you to the middle of May or something to get it removed, the other one, just because moving in the back with vehicles, getting that time of year, you don't have to destroy your lawn, so we'll work with you on that.

I don't really have any questions. The application is pretty clear.

JAMES WIESNER: It's hard to tell from the road, but it looks like the back of your house slopes away; is that correct?

MR. SCALLY: A little bit. It's not dramatic, but there is a little bit.

JAMES WIESNER: Only question I have.

MICHAEL NYHAN: The vegetation, the same thing from the road, it looked like you had vegetation trees, shrubs, along the property line but then it lost it as you got to the back of the house.

Is this area protected from the neighbor's yard with shrubs or trees or bushes?

MR. SCALLY: Yes. Along the, um -- the one stretch there of the structure, um, there is a very large pine tree and then on -- on my lot and three pine trees on their lot. So it is almost like it wouldn't even be visible from their deck. There is some very large trees there. And I have discussed this with them to see if they had any problem with that, and there is no objection.

MICHAEL NYHAN: Thank you.

FRED TROTT: Was I reading somewhere you would have this heated? Did I -- do you plan on running gas back there?

MR. SCALLY: Yes.

FRED TROTT: For the purpose of?

MR. SCALLY: Um, for -- for heat in case I, you know -- I may want to use that as, you know, a heated area in the wintertime. It's something I was considering. I'm not -- I already have a gas line to my pool, right -- right there. It's 10 feet from the proposed structure.

FRED TROTT: I guess I would be -- just make sure, point it out that no living in the structure.

PAUL BLOSER: Right.

ED SHERO: Just a comment. If you do plan on heating this, you will open a whole new can of worms. It must be to New York State Energy Code. They require floor insulation, wall insulation, attic insulation and the sizing of the unit that is going to go in there. So anything would require a permit not only for the shed, but to the Energy Code.

PAUL BLOSER: And the heating device, you also have to have a permit for that, and inspected.

ED SHERO: Doors would have to meet Energy Code.

PAUL BLOSER: I think she will decide that for you. (Laughter.)

MRS. SCALLY: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Um, I have two questions. Is there going to be a loft in this building?

MR. SCALLY: Yes. For storage.

MS. BORGUS: Well, having a pool myself, an inground pool, I don't understand what good a loft would be for storage because everything you take upstairs is big. You take up ladders. You take up pool covers. You take up left over chemicals from one year to another. That isn't very practical, but, you know, that's your thought.

Um, the other thing I wondered was I looked at the -- I looked at the picture of the proposed building, and it didn't -- it didn't look to be 17 feet high. Maybe I'm not a good judge of height from a picture, but it didn't --

MR. SCALLY: That's not the exact structure. That's a --

MS. BORGUS: So -- so has the applicant presented a picture of the exact building? I would hate to see this Board approve something based on a picture that didn't represent the building planned.

PAUL BLOSER: Is that this drawing?

MR. SCALLY: Yes. That's the actual structure. The picture that you were looking at is a downsized version of that.

The exterior will match the house exactly. Vinyl siding and roof -- roof to match.

MS. BORGUS: So I guess I'm a little confused. If you're going to store pool supplies in the loft, what would the use be for the bottom floor, main floor?

MR. SCALLY: I have a 65 foot deck across the back of my house and I have a lot of furniture on the deck and a lot of --

PAUL BLOSER: And the contents from the other shed.

MR. SCALLY: And then the contents from the other shed. I don't have too much storage in my garage, so I need --

MS. BORGUS: We talked about shed -- screening from the -- from the neighbor's side on the side -- I guess it would be to the south.

What about in the rear?

MR. SCALLY: Um, all -- sorry.

If I can make a comment. All across the back there is foliage and trees. Some of the trees are 60 foot tall, very large trees. So actually in the summertime, I can barely see my neighbor's yard. It's kind of alike a park-like setting.

MS. BORGUS: Has there been any comments from the neighbors on the height?

PAUL BLOSER: Not official on record at this time.

MS. BORGUS: Thank you.

PAUL BLOSER: They have been properly notified, though?

MR. SCALLY: There is a letter in the package from one of my neighbors that I spoke with. Both he and his wife, um, after discussion of the structure, um, see no environmental issues or, um, no detriment to their property.

PAUL BLOSER: I -- I stand corrected, Dorothy (Borgus). There is one here. As neighbors of Dan (Scally) and Deborah Scally, 40 Keith Terrace, we have discussed the proposed structure on the property at 40 Keith Terrace and situated on their property within 16 feet of our lot line. We understand that the structure will be 17 foot high at roof peak and visible from our back deck. We're in agreement with this and see no negative aspect to the construction. The property owners of 42 Keith Terrace.

MS. BORGUS: Thank you.

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

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

PAUL BLOSER: The materials, you're going to match the house then, colors?

MR. SCALLY: Yes. We have beige vinyl siding that will match exactly, and then the roof -- the roof shingle, architectural shingles will be on the shed, as well.

PAUL BLOSER: Conditions of approval, I will require permits and inspections must be complete. Under Number 2, construction materials must be of -- similar in color and style.

3, no occupancy is allowed in the shed for living or overnight accommodations. Existing shed to be removed by May 30th, 2013.

Anything else the Board would like to see?

ROBERT SPRINGER: (Inaudible).

PAUL BLOSER: I can put that in there.

No business use of structure.

MR. SCALLY: What is that?

PAUL BLOSER: No business use of structure.

MR. SCALLY: No.

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.

Robert Mulcahy made a motion to approve the application with the following conditions, and

Robert Springer seconded the motion. All Board members were in favor of the motion.

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

1. All necessary permits and inspections must be obtained from the Town of Chili Building Department.
2. Construction materials must be of the same in color(s) and style of the main structure.
3. Occupancy of this structure by any person or persons for living or overnight accommodations is prohibited by code.
4. Existing shed to be removed by 5/30/13.
5. No business use of this structure is allowed by code.
6. Any upgrade to structure at any time to heat by any means must be by proper permits, codes and inspections by the Town of Chili.

The following finding of fact was cited:

1. The requested variance is not significant in nature and will not have a negative impact on the environmental or neighboring properties.
4. Application of Melanie Williams, owner; 968 Chili Center Coldwater Road, Rochester, New York 14624 for variance to erect a permanent handicapped accessible ramp to be 8" from side lot line (10' req.) at property located at 968 Chili Center Coldwater Road in R-1-12 zone.

Dan Butler was present to represent the application.

MR. BUTLER: Hello, gentlemen.

PAUL BLOSER: Evening.

MR. BUTLER: My name is Dan Butler. I'm the accessibility specialist for the Regional Center for Independent Living. We're located at 497 State Street in Rochester.

PAUL BLOSER: Can you move your microphone up a little bit? Up a little bit. There you go.

MR. BUTLER: I just want to say thank you for this opportunity. I feel like I have been thrown under the bus hearing about side lot lines. I'm like, "Oh, my God. Can I go now?"

Because actually I'm inheriting someone else's problem. At this particular residence, the previous specialist, they installed a wheelchair lift that they -- the family cannot access. That is the reason for the ramp to be built so the side lot -- so they can cut out a door and be able to access the ramp that is inside the garage.

So again, I feel I'm trying to correct someone else's problem here. But we're looking to -- to cut a door out and have the ramp go down along the side of the building, approximately 20 feet with the concrete landing. I don't know if you have drawings.

PAUL BLOSER: The one that you have up here?

MR. BUTLER: I have the drawings with me.

Can see that?

PAUL BLOSER: Yes.

MR. BUTLER: So when they first told me, 8 inches inside the side lot, I said, "Are you serious?"

And so -- they said, "Yes, they were."

The reason why Miss Williams couldn't make it today is because of her daughter and her condition, that sometimes the aides don't show up. This is one of those times. That is why she wasn't able to attend.

But the entire project is predicated on being able to use the -- the ramp that is on the inside. You can see the vertical -- actually, the lift. The vertical lift is right here (indicating). You see it. This is a vertical lift and they cannot access it. Because of that, they want to be able to build a ramp to here (indicating) so they can access, by bringing her daughter out and bring her over to the ramp and then taking her out.

PAUL BLOSER: Is this all wood structure?

MR. BUTLER: All wood, yes, sir.

PAUL BLOSER: It is set up on piers then?

MR. BUTLER: Yes. 4 by 4s. All pressure-treated.

And you can see, that is a concrete pad there at the bottom. That's what -- that's why I'm here.

ROBERT MULCAHY: Is that existing now, that concrete --

MR. BUTLER: Yes. When you come out, you see the asphalt. We'll have that right where the asphalt is.

PAUL BLOSER: Butts right up to.

MR. BUTLER: Yes.

PAUL BLOSER: The pad itself is not existing right now.

MR. BUTLER: No, it is not -- not right now. And again, that is why I am here tonight. What we do, we also advocate for our clients and the situation where they actually didn't do a good design from the beginning, and so here I am the troubleshooter trying to fix an existing problem. Because several thousand dollars was spent for the vertical lift. And now, not being able to access it. So they have difficulty getting her out of the house for appointments.

ADAM CUMMINGS: That line at the very top of the screen, that's the -- the dividing wall -- that's the dividing wall between the garage and the living room?

MR. BUTLER: Yes.

PAUL BLOSER: How much of a total rise is there, the side door, where you're going to enter from outside, off -- off from the ramp?

MR. BUTLER: Well, coming off the ramp is going over roughly 5 feet, and --

PAUL BLOSER: I understand that. But the rise of the ramp off the ground, what is the height of that?

MR. BUTLER: A couple of feet.

PAUL BLOSER: You're going to be at ground level of the garage?

MR. BUTLER: Here it is.

PAUL BLOSER: The top of the railing is 3 feet.

MR. BUTLER: Uh-huh.

PAUL BLOSER: So the bottom is 1 foot rise off the ground.

MR. BUTLER: Uh-huh.

PAUL BLOSER: That will bring it right to level with the garage floor.

MR. BUTLER: Yes, sir. Excuse me. I'm just a little nervous.

ROBERT MULCAHY: Don't be nervous. We don't bite.

PAUL BLOSER: You should be on this side. (Laughter.)

MR. BUTLER: Yes. I was glad I'm not on the other side.

MICHAEL NYHAN: Sir, this ramp will look exactly as it is depicted. No walls or sides; just the posts?

MR. BUTLER: Yes, sir.

MICHAEL NYHAN: No roof.

MR. BUTLER: No roof. Just the handrails. Just a ramp. Instead of a deck, it's a ramp.

MICHAEL NYHAN: Okay. Thank you.

Will the existing ramp in the front of the home be removed?

MR. BUTLER: For right now it will stay as temporary. It's a temporary ramp. That's -- the thing about it, it is a temporary ramp for the grandmother because the grandmother resides at the residence and that's how they take her out.

PAUL BLOSER: So once this is in, that is coming out, is what you're saying?

MR. BUTLER: Yes.

Like I said, I'm trying to straighten out a previous problem, so. Which is not easy.

ADAM CUMMINGS: So there is no way to go from the lift all of the way to the temporary --

MR. BUTLER: Yes. They're saying inside, it's -- again, I started two months ago, so I'm -- less than two months ago, so I'm trying to find out a lot of different things. The homeowner explained to me that the doorway isn't wide enough for her to come through to use the temporary ramp for right now, and so -- but obviously that is in case you don't approve the project, we'll have to do something else. So I just want to say that, as well. We'll just have to figure something out. Because I'm in charge of EMODs we call them, (inaudible) modifications. So if we have to do something inside, we'll do that. If this is a weight-bearing wall --

PAUL BLOSER: This is the most cost-effective way to do this without major construction?

MR. BUTLER: Yes, sir.

MICHAEL NYHAN: So is the garage currently used as a garage with vehicles?

MR. BUTLER: No. Everyone parks outside, from what I have seen. Everyone parks outside.

PAUL BLOSER: With that ramp inside, that lift, you're not going to have a lot room inside there.

FRED TROTT: Why don't make it just so you -- adjust the garage door and have like an exit door out the garage?

MR. BUTLER: Right out the front?

FRED TROTT: Yeah.

MR. BUTLER: Yeah. Again, when -- these drawings are -- are from May. I started in August. So everything was already existing. So I'm just -- also I was thinking the same thing, why can't we do something different? But we're working with the State and through the State of New York --

ADAM CUMMINGS: Electronic door may not make it. You have to have a man door out with a ramp.

PAUL BLOSER: Going out the garage door, if they decide to sell, that really takes that value out of the house. Because right now they can pull this off and you have a man door on the side coming off.

MR. BUTLER: It appears they're using the garage for storage, from what I can see right now.

JAMES WIESNER: I guess I'm having trouble understanding what is going on. They go up the ramp, into the garage and then they go up to the lift.

PAUL BLOSER: Across the garage floor to the lift, and the lift brings them up to house level.

JAMES WIESNER: So that house level is probably just a step?

MR. BUTLER: What happens -- if they bring down the lift and they would wheel her to here (indicating). They would wheel her to here (indicating).

JAMES WIESNER: That puts her in the house.

MR. BUTLER: This is on the outside of the garage, on the outside.

JAMES WIESNER: Okay. That's what was set up on the -- for the front?

MR. BUTLER: Now, in the front -- the front door, they have a temporary ramp that goes out, and it comes down. But because of the way the construction is in the inside from where her daughter -- where her daughter's bed is, they can't take her through, because you have that big power chair. They can't take her through the door.

JAMES WIESNER: Okay.

MR. BUTLER: I don't know. I'm still trying to figure out why did they put the lift here (indicating). We're still trying to figure that out.

ADAM CUMMINGS: Easy access out of the vehicles.

MR. BUTLER: The State has already paid for the lift. So now we're looking to go do something further. And again, when you said -- or the Chairman said earlier about getting somebody else's problem, I was feeling the same way.

PAUL BLOSER: Something like this, though, is removed, easily removed as opposed to a huge structure or garage.

MR. BUTLER: I understand the setback where it is only 8 inches on the side. I understand that.

PAUL BLOSER: I would rather see it on the side than going across the front of the house, too.

ADAM CUMMINGS: I'm curious, if they did convert it to a man door, if that changes the classification of the garage to a living space and then you would --

PAUL BLOSER: It's not heated.

ADAM CUMMINGS: That's true.

ROBERT MULCAHY: It has to be liveable.

ADAM CUMMINGS: Yeah. Yeah.

PAUL BLOSER: I have seen it done before --

ADAM CUMMINGS: Otherwise you put a single door in there and a man door, but --

ROBERT MULCAHY: Then you have to put a floor in.

ADAM CUMMINGS: Yeah.

PAUL BLOSER: You got to have that rise.

ADAM CUMMINGS: Yep.

Well, you probably have it on the garage.

FRED TROTT: My only thing is I was wondering if we could have it in -- if we write this that if you remove it to sell the house because -- my concern is --

PAUL BLOSER: This isn't as permanent. This is easily removed.

ADAM CUMMINGS: Except for the application is for permanent handicapped accessible ramp.

Multiple side conversations were had by the Board members.

PAUL BLOSER: It would be required to be secured in this fashion.

ADAM CUMMINGS: I'm just saying I don't know how we can put a condition to remove a permanent structure.

FRED TROTT: I -- you know, we just saw with that Paul Road one when the guy was 5 foot from the lot line and now we're stuck with that 5 foot. I'm worried about the 8 inches here.

PAUL BLOSER: It's not a structure, though.

FRED TROTT: I know.

MICHAEL JONES: I think it is a structure.

ADAM CUMMINGS: Just not a roofed structure.

PAUL BLOSER: Not an enclosed structure.

MICHAEL JONES: So I think maybe if the Board is concerned about permanency, the appropriate way to handle that is with a condition and you can fashion the condition anyway you want just so long as it is necessary to what happened. But should you have a condition if you're concerned about the permanency of a structure because it is a structure.

PAUL BLOSER: So if I put a condition down here that the variance is issued for the proposed ramp used for a specific resident/occupant --

MICHAEL NYHAN: If we put a condition on like that, if a different resident comes into this residence, they have to take the ramp out or come before the Board to ask for another ramp.

PAUL BLOSER: For approval to keep it. And then it is tied for medical use only.

Multiple side conversations were had by the Board members.

JAMES WIESNER: State Code doesn't apply here?

PAUL BLOSER: Counsel, if I put in a condition, I have written it right now, this variance

is issued for the proposed ramp use for a specific resident/occupant only for medical conditions; should this condition change, ramp must be removed?

MICHAEL JONES: I understand what you're trying to say. I'm just trying to contemplate -- I don't necessarily think we want it to expire should a new purchaser also require the same ramp. You want it as long as it is necessary for a resident or an occupant.

PAUL BLOSER: For the condition of medical --

MICHAEL JONES: I think that is what I understood it to mean. So I think yes, that should be provided. We can provide the intent in that. Mr. Shero thinks there should be a condition for a survey as-built. I know we're talking about conditions already, but I don't think we got to public comment yet.

PAUL BLOSER: I know. We haven't.

MICHAEL JONES: I just wanted to make sure we didn't skip it.

JAMES WIESNER: This is exempt from the 5 foot State Code.

ED SHERO: In present state, yes, because it is really a deck. There is no -- if anybody were to come back and enclose it, now you have an issue with State Building Code.

JAMES WIESNER: So we don't need a condition for that.

PAUL BLOSER: Or a roof over it.

ED SHERO: A roof, walls, anything like that. But as an open deck like this, it would not need a State variance.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: In looking over the paperwork on this in the Building Office today, I saw that there have already been two prior approvals for this property, both of them for setbacks. Could we hear what those were?

MICHAEL NYHAN: 59 and 8 foot.

MS. BORGUS: I think it is a little unusual for one property to have three requests for setback variances.

ADAM CUMMINGS: Our 1959 ZBA decided -- to read what goes on. In 1959, October 6th, um, the Zoning Board granted a variance for a garage to be 4 1/2 feet from the side line, side lot line and 3 1/2 feet from the house.

And August 22nd, 1984, another variance for a 14 foot by 12 foot addition, 4 feet by 30.6 feet hallway be 4' 5" from the front lot line and a garage 4 foot from the side lot line.

PAUL BLOSER: That was in '84.

ADAM CUMMINGS: Variances were granted.

MS. BORGUS: We have been squeezing lot line variances here for years.

ADAM CUMMINGS: Correct.

MS. BORGUS: What do the neighbors think of this?

ADAM CUMMINGS: I have not heard.

PAUL BLOSER: Dorothy (Borgus), the signs have been up. They have got their letters. We have not had any response from anybody.

MS. BORGUS: Regarding the front ramp, did -- am I to hear, I think I heard, that there are two disabled people with two different sets of needs in one house?

MR. BUTLER: Excuse me. Yes, ma'am. From what I understand. I was there -- when I was putting up the sign, grandma came home as a matter of fact. That is something I didn't know until I went to put up the sign and then obviously her daughter is my client, so. So I didn't know about the grandmother, to be honest with you. I didn't know. Like I said, I'm cleaning up basically a little bit of a mess. To be honest about it.

MS. BORGUS: I agree with the recommendation of the Building Department, though, that we be sure there is 8 inches. That's a mighty small clearance.

PAUL BLOSER: It is.

MS. BORGUS: I understand keeping disabled people in their home, I do, but this is really, really cutting a fine line.

MR. BUTLER: It's tough.

PAUL BLOSER: Those are small properties there.

MS. BORGUS: Well, it got smaller with two variances already. They expanded the house that was on too probably a small lot to begin with.

PAUL BLOSER: The garage and then they put the hallway in between the house and the garage.

MS. BORGUS: Now the hallway is the problem for this person that needs to exit.

PAUL BLOSER: Yes.

MS. BORGUS: We would have been better off without the last variance probably.

ADAM CUMMINGS: I was only five. (Laughter.)

MR. BUTLER: Thanks a lot. (Laughter.)

MS. BORGUS: All I can say is be sure that you button this up, boys, because you know you have seen the problem on Application 2, and where these things can come back to haunt you later. Not you, but another Board. They won't thank you. So be sure if you're going to do this, you get this, you know, all of the loop holes closed so that the day that these people don't need these ramps, that they all go.

It wouldn't do any good to the neighborhood. The front ramp is -- is necessary, I agree, but it is nothing attractive. And this is not going to help the looks of the house with another ramp.

So just be sure that when you do this, that the day comes when they go.

Thank you.

FRED TROTT: I am confused. Once this ramp gets put in, the one in the front would be removed?

PAUL BLOSER: Yes.

MR. BUTLER: Yes. That is what I was told.

FRED TROTT: That is what you were told.

PAUL BLOSER: That will be a condition.

MS. BORGUS: I'm sorry. I'm sorry. Did I misunderstand the front one will go?

MICHAEL NYHAN: Yes.

MS. BORGUS: Oh, okay. Fine.

That makes it much more acceptable.

PAUL BLOSER: No. The whole point is so they can utilize the ramp that is in the garage, because right now there is no way to get to that and get them out easy.

ADAM CUMMINGS: Not the ramp, the lift. There is a lift. They can't get to the ramp of the front door, so now they're replacing the front door ramp with the side door ramp so they can use the lift.

MS. BORGUS: We'll end up with one ramp and use the one lift?

PAUL BLOSER: Yes.

MS. BORGUS: We'll have a deadline getting the one out of the front yard?

PAUL BLOSER: Yes.

MS. BORGUS: Good. Thank you.

PAUL BLOSER: Your organization orchestrates the construction of this ramp?

MR. BUTLER: Oh, yes. I will be sending out the bids and talking with the contractors. I will be doing all of that.

PAUL BLOSER: Part of that, we'll ask that you do the demolition of the other one while you have contractors right there to quote it.

MR. BUTLER: Excuse me, sir. When you write up the letter, will it come to our agency or go -- a cop --

PAUL BLOSER: It will go to the property owner, the applicant. I can get a copy of it to you.

MR. BUTLER: I would appreciate it. I do have some cards.

PAUL BLOSER: At close of the meeting, I will get that from you.

MR. BUTLER: Yes, sir.

PAUL BLOSER: So I will put a --

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

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

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

PAUL BLOSER: The variance is issued for the proposed ramp used for a specific resident/occupant due to medical condition. Should this condition change, the ramp must be removed.

Number 2, existing ramp must be removed at completion of the new ramp and prior to C of O.

3, all required permits and inspections must be obtained. The way I have written that, just to be clear on that second one, the existing ramp must be removed. When I say that, that has got to come out before C of O is issued on the new one, um, probably because to issue final payment, you would need C of O to do that. So this will wrap it all up. Everything will be taken care of and the residents -- the owners are back to a whole condition.

MR. BUTLER: Thank you, sir.

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

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

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

1. The variance request for side setback is issued for the proposed handicap ramp to replace the ramp in the front of the main structure. This new ramp is for a specific resident/occupant due to a medical condition. Should this condition change or occupant moves out, the ramp must be removed.
2. The existing ramp in the front of the house must be removed at the

completion of construction of the new ramp and, must be inspected by the Town for completion PRIOR to the issuance of a Certificate of Completion/Occupancy by the Town of Chili.

3. All required permits and inspections must be obtained from the Town of Chili.

The following finding of fact was cited:

1. The requested variance is not significant in nature and will have no negative impact on the environment or neighboring properties.

The 8/28/12 Zoning Board of Appeals meeting minutes were approved.

The meeting ended at 9 p.m.