

CHILI ZONING BOARD OF APPEALS  
July 22, 2014

A meeting of the Chili Zoning Board was held on July 22, 2014 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 Adam Cummings.

PRESENT: Mark Merry, Fred Trott, James Wiesner and Chairperson Adam Cummings.

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

Chairperson Adam Cummings 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.

ADAM CUMMINGS: Anyone have any issues with the signs posted on the properties?

The Board indicated they had no problem with the notice signs.

1. Application of Open Door Baptist Church, owner; 350 Chili Scottsville Road, Churchville, New York 14428 for variance to erect a 30' by 45' picnic pavilion to be 1,350 sq. ft. (192 sq. ft. allowed), variance for pavilion to be 14' high (12' high allowed) at property located at 350 Chili Scottsville Road in RA-1 and FPO zone.

Joel Lima was present to represent the application.

MR. LIMA: My name is Joel Lima, Treasurer at the Open Door Baptist Church. We have applied for an area variance. It's an open picnic pavilion. It's located to the rear of our property, parallel to our pole barn and behind the children's playground.

It's going to be metal construction, similar to our pole barn, metal roof, metal gable ends, metal overhangs and gutters and similar in color to match our pole barn.

We have several outdoor activities and events at the church throughout the year, especially during the summertime and this would be a good asset to have outside. Even on Wednesday and Sundays when we have services, the children are out there and we can do children's classes out there also. It will be accessible for wheelchairs, for seniors. It will be directly off our -- we have blacktop right behind the pole barn.

We'll put a walkway to the pavilion. It will be one level, so everyone will have easy access to it. So it is just an asset to our current facility to -- to have more events and activities outside.

JAMES WIESNER: Do you have any sketches at all of what you're planning on putting up?

MR. LIMA: I'm working with the contractor right now. I don't have a final sketch. It's just a --

JAMES WIESNER: Open structure.

MR. LIMA: Open structure, gable ends.

You know, the sides and ends are open, other than the gable sides. 9 foot ceilings. We have a white metal ceiling inside so we don't have bees and birds and things like that. Concrete floor. It will be a nice looking facility.

MARK MERRY: Can you tell me if this would have to go before the Architectural Advisory Committee for approval?

ADAM CUMMINGS: I am certainly for -- I have not even seen -- I don't know if the Planning Board has seen this. Maybe the applicant can answer that.

MR. LIMA: We have applied for site plan approval and will be on the agenda next month.

ADAM CUMMINGS: So they're applying to the Planning Board. They will most likely refer it to the AAC.

MR. LIMA: I have a picture. This is our existing pole barn (indicating). This is the children's playground (indicating). The facility will be behind the playground.

Again, similar colors and metal fabrication. Just gable ends and four sides will all be open.

ADAM CUMMINGS: Right.

I'm assuming you're in here because you were directed to try and get your variances before you invested any money towards the engineering and the design?

MR. LIMA: Yes. Because of the oversize and over height.

ADAM CUMMINGS: All right. Which is probably why the sketches aren't done yet.

MR. LIMA: We're on schedule next month for the site plan and then come in for the building permit.

MARK MERRY: The location of the pavilion, the construction of the grading for that site, for the pavilion, it has no impact on the adjacent wetlands?

MR. LIMA: No. The runoff will be just as it is without the building there. We'll have the water from the roof, down the downspouts and going to the existing run-offs.

MARK MERRY: And again, the use for this facility is strictly for the parishioners of --

MR. LIMA: Open Door Baptist Church, yes.

MARK MERRY: Okay. No other questions. Thank you.

ADAM CUMMINGS: The 14 foot height, what exactly is driving that height?

MR. LIMA: 9 foot ceilings. The gable ends will be a poured floor, 12 pitched roof, so the gable ends will be 14 feet high, to the peak.

ADAM CUMMINGS: How high did you say that existing one is?

MR. LIMA: The existing pole barn?

ADAM CUMMINGS: Yes.

MR. LIMA: That has to be higher because that is a 6/12 pitch.

ADAM CUMMINGS: Yep.

MR. LIMA: That is probably 17 feet at least.

ADAM CUMMINGS: Fred (Trott), any questions?

FRED TROTT: I noticed there was some debris in the back, in the pictures that you had here. Is that for -- do you plan on cleaning that area up for that?

MR. LIMA: Behind the pole barn?

FRED TROTT: Yes.

MR. LIMA: Just from of our equipment, our snow blade, our salt spreader, some equipment we used for annual VBS sports camp in the summertime, which is next week. We store as much as we can in the pole barn and then this is --

FRED TROTT: You will have enough room for all that?

MR. LIMA: Pardon me?

FRED TROTT: You don't have enough room in the pole barn?

MR. LIMA: It's full.

FRED TROTT: Okay. Will there be any garage doors?

MR. LIMA: No.

FRED TROTT: On the sides?

MR. LIMA: No.

FRED TROTT: Completely open?

MR. LIMA: Completely open.

FRED TROTT: No other questions.

MR. LIMA: Wood trusses. I think they're 8 by 8 timbers for the -- to set the framing, because there is five on each side, nothing on the ends.

FRED TROTT: And no side walls or anything?

MR. LIMA: No side walls. The trusses will span the 30 feet.

ADAM CUMMINGS: So the -- so the -- obviously to shrink the footprint down, you not only get a lesser variance being requested, but you can also possibly avoid that 14 foot height one.

MR. LIMA: Well, the plan was to try to be able to seat at least 100 people with some picnic tables and we need that kind of space to do that. That is why we're going with that. We have 1,000 people on a Sunday morning. We have almost 450 families attending, so we need the room.

ADAM CUMMINGS: Questions from the side table.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

ADAM CUMMINGS: I would mark down a building permit would need to be obtained along with, as Mark (Merry) brought up, the vicinity to the wetlands, you will likely need a flood plain permit, as well.

MR. LIMA: We need? A new one or an existing one?

ADAM CUMMINGS: I don't have a record --

MR. LIMA: That's the flood plain, that dotted line right there.

ADAM CUMMINGS: Are you saying -- do you have a flood plain permit for the existing building? You will need a flood plain permit for this one.

MR. LIMA: I wasn't aware we needed one. I would have to look.

ADAM CUMMINGS: It probably wasn't needed in the past, but now --

MR. LIMA: Will that be part of the site plan application?

ADAM CUMMINGS: We'll put it as a condition here, but they will say the same thing.

MR. LIMA: How do I go about that?

ADAM CUMMINGS: You can work with the Building Department.

MR. LIMA: Okay. We are.

JAMES WIESNER: Looks like this will involve site plan approval at the Planning Board.

ADAM CUMMINGS: Always the circular reference. Well, the variances stand with the land, so we really don't care about the site plan approval.

JAMES WIESNER: Okay. I mean, potentially the folks, if they don't get --

ADAM CUMMINGS: But we can't revoke it. If we grant the variance, it stays with it.

JAMES WIESNER: But that would be a condition, wouldn't it?

ADAM CUMMINGS: What, putting in a pavilion? This is just granting the property owner a variance to put in a structure that is 1,350 square feet and 14 feet tall. It doesn't even have to be the Open Door Baptist Church.

Correct me if I am wrong, Counsel? Mike (Jones), am I right?

MICHAEL JONES: Yes, that is right.

ADAM CUMMINGS: So the site plan approval, they will have to go through to build the structure and the grading around it.

JAMES WIESNER: The reason for the site plan approval is because they have changed -- they changed the buildings on the structure?

ADAM CUMMINGS: What could -- well, there is going to be grading and sidewalks and other improvements on here. This is one of those predicaments where you either grant the variance after the site plan or before the site plan. So this applicant chose to come before it in an effort to save the engineering costs and design costs as we proceeded through. Because if he didn't get the variances, then he wouldn't proceed with that.

JAMES WIESNER: Okay.

ADAM CUMMINGS: So if -- if we don't feel comfortable with this and didn't want to grant two variances and wanted to minimize the building and minimize the variance, we can do that.

FRED TROTT: I can follow what he is asking for.

ADAM CUMMINGS: It is seating 100 people. I think that seats about 100 people.

FRED TROTT: If not more.

ADAM CUMMINGS: If not more.

Jim (Wiesner), if you would like it on there, we could put it on there? Did you want it on there?

JAMES WIESNER: No. You have explained it. That is it. Just looking to see this -- this is how it is stated in here. I understand what your reasoning is.

ADAM CUMMINGS: I -- I will ask Ed (Shero) real quick. Your department, would you like it in writing to require them to go for site plan?

ED SHERO: I don't think so.

ADAM CUMMINGS: Okay. Thank you.

Adam Cummings 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.

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

DECISION: Unanimously approved by a vote of 4 yes with the following conditions:

1. Building permit must be obtained from the Building Department.
2. Flood Plain permit must be obtained from the Building Department.

The following finding of fact was cited:

1. This structure will provide a place of safety and refuge for the attendees of outdoor events at this facility. The height of this structure will be shorter than the adjacent, existing storage building and the main church building. The size of the structure was determined to be necessary to house the typical size of outside gatherings at this facility and will not be so large as to encourage excessively large groups or gatherings.
2. Application of Mr. and Mrs. Kevin Morano, owner; 2 Oaktwist Circle, Rochester, New York 14624 for variance to allow existing utility shed to be .64' from side lot line (8' required) and 2.12' from rear lot line (8' required) at property located at 2 Oaktwist Circle in R-1-20 zone.

Kevin Morano and Mrs. Morano were present to represent the application.

MR. MORANO: I'm Kevin Morano. This is my wife, Karen. We live at 2 Oaktwist Circle here in the Town of Chili, and we're here tonight to ask for a variance for the placement of that shed.

Based on some guidance we got from the Town Department, we did apply or petition to the State for a variance from the State. I believe you guys have the draft. I have the final approval.

The other thing that we provide is we do have letters from our adjacent neighbors in approval of the placement of the shed.

MS. MORANO: That shed is an existing structure that has been there for 18 years -- 18,

19 years prior to us owning the home.

ADAM CUMMINGS: Are you just looking to get your property code compliant or a sales transaction?

MS. MORANO: This is as a result of requesting a permit for a pool that we put in, and the permit for the pool is contingent on getting the variance for this.

ADAM CUMMINGS: Excellent.

FRED TROTT: I have two questions for you. The monkey in the room, or whatever you want to call it, why not move the shed?

MR. MORANO: If you look at the picture we provided you guys, if we had to move the shed to get it in compliance, it would almost stick it in the pool. So frankly, we don't -- if you don't want to grant the variance, we have to tear it down. There is not enough room in the yard. It is a corner lot, so we don't have enough to make the setback, the 5 foot setback of the Town -- or 8 foot setback for -- from the Town. We would have to tear it down. We would move it, but the way it is anchored to the ground, you can't easily move it. It is basically 4 x 4s that are buried 3 feet down into the soil.

FRED TROTT: And you had the pool put in before the permit for the pool?

MR. MORANO: Well, actually we discovered the problem with the shed when we put the pool in.

FRED TROTT: No. I mean, you put the pool in without a permit?

MR. MORANO: No. No. No. We put the pool in. Contingency on the pool was we apply for the shed.

MS. MORANO: As we put the pool in starting last fall.

FRED TROTT: That is when it was noticed --

MS. MORANO: Yes.

FRED TROTT: They let you construct the pool.

MS. MORANO: With the contingency of -- and if we don't get it, we'll have to tear it down so we can get the pool permit.

ADAM CUMMINGS: So on the plan that is up there, that circular pool --

MR. MORANO: That's gone.

MS. MORANO: That was gone. That was also -- the previous owners to us had that in place.

MR. MORANO: I think if you guys take a look, there should be a Google shot of the home with the new pool.

ADAM CUMMINGS: That makes sense, because that one shows a circle and this one is a rectangle.

MR. MORANO: Right.

ADAM CUMMINGS: You can actually see the construction trail going over an old drive.

MR. MORANO: Still pretty much there.

ADAM CUMMINGS: Is that dirt around there?

MR. MORANO: That's all just dirt. I'm assuming they took that picture in October of last year, because that is when the pool actually went in.

MS. MORANO: There is concrete on one side of it now.

ADAM CUMMINGS: Yep. And then having to move it closer to the pool, you still would have to maintain a separation from the pool.

MR. MORANO: Exactly. That is why it would have to come down.

ADAM CUMMINGS: Interesting.

FRED TROTT: Now, I have another question.

With the -- your neighbors are fine -- the neighbors that are next to you that have the -- where you're not even a foot on the property line, they --

MS. MORANO: You will see letters from both of them in there indicating that they have no issues with it, and I don't know. In my opinion, if they did, they probably would have spoken up in the last 19 years since it's been there.

ADAM CUMMINGS: So I will confirm I do have two letters, one from -- oh, boy. Surendar Johar at 26 Silverknoll Drive, so that would be due east.

MS. MORANO: Yep.

ADAM CUMMINGS: And then I also have one from Robert Thompson at 4 Oaktwist Circle, which is the one to the southwest. Then I do have -- you handed up today. We have the draft in our file of the notice of your grievance and seeking relief about the two setbacks to be below the threshold on it, so they have granted that from the Department of State, so that is on the file here. Other than that, I don't have any questions.

FRED TROTT: I have another question. What -- I didn't get to see the shed good enough. What is the condition of it? Is it in great condition or -- or do you think like in ten years you will need to rebuild it?

MR. MORANO: We just put a new roof on it. It needs to be painted. Frankly, we haven't painted -- when I say "painting," just the trim on it. The side on the shed matches the house. So it's got two windows in it. The doors need to be painted, the trim needs to be painted, but frankly until we hear from you guys, we weren't going to take that action.

JAMES WIESNER: What is the shed used for? Pool toys and --

MR. MORANO: No. Actually, just more garden tools.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have to admit when I read this application, I thought this takes the cake. As a regular at this meeting, I have seen some things that are pretty, pretty close to the line, but I have never seen anything as close as this. And I am wondering, um, did the -- I didn't hear the question asked, how long have these people owned this home?

MR. MORANO: 15 years.

MS. MORANO: Since '99.

MS. BORGUS: I guess my question would be then why replace a roof now when this Board had not approved it?

MR. MORANO: We replaced the roof three years ago. So prior to us even having knowledge of where that shed was and how frankly the right variance had not been obtained by the previous owner.

ADAM CUMMINGS: Thank you.

MS. BORGUS: My first thought is you should make an example of this. It is an old shed anyway. Take it down.

People that see this meeting monthly on their televisions, and there are a lot of people who look, who watch, will think that this is a breeze to come in here and get anything approved if they see things this close to the line being left to stand. Even if it is late. This shed should be removed. It seems like it is not much a loss to these people.

Must be small. I didn't hear the size. Do we know the size?

ADAM CUMMINGS: Approximately 108 square feet.

MS. BORGUS: It's small.

ADAM CUMMINGS: It's below the threshold.

MS. BORGUS: It's below the threshold. But it's small anyway. It's old and I think this would be a good object lesson for everybody who watches this meeting monthly on their televisions and maybe they won't try the same thing. We just can't make this easier and easier to come in and ask for forgiveness rather than permission. This is the time to take the stand. To these people it probably doesn't make a lot of difference. It's small. It's old. This is the time to make an object lesson.

MS. MORANO: To comment on that?

ADAM CUMMINGS: You can, or you don't have to. I just want to point out that you don't have to. It is all at your own discretion.

MS. MORANO: Well, I -- for the people watching on TV, I want to make sure that they know this has not been an easy process. It has been anything but easy. The process with the State took months of paperwork back and forth, many phone calls, lots of time, money. It has not been easy at all. And it is a big deal to us, so I don't want there to be any indication that isn't. We really would prefer to keep it. And even though now we are asking forgiveness, we wouldn't have been in this situation if the previous owners had put us into a better position right now.

So I just wanted to comment that it certainly hasn't been easy and we certainly are -- have spent a lot of time and effort on it, so obviously it is important to us or we wouldn't have spent our time and effort and money on it.

MS. BORGUS: Just one more question. Why would the State give relief? What was their basis?

ADAM CUMMINGS: I will read that later, but --

MS. BORGUS: Thank you.

CARLA ROZOTTI (phonetic), 27 Silverknoll

MS. ROZOTTI: Carla Rozotti, 27 Silverknoll, which is a neighbor directly across the street.

ADAM CUMMINGS: Okay.

MS. ROZOTTI: I don't see what the issue is letting it stand if the two neighboring neighbors are fine with it. It was pre-dated to these folks. They didn't know about it. Why don't you make a condition that he has to take it down and move it then. It is not hurting anybody at this point so you can make an example for somebody else.

ADAM CUMMINGS: I just like to point out for everyone we're looking at the variance for the shed and it doesn't matter who the property owners are or were. And even in the future, this allows a future structure to be within those dimensions. I just wanted to point that out to everybody. It's a point of fact for everyone.

Fred Trott made a motion to close the Public Hearing portion of this application and Mark Merry 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.

ADAM CUMMINGS: I will go back and I won't read the entire relief, but I will say that as vague as they write it, the conclusion of law from the Department of State is that strict compliance with the code would produce a negligible additional health, safety and security benefit to the occupants of the building. And they provided a determination where it is, therefore, determined that the application for variance from 19 NYCRR part 1220 Section 302.1 and table 302.2 to permit the subject building to be located approximately 8 inches from the property line without a fire-rated wall is hereby proposed to be granted.

So they did provide it based on that saying that there is not a requirement for fire separation distance. So with that, um, I would also like to state, as the applicant stated, um, and -- and while I appreciate Dorothy (Borgus)'s input of -- I do want to make examples of people asking for forgiveness constantly, um, this is a good example of doing it the right way and getting -- as fun as it can be to work with the Department of State, get all of the necessary approvals, correspondence, including getting your accurate locations of where the structures are on the site. Um, I'm tempted, since the surveyors didn't shoot it, your -- your plat map that is on there does not show an accurate representation of your property. Since you now have a rectangular pool, the old one is on there.

So, um, did you have a surveyor locate just the pool and the building or did you do your entire property and create a new survey map?

MR. MORANO: Just the pool.

ADAM CUMMINGS: Okay. Any idea, is it possible to go back to them and ask a map be prepared? Did you ask for a quote for that?

MR. MORANO: Um, no, but I'm sure we could go back.

ADAM CUMMINGS: Okay. So --

FRED TROTT: How did you determine the .64?

ADAM CUMMINGS: They would have measured it from -- that is why I think they have the measurements from the property lines. They just didn't create a map.

MR. MORANO: I didn't get any type of a map from the -- or from the person that laid it out.

ADAM CUMMINGS: Right. They just told you the dimensions.

MR. MORANO: Correct.

ADAM CUMMINGS: So one of the conditions is to provide an updated survey map of your property with all of the structures on there, and that will help -- that is the correct way to do it. So on file, at the Town, we have an accurate location map of everything on your -- on your site and its distance from the lot lines.

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

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

DECISION: Approved by a vote of 3 yes to 1 no (Fred Trott) with the following condition:

1. An updated survey plat plan of the property must be submitted to the Building Department.

The following finding of fact was cited:

1. The shed has been located at this placement for well over 10 years. There were no complaints from adjacent neighbors as evidenced from the letters of support that were provided with the application. The applicant provided an Approved Letter of Relief from the Department of State for a variance below the NYS allowable value, which provided a summary that the proposed variance and the associated structure does not pose a fire hazard and will not require the installation of a fire safe wall due to the low likelihood of fire damage.
3. Application of Mr. and Mrs. Roy Burger, owner; 970 Morgan Road, North Chili, New York 14514 for variance to allow the total square footage of garage area, including a new 30' by 32' detached garage to be 1,293 sq. ft. (1200 sq. ft. allowed), variance to allow ridgeline of garage to be higher than ridgeline of dwelling at property located at 970 Morgan Road in AC zone.

Matt Emmens and Roy Burger were present to represent the application.

MR. EMENS: Matt Emens, 851 Morgan Road, representing Mr. and Mrs. Burger this evening.

As you guys see, we have got an area variance application in, and it's in -- two items in regard to the same section of the zoning code, Section 500-60(F), the one that is for the garage area and the other is for the height. The Burgers are in the process of getting prices on a pole barn. A garage, a detached garage that you can see on the drawing would be about 43 feet off the back of the house. Um, and the existing structure has a one-car attached garage that is rear-loading. Um, and that's the 330 square feet approximately that's added to the new 30 by 32 detached garage, puts them over by 93 square feet.

And then also the height of the garage ridge would be higher because of the fact that it is wider. The gable end is 30 feet wide, so even with a 4/12 pitch, which the existing end wall gable is a 12/12 pitch, approximately 28 feet wide it will be higher. Also, with the garage

detached and set back, one of the challenges -- or one of the things that makes it less than a challenge, it does bring the structure down because the grade slowly drops towards the back of the yard. So if this was a new house or an attached garage, obviously they try to set the garage lower than the finish floor of the house and that's how you would make up your eave heights and get your ridge lower. They're trying to achieve that by using the existing grade, not having to rip up the driveway and do a bunch of site work. They will use the grade to their advantage.

Also, you guys know they were here back in April for the subdivision and have now -- basically the other issue resolved from that is the side setback because of the other property. The side setback is approximately 60 feet. And I think that's it. The other thing I will just mention quickly, too, is we both have -- we have both neighbors, flanking neighbors here this evening ready to -- prepared to speak in favor of the project also.

FRED TROTT: I don't have any real questions other than the garage area dwelling you have, it's only 93 square feet extra.

MR. EMENS: 93 square feet extra. Above the --

ADAM CUMMINGS: What is allowed.

FRED TROTT: What is allowed. The 1200 square feet, correct?

I guess my question, would they want to go down just to get that variance out of the way? Or it's necessary for them to have the 93 feet?

MR. EMENS: Well, the other thing, too, is basically they were trying to maximize this building so they don't have to -- obviously they are not making it as large as most pole barns would be in the area. It is more of the size of a garage, but that is what they're going to be using it as, a garage, and I guess they basically stayed with the 2 foot increments based on the fact not to get too long and not to make it too wide, but it did, of course, bump them over with the attached garage at the 333 square feet.

FRED TROTT: And it is going to match the house?

MR. EMENS: Will not match the house. The house is a bit challenging. I will hand these out and then I'm sure Mark (Merry) can come up with a question after I show him some pictures.

The other thing I wanted to point out, too, is that for those of you who aren't familiar with this portion of Morgan Road, it's -- there is the road cut and then you will see on the front page of the Google Earth image Morgan Road cuts up -- before in the '60s, I think maybe when they did the road cut-through there. Someone might remember the actual year. And there is actually a significant elevation difference, right?

So -- so Morgan Road, you see there at 133, that County Road is -- it's probably like a 60 -- maybe 65 foot deep road cut, so those houses that you see there, um, sit that much higher up off the road and then back, right? So most people are never going to see this building to begin with. And the fact that it is set back behind the house, and it does fit nicely in the lot there with the treed area, um, I don't think it is going to be -- you know, our opinion is it won't be much of an issue.

ADAM CUMMINGS: Do you have one more copy of that?

MR. EMENS: Yes.

ADAM CUMMINGS: Can you stick it up on the overhead?

MR. EMENS: Yep.

So back to the original question about matching the building, Fred (Trott), the existing house? The existing house you will see in the next picture is a ledge stone material, and what happened was the previous owners had painted it with an epoxy paint, which is very thick and coated the masonry quite well, sealed it quite well, however. So to try to match anything would be really challenging.

That is one of the other benefits -- excuse me, the benefits of detaching the garage as opposed to attaching.

The other thing, too, is the house is very long. And if you look at the -- I will just flip back here. If -- if you look to -- at -- the placement of the garage is at the end of the driveway here (indicating). If we were to try to put this over here (indicating), then they would definitely be into the setback and need to be (indiscernible) the setback, too, so we are trying to use that grade and the new portion lot to their advantage.

ADAM CUMMINGS: About how wide is that driveway?

MR. EMENS: It's probably 28 feet wide.

ADAM CUMMINGS: In the back you can see it is double there, right?

That is what I was going off of, because that kind of helps drive how long the building is going to be.

MR. EMENS: Exactly.

JAMES WIESNER: Do you know how big actually -- I see Bob (Evans). How big the neighbors -- just to get perspective, how big his shed is?

MR. EMENS: How many square feet?

MR. EVANS: Bob Evans, 949 Morgan Road. It's a 32 by 56.

JAMES WIESNER: So his will be a little bit shorter.

MR. EMENS: Yes, significantly.

MR. WIESNER: Thank you.

MATT EMENS: Fred (Trott), also to go back to that -- sorry I'm jumping around -- the materials won't match, but the colors will be fairly close. The side will be a stone color, like a light gray to match the stone, the painted stone house.

FRED TROTT: Close enough. Not like you're going orange.

MR. EMENS: Their desire is to match it aesthetically as best they can from a color

standpoint, but they can't do it with materials because it would be just way too out of control.

FRED TROTT: No. That is fine.

ADAM CUMMINGS: I think we covered the question of the requirement for the size. Obviously the ridgeline, when you're trying to go with grade, it makes it a little bit different part of the equation. So it is good to reuse that instead of having to change land again. I don't have any other questions. I will go over to the side table, unless there is some more up here.

MARK MERRY: I really don't have any questions. I do appreciate the pictures. They're very nice. Thanks for taking the time to do that. I guess my only remark is I kind of concur with what Fred (Trott) had to say with the 1200. I guess I -- I don't know how the 93 additional feet really benefits anyone.

MR. EMENS: And without doing some quick math, um -- um, I guess I don't know how much they have to shorten it to get it under that. So to -- the new structure. Right. They would have to take it down to 30 by 30 basically.

ADAM CUMMINGS: You would have to take off 3 feet. You would have to take off about 3 feet. So you could go -- if you want the 2 foot increments, you can go 26 by 32.

MR. BURGER: Excuse me, may I?

ADAM CUMMINGS: Is this --

MR. BURGER: Roy Burger, 970 Morgan Road. The pole barn, according to Santelli -- and I have some sketch drawings, the lengths especially when you're standing in front of garages, the depth I'm talking about are based on 8 foot increments because that is where they set their posts. So to shorten the building by a few feet impacts the costs tremendously because you now have oddball sizes where you have to cut materials to compensate for that and it makes it a lot more labor intensive.

MR. EMENS: Didn't think about that.

MR. BURGER: Rather than shorten it 8 feet by 30 or whatever it comes out to be, it would shrink it by 240 square feet. It would be a huge loss and make the building look silly. Where it is would be squished and now it is square and would be more attractive that way. Okay?

ADAM CUMMINGS: Thank you.

MR. BURGER: Thank you.

FRED TROTT: I'm sorry, that's including the attached garage?

ADAM CUMMINGS: Yes.

FRED TROTT: I apologize. I remember that when I went over that before.

ADAM CUMMINGS: So based on that conversation --

FRED TROTT: Yes.

ADAM CUMMINGS: -- we cannot -- if it went out the 8 foot increment, then it would bring it down 240 feet, which would be below the 1200 square foot requirement that we have. MR. EMENS: I don't think that was the original issue, and I think that came out when they went to the Building Department. So obviously, their desire is to go for the 30 by 32.

ADAM CUMMINGS: What type of storage is going to go in there?

MR. EMENS: Used as a garage for their cars. Right now they only have the attached garage, and they have multiple cars, so to get the cars in out of the snow.

ADAM CUMMINGS: Okay. One of the conditions we'll be placing on it, it can't be used for business purposes. And as always, a building permit. So. We'll get those out of the way later. No comments from the side table.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Two points. Um, I haven't heard how high the garage is, the ridgeline of the garage is and how high the ridgeline of this proposed building is to be.

ADAM CUMMINGS: I will ask it as soon as I close the Public Hearing.

MS. BORGUS: And does that -- is that difference in height compensated by a decrease in the elevation in the back of the house? In other words, does -- does one offset the other? The other thing -- I'm -- this isn't too clear, the drawing isn't too clear where I am, but where is the driveway to be to get out to this new building?

MR. EMENS: Right here (indicating). This is the existing driveway, Dorothy (Borgus) (indicating).

MS. BORGUS: Oh, I'm thinking that is the garage -- okay.

MR. EMENS: And then behind the house, because there is the loading -- the rear loading garage now, so that is why it is double wide here and then it is just going to feed right into that.

MS. BORGUS: It isn't --

ADAM CUMMINGS: So there is a garage door on the back side here (indicating). So what happens is you come in the driveway and then you go into the house.

MS. BORGUS: Oh, I see.

ADAM CUMMINGS: So now what they're doing is --

MS. BORGUS: Going straight back.

ADAM CUMMINGS: A detached pole barn or a detached garage or a detached structure back there.

MS. BORGUS: Uh-huh. Now, if this building is going -- pretty much match the house, um, what color roof would be on it? Will that also match the roof on the house?

MR. EMENS: Yes, ma'am. Charcoal in color.



ADAM CUMMINGS: It would be the same material, yes.

MS. BORGUS: Thank you.

ADAM CUMMINGS: Or at least the same color.

MR. EMENS: Correction. It will be the same material.

And to answer the other questions, Dorothy (Borgus), we don't know for sure what the height will be, but just to go back to a couple quick dimensions we talked about early on, the width of the house is approximately 28 feet that has -- that currently has a 4/12 pitch on it. The new structure in the back would also have a 4/12 pitch on it that would be 30 feet wide which would make it slightly higher, but depending on the siting of the elevation of that floor, and how far that drops off, it may not actually be higher.

ADAM CUMMINGS: Right. So the ridgeline might match.

MR. EMENS: It probably won't because no one is that lucky, but yes, it will be close. The only way we would ever be able to tell is in 2D -- in a 2D drawing. In perspective, standing in front, you will never see it. It will look lower, and as you walk, you know, past the house, you will never see it, so they won't be seen at the same time together other than in the front or side yard and it will be too hard to tell with the distance between the structures. It will be minimal.

ADAM CUMMINGS: So just not having drawings or anything, it's a difference of 2 feet on each side of it and on a 4 on 12, it will be a difference of around 8 inches.

MR. EMENS: Yep. And then I would say -- I don't know if you have to put a number to it?

ADAM CUMMINGS: Right. Because depending on how it goes down, you could regrade it to have --

MR. EMENS: Yes. They did the subdivision map and they're just using it to their advantage to show this on here, which is how most people do it. So we don't have a site drawn with topo on it to try to figure it out unfortunately real quick. We'll jump back to Public Hearing if there is any other comments.

Fred Trott made a motion to close the Public Hearing portion of this application and James Wiesner 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.

ADAM CUMMINGS: Are we clear on what they're looking for? Once again, one condition, would it be -- it would be that the garage would not be used for any business purposes. Or the -- or the pole barn structure will cover all from there. And then the second one would be a condition requiring a building permit. And any other necessary processes there, inspection, paperwork, et cetera. And just to put it on record, it has to be done prior to construction.

Any other discussions about minimizing it? Do you guys want to discuss it?

MARK MERRY: No, I don't.

FRED TROTT: I can understand it now. I had not looked at the whole -- the size of the garage. I assumed they were going past the 40 by 30. I didn't even put the map together.

ADAM CUMMINGS: Real quick on that, that current garage that is back there, that is currently being used. It hadn't been remodeled in the house for a different use?

MR. EMENS: No. Just a single-car garage, though.

ADAM CUMMINGS: Because you obviously can't see it from the front of the house.

MR. EMENS: Right.

Adam Cummings 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.

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

DECISION: Unanimously approved by a vote of 4 yes with the following conditions:

1. This structure shall not be allowed to be used for business purposes or to store equipment or materials associated with a commercial business.
2. Building permit must be obtained from the Building Department.

The following finding of fact was cited:

1. This property is located well above the public right-of-way, will not likely be visible from the roadway, and will be similar in nature, but smaller than pole barn that exists on the adjacent parcel. The height of this added structure will only be marginally higher than the existing ridgeline of the main structure and due to the existing grade of the site the new structure may be constructed with a ridgeline height to match the existing elevation.

4. Application of Roger Dart, owner; 7 Hubbard Drive, North Chili, New York 14514 for variance to erect a 10' by 10' utility shed in front setback area (on Westside Drive) where code requires not to be placed in front yard, and 40' from front lot line (Hubbard Drive) where 55' is required at property located at 7 Hubbard Drive in R-1-15 zone.

Roger Dart was present to represent the application.

MR. DART: I'm Roger Dart from 7 Hubbard Drive. We purchased that land approximately 19 years ago. For those that may not be familiar with it, it really doesn't show on the site plan, but Hubbard Drive -- our house faces Hubbard Drive. However, it also borders on Westside Drive, so we have a dual front lawn is I guess how it was described.

ADAM CUMMINGS: A corner lot.

MR. DART: In other words, we really have almost no back lawn. As a result, um, as you may have noticed on some of the information in the application, my shed is not in great shape. Not falling down, but the floor is warping. The door needs repair or replacing, and if you happen to come by when the door is open, you happen to see the shed is full, so I would like to make a little more room obviously.

I'm finding in addition to what you have on the papers there, you make this amendment or -- do -- how do I go about what you proposed to me on Friday?

I had a visit on Friday and he came and said, "We have a problem," and didn't excite me at all. He said he'd rather spring it on me Friday instead of tonight. I appreciated that very much because finding out my back deck which was on the house, on the property when we purchased it 19 years ago, was the shed, it was kind of a surprise to find that was also not in code.

So that -- so that is where I'm at with those two issues.

Do we need to address that any more?

ED SHERO: I didn't talk to the Chairman. I don't know how you can amend the application.

ADAM CUMMINGS: For the shed, um, I would prefer to have it come at a future meeting since it wasn't publicly posted. I will wait for Counsel, for the attorneys to figure it out.

MR. DART: For the deck.

ADAM CUMMINGS: For the deck. Yes. Whether we take care of it tonight or at a future meeting.

MR. DART: As long as I don't have to post another sign or pay another \$100, I don't mind.

ADAM CUMMINGS: That is what we're working right now. It is listed as 10 feet off it. Actually, it needs to be -- let me just --

ED SHERO: I do have a suggestion.

MICHAEL JONES: Mr. Chairman, you're correct. I don't think the Board should act on any request that is not included in the application and advertised. If the applicant wishes to table his application, to amend it, have it readvertised and deal with everything at once, that is one way to deal with it or he can piecemeal it. I don't think you can do both today.

ADAM CUMMINGS: Agreed. So the options we have is tonight we aren't going to act on the deck. So we have really two options. We can either move forward with the shed and you paid the \$100 and the zoning application -- or the variance application fee, and then to come in another month, you would pay another \$100 to do that. I would be on TV saying this with the Supervisor and everybody hearing this, but I don't believe there is a fee to amend it.

MR. DART: This is how it was proposed to me. That is why I mention it. He said we would amend it.

ADAM CUMMINGS: I would like to amend it.

MR. DART: I don't mind telling you it is ridiculous to pay another 100,000 for a matter of a few feet on the back of my house.

ADAM CUMMINGS: I'm trying to avoid that. So that is why I think we should table it tonight and you submit an amended one, and I don't know if we charge again for an amended variance request. I think in this case we would -- we would waive it.

MR. DART: Much more --

ADAM CUMMINGS: What we would do is -- actually, it would be a withdrawal tonight and then a reapplication, or can we table it and then amend it?

MICHAEL JONES: Why don't we table, as to the fee question, and if it requires withdrawal, that could probably happen offline.

ADAM CUMMINGS: So either way, we're -- we're going to table it -- or have a motion to possibly table it tonight, which means we won't make a decision tonight.

MR. DART: On the deck.

ADAM CUMMINGS: On -- on either of them. On the shed and the deck. So what is going to happen is, we will table it for now to find out if there is another \$100 that needs to be paid to do a variance application for the deck. You're -- to -- to continue on with that track, then next month, or the next meeting, um, we would take care of the deck variance and the shed variance at the same time, so that is choice one for you.

Choice Number 2 would be do the shed tonight and do the hearing on that and everything pertaining to the deck, and then the additional \$100 for the deck in the future one. Um, so I will leave that open to you, but procedurally, we can't act on the deck because there wasn't public notice to let everybody know that there is an application. So we can't just amend your application.

MR. DART: It is how it was proposed to me.

ADAM CUMMINGS: Right. And even if it was proposed --

MR. DART: That is the only reason why I brought it up this way; it was suggested we would amend it. It wasn't my idea. I was rather upset we had to do this any way. Like I say, we lived there 19 years. The deck was on there. It was on the site plan you see behind you when we bought the place. So was the shed. And all of a sudden -- I don't want to do nothing to the deck, but increase the size of the shed and I have to have a variance because I don't have a backyard is what it boils down to.

ADAM CUMMINGS: Correct. That is correct.

MR. DART: Even though I can match these figures, I don't have a backyard or exceed these figures.

ADAM CUMMINGS: Right now your property is not in compliance with the code.

MR. DART: I understand because of the deck and --

ADAM CUMMINGS: Because of the shed and the deck.

MR. DART: Understand that.

ADAM CUMMINGS: Correct. So -- so our job is to grant you an appeal from that code, but that's why the two choices that are posed tonight is we can either proceed with the shed, if you would like to do that, and that would -- you have already paid that \$100.

If we -- if we cannot amend the wood deck to include it tonight -- that is not an option tonight. Um, but we could table it and amend it for a future meeting so that that \$100 -- I still have to confirm it, but that \$100 would be carried over to both of them.

MR. DART: Would cover both of them if we do it that way.

FRED TROTT: Most likely.

ADAM CUMMINGS: Most likely. I can't do it for certain.

MR. DART: Can the attorney speak to that?

MICHAEL JONES: The Board can't speak to fees. They have no control of fees. It is set by the Town Board and the Building Department has to enforce it, but what is being suggested is if they table it and don't take any action, you can go back to the Building Department, amend your application, the same application you have already paid for, and go forward with that.

Now, you may have to, however, pay for the advertising. It may have to be readvertised and that is a cost passed on to you, but the full application may be waived because you take your -- you're only amending the same application. So you could very well save that money if the Board tables your application today.

MR. DART: The question I would have that -- I'm looking probably at the August meeting because I'm probably too late to get the application in for -- for the September meeting.

MICHAEL JONES: That is true, but sir, just so you understand, one other thing, no action by the Town can be taken against you while the matter is pending, so there is no enforcement, no violation will be taken against you because you have made an application. So everything is stayed until the Board will make the determination. So you might go out to August, that is true, but no action by the Town can be taken against you in the meantime.

MR. DART: Well, that is seems the most logical way to go about it.

ADAM CUMMINGS: As long as there is not anything --

MR. DART: Because if there was anyway I can avoid the extra \$100, I want to do that obviously.

ADAM CUMMINGS: And if there is no pressing matters that -- is there any -- if there is no schedule pressing -- or pressing schedule that you need to do that, then just taking care of it at a latter day would most likely be the most economical choice for you.

MR. DART: Okay. That is okay. I have a question, then.

ADAM CUMMINGS: Certainly.

MR. DART: I asked for a 10 by 10 shed.

ADAM CUMMINGS: Yes.

MR. DART: Is there any way I can say no larger than 10 by 12, or wouldn't that be to code?

ADAM CUMMINGS: Well --

MICHAEL JONES: If he --

MR. DART: I may stick with the 10 by 10, but I'm looking at a lot of different sheds. Some of them -- my son brought me out some literature tonight. Only one of the sheds listed is a 10 by 10. Most are 10 by 12.

ADAM CUMMINGS: Right.

MR. DART: Not to say I can't get a 10 by 10, because I know I can.

JOHN NOWICKI: The setback you're looking for --

ADAM CUMMINGS: Correct. So the setback, as long as you put those walls facing it, this Board, we're fine with it. As long as you place it and put the larger side towards the -- we'll call it the side of your yard, being the western side. The one that says wooded shed or -- wooden shed, as long as that is the 12 foot section or where the sidewalk goes, as long as you maintain that --

MR. DART: Will this show up there?

ADAM CUMMINGS: Now, to warn you, or to alert you, a 10 by 12, if I'm not mistaken, will prompt you into requiring a building permit.

MR. DART: I don't want to get in that.

ADAM CUMMINGS: Which is another \$100. So if you wanted to go to 10 by 12 --

MR. DART: Forget the question.

ADAM CUMMINGS: I thought --

MR. DART: I thought I would ask that question. If it was going to cause any kind of a problem, I will stick -- I will find a 10 by 10.

ADAM CUMMINGS: Okay. To us it is not a problem and I'm not discussing fees. I'm just saying that mostly likely if you go to a 10 by 12, I'm fairly positive it will prompt you to require a building permit.

MR. DART: Towards Westside Drive would make that much difference?

ADAM CUMMINGS: 2 feet anyway. It's the square footage. It's because you're going --

FRED TROTT: Total square footage of the building.

MR. DART: Okay. All right. That clears it up.

ADAM CUMMINGS: So what -- our threshold in the Town is 119 square feet. If you're greater than that, it -- you -- it makes you get a building permit.

MR. DART: Okay.

ADAM CUMMINGS: A 10 by 10 is 100 square feet.

MR. DART: Obviously.

ADAM CUMMINGS: A 10 by 12 is 120.

MR. DART: It is very close.

FRED TROTT: To that 119 square feet.

MR. DART: I see that.

FRED TROTT: 39.99.

MR. DART: Farther away than the last applicant, .26 feet from the lot line.

ADAM CUMMINGS: If you're looking at dimensions, you might not want to stick to the 8 foot. In terms of 10 foot, maybe you look at an 8 foot. I will just leave it at that.

But with that, um, I will make a motion to table this application.

FRED TROTT: Second it.

DECISION: Unanimously tabled by a vote of 4 yes until a future meeting for the following reason:

1. This application was tabled as it was determined that the existing deck located in the back of the house may also need a variance, which would necessitate an amendment of this variance application.

Fred Trott moved to adopt the 6/24/14 Zoning Board of Appeals minutes, and James Wiesner seconded the motion. The Board was unanimously in favor of adopting the motion.

The 6/24/14 Zoning Board of Appeals minutes were approved.

Adam Cummings stated the next month meeting will most likely be on September 23, 2014 at 7 p.m.

The meeting ended at 8:09 p.m.