

CHILI ZONING BOARD OF APPEALS
October 28, 2014

A meeting of the Chili Zoning Board was held on October 28, 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, Ron Richmond, 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 issue with the public notice signs at the properties?

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

1. Application of Stonewood Builders, 213 Knights Trail West, Rochester, New York 14624, property owner: M/M Michael Candelieri; for variance to allow existing dwelling to be 7 from side lot line (10' required) at property located at 146 Christina Drive in R-1-15 zone.

Robert Avery and Mike Candelieri were present to represent the application.

MR. ROBERT AVERY: Yes. My name is Robert Avery, land surveyor. I'm here on behalf of the applicant who could not attend this evening. He had a conflict that had come up as an emergency situation basically. Um, and I'm also here with the property owner, Mike Candelieri, sitting right over here, so I will do the best I can on short notice. We're involved in this as the surveyor for Stonewood Builders, okay?

And on -- recording this lot, we prepared -- we were provided with the foundation footprint dimensions originally for this lot, and 10 foot is the minimum side tie over here. And the plan that I was given originally had the house 2 feet wider than -- than it would fit, and it had to be sent back to the architect to make it so that it would fit with 10 foot on each side.

So went ahead and did the plot plan, and I had been presented with just the transition drawings on this particular house. So we laid it out, staked it out, we graded it and we came back a second time on this. Because it was so tight and we had to maintain the 10 foot, we placed nails in the footer for -- before the walls went up. It was that close.

So time went by and they -- they constructed this. The next time I was out there to do the final, well, they had two items that although they're not solid items, so to speak, they're considered part of the -- of the house and the Town Code here in Chili that were less than the 10 feet. One of them being a window well, and Mike (Candelieri) might be able to talk a little bit about the grade issue with that and why they went with the window well there.

Um, and also the cantilever chimney is also less than the 10 feet. The house itself is 10 feet on all corners.

Um, I looked at this -- the history of this lot a little bit, because this is in the Springbrook Suidivision that the prior firm, Avery Engineering, had designed. We designed this multi-lot subdivision a number of years ago, and it's in the R-1-15, and I tried to look back in our records a little bit with this lot, because the minimum lot width in this zone is 90 foot at the setback line. And I have no idea why this thing even was designed or got through with 76 foot width. So that's probably the reason why no one built upon it until Stonewood purchased it from Perna Homes, the original developer. You had to have kind of a narrower house to put on there, two-story Colonial, and it was finished just a couple months back, I believe.

Also, the neighbor is here, Pam (Vogt).

MS. VOGT: Right.

MR. ROBERT AVERY: I don't know. I can answer any questions you might have. Like I say, kind of a spur of -- of the moment. I happen to be here for -- for two other applicants and my client couldn't make it, so I'll do the best I can.

ADAM CUMMINGS: I will hold off on any of my questions and head on over to Jim (Wiesner).

JAMES WIESNER: So the lot next door is not part of the subdivision?

MR. ROBERT AVERY: No. Lot 104, there is the King Road Subdivision. That's the back part of that lot. That lot actually fronts on King Road and is obviously quite a bit farther south than would even fit on that map to scale. Pam (Vogt) lives in that house.

JAMES WIESNER: So you probably haven't got any idea what the plans are for a lot next

door at this point?

MR. ROBERT AVERY: Well, I don't think it would be subdivided or anything. Just part of the -- the lot that -- with the house fronting on King Road. It's not part of the subdivision, so...

JAMES WIESNER: Okay. That's all I have.

MARK MERRY: I do not have any questions. I do have an observation. I can see why the builder is not here tonight. I hope everything is okay. Understandably. No. I think depending on what we hear from the neighbor, I don't have any concerns right now. Any concerns from the neighbor?

MS. VOGT: No. I mean it -- it's already --

ADAM CUMMINGS: Before you speak, could you just identify yourself?

MS. VOGT: My name is Pam Vogt. I live at 126 King Road, which is that lot.

ADAM CUMMINGS: Thank you.

MARK MERRY: No concerns then?

MS. VOGT: I -- I kind of find it to be a moot point. I mean it's already done. It doesn't factor into my life or my lot, so to speak by any means. I kind of like having a neighbor there, so, um -- but again, it's already said and done, so.

I thought it was kind of strange that the lot was vacant for so many years and then all of a sudden, boom, here's a house without any prior approvals or -- you know. But it doesn't affect me or my property in any way.

MARK MERRY: Thank you. That's all I have. Thank you.

ADAM CUMMINGS: I just want to ask real quick, there's -- those two structures that have been added on, there's both the shed, as we'll call it, for the chimney. It's not a true chimney. More a build-out cantilever structure, as you said, Bob (Avery).

MR. ROBERT AVERY: Yes. Cantilever chimney on the end.

ADAM CUMMINGS: Fireplace in it?

MR. ROBERT AVERY: Yes.

ADAM CUMMINGS: So --

MR. ROBERT AVERY: Gas-fired cantilever. There is nothing underneath it, you know.

ADAM CUMMINGS: But I'm saying it's not just a structure. It has a functioning fireplace in it, too?

MR. ROBERT AVERY: Oh, yeah.

ADAM CUMMINGS: So that will be one of the conditions that you have to get a permit for the fireplace for that one, and then the window well is what we're actually here for the variance for.

MR. AVERY: Right. Because that is closer to the lot line than the cantilever chimney is.

ADAM CUMMINGS: Correct. And this was required, just for the record, you -- if you can elaborate more why that was put there and what its purpose is.

MR. CANDELERI: My name is Mike Candeleri, I'm the owner, proud owner of that lot and house on it. I believe, just from listening to the builder and all, when they initially staked everything, um, it didn't seem that the grade was as big an issue. Once they dug and they put the foundation in, that's when it kind of became an issue, where there was a lot of the -- the basement showing kind of thing, and we knew that we were going to need egress windows, but when he came and showed up with those barriers that go around them, they were a lot larger than I ever seen.

I don't know if that is just what the new standard is. Um, but they view -- they are large. They are large. We do have the idea to turn that basement into liveable space some day, so having an egress window is definitely a decision that we wanted, but those wells that were put in there, again, that was just the builder's choice.

ADAM CUMMINGS: So the window well is actually an egress window well?

MR. CANDELERI: Correct.

ADAM CUMMINGS: And hence a bigger than normal --

MR. CANDELERI: Large.

ADAM CUMMINGS: -- corrugated aluminum one or galvanized. Okay.

ED SHERO: Just a comment on the window well. I guess -- I didn't know if there was an egressible window in that location. I looked at that lot prior to issuing the building permit and the grade was from very clear from the front to the rear. That house could have actually had been graded at the bottom of the window without needing the well. I never would have approved it had I known they would put a well in it.

Thank you.

ADAM CUMMINGS: So with that, I will open it up to the public comment.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I went into the Building Department today and looked over the paperwork today for tonight's meeting and two things struck me right away. Was this -- there was a map, I believe, and I hope Mr. Avery can correct me if I am wrong, that he drew dated May 29th, 19 -- 2014.

Then there is another -- that doesn't show the -- the -- the ultimate build-out. Then there is another one dated 7/10/2014 and now it looks different. So in that, what few weeks, seven, eight weeks now we have a different kind of -- we have a different build-out. I -- I like -- think I would like an explanation as to how that happens. How do you keep drawing maps and then get

a final one that looks now like it really is, instead of, you know -- we don't take stabs at this, I don't think. I think we do it once and that is what is expected.

I also notice -- noted in the paperwork, and I don't know who filled that paperwork out -- it was either the owner or the builder or Mr. Avery. I don't know who at this point, but it clearly states and I quote, "House" -- the house was -- something about the house was not constructed per plan.

Well, already we know this. I mean, what's going on here? This -- this is going to be an ongoing problem as long as this Town approves lots that are too small and setbacks that are too small.

Any time you're dealing with a matter of inches, they will squeeze a house onto a lot that is not big enough in the beginning, you're going to continue to have these problems. I mean, a 78 foot lot, I don't know either how that got that plan. I realize this --

ADAM CUMMINGS: Neither does our Board and wasn't part of our scope.

MS. BORGUS: I know. That's not in -- this Board, I know. But I hope the Planning Board read these minutes and realize they better get on the ball and catch these things. I would like to know how there is so many plans dated and redated to make it look like --

ADAM CUMMINGS: Things in the field do prompt changes once in a while. It's never a one-and-done in all cases when you get plans designed. Things do come up, and they may need revision.

MS. BORGUS: And that would happen in -- when was this house built, by the way? Actually built?

MR. ROBERT AVERY: I have this -- they must have started, Dorothy (Borgus), back in February, I'm guessing, because that's the date of the plot plan that was brought in -- I imagine he brought in and got his permit to dig this out. That was back in February.

MS. BORGUS: Well, there is a mandated February 18th, 2014, as well.

MR. ROBERT AVERY: That one is showing the proposed house, so that's the plot plan.

ADAM CUMMINGS: Right.

So for -- for this, just a hypothetical scenario what could happen here, is they constructed in May -- May 29th, and I'm not saying that is what happened, but it could happen where suddenly they have an issue with drainage and now you have to add in an improvement to combat that drainage that might be going down the foundation, so hence a window well might go in or another situation like that.

The fireplace I'm not going to go there, but --

MS. BORGUS: I don't think.

ADAM CUMMINGS: I'm just giving you an example of unforeseen conditions at the property.

DOROTHY BORGUS: A builder should know they need to clear this with the Town and not just go ahead and come in here in the end and get a forgiveness for having done something that they never agreed to do in the beginning. A builder should know this. I'm sorry.

ADAM CUMMINGS: Thank you.

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: I think we're pretty clear we're looking at the 7 feet side setback due to the window well for this side variance. The 8 foot is a moot point at this point.

So the conditions I would like to place -- I heard you mention one which would be to get compliance and get a building permit for your fireplace.

MR. CANDELERI: That's something I get, not the builder?

ADAM CUMMINGS: Correct. You can work through the Building Department to get that.

MR. CANDELERI: Okay.

ADAM CUMMINGS: I would like to put just a -- to keep the ball moving, I'll put a 30-day duration on that so if the Board does approve it tonight and you would receive a letter, you would follow up with the Building Department --

MR. CANDELERI: Okay.

ADAM CUMMINGS: -- and go through the proper paperwork for that.

Other than that, I can't think of any other conditions that I would want to put.

Anyone else? It's a window well. We don't have much else to say on those type of construction elements.

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 condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

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

1. Permit for the fireplace must be obtained within 30 days from the approval of this variance.

The following finding of fact was cited:

1. The main structure and structural foundation of the house was designed to fit within the dimensions of this narrowly sized lot, but the protruding cantilevered fireplace shed resulted in the need to request this variance request. An adjacent neighbor stated no issues with the location of this dwelling nor were any objections heard of received from the public. This new dwelling filled one of the last remaining approved building lots in this residential subdivision.
2. Application of Mr. and Mrs. David Dick, owner; 1595 Davis Road, Churchville, New York 14428 for variance to allow total square footage of garage area, including a new 24' by 32' detached garage to be a total of 1,344 sq.ft. (1200 sq.ft. allowed) at property located at 1595 Davis Road in R-1-15 zone.

David and Cindy Dick was present to represent the application.

MR. DICK: Okay. I'm Dave Dick. My wife, Cindy (Dick), with me. I live at 1595 Davis road, Churchville, New York 14428. And requesting again a variance to build a freestanding, single-story 24 by 32 foot detached garage on my property.

Um, house presently sits on about 9.4 acres of land. Existing house is about 3100 square feet. Has an existing 24 by 24 attached two-car garage. And again, requesting a 24 by 32 foot detached garage towards the west line -- west lot line, when the west lot line is Riga, about 15 to 25 feet off that west lot line, and I think approximately I put down 100 -- maybe 140 to 150 feet from what I recall off the right-of-way. Okay?

And again, it would be like a four-car garage -- I guess you would say a four-car garage.

ADAM CUMMINGS: So two doors.

MR. DICK: Yes.

ADAM CUMMINGS: Two vehicles deep.

MR. DICK: And two deep, yes.

ADAM CUMMINGS: I just wanted to point out that I did get the Monroe County Department of Planning and Development referral form and they have decided this is a local matter. Just wanted to let everyone know.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I haven't heard a reason why we -- why --

ADAM CUMMINGS: We're getting there. We like to wait until after the public input.

MS. BORGUS: I see. I see.

ADAM CUMMINGS: There are some good points brought up by the public.

Fred Trott made a motion to close the Public Hearing portion of this application and Ron Richmond 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: You do have it written in here of several reasons why you would want it for the -- for the additional vehicle storage, and you are looking for a -- a slight increase of the total garage area from the 1200 that is allowed to the 13. 1344. So that is one thing I would like to ask, standard building dimensions to bring it back down to 1200, would be minimizing it by say 2 feet on one of those dimensions.

MR. DICK: Yeah.

ADAM CUMMINGS: But did you look into that? Would that restrict --

MR. DICK: It wouldn't restrict.

ADAM CUMMINGS: -- vehicle storage?

MR. DICK: To --

ADAM CUMMINGS: The amount of space in between the doorways, the bays that are in there.

MR. DICK: It would probably be the 32 foot depth that I would bring to 30 feet if I had to go that route. The reason I went with 24 by 32, my father, who is again downsizing, as I noted here, he has a 24 by 32. He has -- one vehicle stored there, my vehicle, and someone else's. It just gives more -- more freedom, just used to it. But if I lost 2 feet, I wouldn't lose sleep over it.

ADAM CUMMINGS: Okay.

FRED TROTT: That might change the cost of his building, due to the fact that probably not -- everything is --

ADAM CUMMINGS: If -- if you're doing a smaller building, you would need less materials?

FRED TROTT: Yes, but I'm thinking of your rafters and stuff. Those are all usually precut.

ADAM CUMMINGS: Yes.

FRED TROTT: Just wondering.

ADAM CUMMINGS: Yep. So -- so the -- is that a standard builders -- building size?

MR. DICK: Yes. It's going to be stick built is the plan, but if you go out and buy a -- say a kit from like an 84 Lumber --

ADAM CUMMINGS: Yep.

MR. DICK: -- they send you the bundle and build it that way. That is what the approach was going to be. But again, I won't lose sleep over 2 feet if that is what you rule, so.

ADAM CUMMINGS: I, for one, don't know what the standard sizes are, so it would be a guess, but we would be minimizing it slightly. By bringing it down. Now, going smaller than 30 feet, I think that might restrict how many vehicles you could put in there.

MR. DICK: That's true.

MARK MERRY: I would like to point out I have not heard anybody speak out on option on the size and the location of this, I --

ADAM CUMMINGS: It does have quite a bit off the front right-of-way.

MARK MERRY: And Mr. Dick wanting the additional square footage, he wouldn't have asked for it.

FRED TROTT: He already put in the application fee, so --

MARK MERRY: So again.

FRED TROTT: Coming from experience.

MARK MERRY: In Fred (Trott)'s words, it's worth throwing it out there.

ADAM CUMMINGS: It is thrown out there, but we also need to remember it doesn't stay with Mr. Dick. It moves onto the next property owner and the one after that and anyone else that would like to build a building out there of these dimensions.

FRED TROTT: There's a lot of them out there.

ADAM CUMMINGS: That's true. It is more of the rural area --

FRED TROTT: Yes.

ADAM CUMMINGS: -- that we have out on -- we'll call it the north part of Chili, the northwest. So if -- so it sounds like we have -- we have the applicant willing to compromise in reducing the size, but we also have the Board not completely dismissing that full-size application. So I just ask the Board more of a census which direction we would like to go.

RON RICHMOND: I would just say, I'm not opposed to the 24 by 32.

ADAM CUMMINGS: Okay.

RON RICHMOND: We deal with a standard 8 foot, so -- so knocking it down to 30 will cause additional work anyway just to build.

ADAM CUMMINGS: Okay. True statement. All right. So we will entertain it as originally proposed 24 by 32.

One condition I would like to place on here is no commercial business to be operated out of this structure.

MR. DICK: Understood. No intent.

ADAM CUMMINGS: And a building permit prior to the start of construction.

MR. DICK: Understood.

ADAM CUMMINGS: And no window wells.

MR. DICK: Understood.

ADAM CUMMINGS: I'm just joking.

MR. DICK: I can comply.

ADAM CUMMINGS: All right. Those two conditions? Everybody clear building permit must be obtained before construction has started and the no commercial business to be operated?

MR. DICK: Can I ask one quick question?

ADAM CUMMINGS: Certainly.

MR. DICK: Building permit, is there a time limit from when we can start construction? We'll probably do this springtime. The intent was to do it this fall, but it's not going to work out.

ADAM CUMMINGS: You should be fine. And along with that, just to give you notice because the structure is a little bit bigger than normal, I'd say a shed, be prepared with architectural plans, probably more detail than what you have provided here.

MR. DICK: Okay.

ADAM CUMMINGS: But you can work with 84 Lumber to -- and the Building Department to provide those.

MR. DICK: Okay.

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 Ron Richmond seconded the motion. The Board all voted yes on the motion.

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

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

1. Building permit must be obtained prior to commencement of construction.
2. No commercial businesses or business-related storage shall be operated out of this detached structure.

The finding of fact was cited:

1. The proposed detached building will be located far away from Davis Road avoiding any sight distance issues. Additionally, due to the large size of this lot, the placement of the structure will be placed in a location which will not require any additional variance requests.
3. Application of Matt Coccia, owner; 117 Stottle Road, Churchville, New York 14428 for variance to erect an open porch 95' from front lot line (100' required) at property located at 117 Stottle Road in PRD zone.

Matt Coccia was present to represent the application.

MR. COCCIA: Good evening. Matt Coccia, 117 Stottle Road.

ADAM CUMMINGS: Briefly describe your -- what you're looking to do and why you're here in front of us tonight.

MR. COCCIA: Okay. I have a new home being built on an existing site, including portions of the existing foundation. Little bit difficult to see on that survey map, but I believe the original setback to the foundation of the previous porch was 102.5 feet. That porch was about 3 feet wide, making the house somewhere around 105.5 feet from the road.

Um, we're proposing a 6 foot foundation for the front porch, which will also have a 1.3 foot overhang, roof overhang, bringing the total porch depth to 7.3 feet.

ADAM CUMMINGS: Okay. Which is how we get from the 102 and some change to 95.

MR. COCCIA: Yeah. That 95 is a little bit of an inexact amount and -- I mean I --

ADAM CUMMINGS: Hopefully it's on the conservative side.

MR. COCCIA: I'm a little bit heavy. Maybe if I put an extra big gutter on it might get closer to 95, but...

ADAM CUMMINGS: All right. Just like to point out, just like the last application, we did get the Monroe County Department of Planning and Development referral form, and once again, it is a local matter.

JAMES WIESNER: The question that I have is -- and I think you've answered it, you have a sizable lot and you're building a new house, but you didn't push it back on the lot at all because you're on the existing foundation that was there before.

MR. COCCIA: Yeah, that's correct. The front, entire front side of the existing foundation is being reused. Most of the -- most of the rest of the foundation is, as well, but we did expand the foundation footprint to the rear and -- which is west and to the right, which is north. And we added a garage to the south on the left side. So we have added -- we completely surrounded the existing foundation, however maintaining the front foundation wall.

JAMES WIESNER: Okay. That is all I have.

MR. COCCIA: I want to also mention that, you know, I came in a couple months back and -- with a variance for the additional garage space and I would have applied at that time for this, although I -- through my own fault, was misinformed regarding what constitutes -- what part of the building is required in the setbacks, whether it's the actual foundation of the home, if it's an open porch, an enclosed porch, if it's just steps, so you know, during the permit process the Building Inspector, Ed Shero, pointed out that the porch with the foundation under it, you know, is going to be part of the structure. So it was my mistake for not applying for it first. Again, you know, I don't know if anybody has driven by. The house is out of the ground. It's, you know -- it's all framed at this point. We just don't have the porch on it.

ADAM CUMMINGS: So you haven't built the porch yet?

MR. COCCIA: No.

MARK MERRY: So the way I read this application is that this is a self-created issue? Correct?

MR. COCCIA: Well, I -- I suppose the way I would phrase it is that it's an issue created through an -- existing conditions. So, you know, we're maintaining that front foundation line that was fairly close to the setback to begin with at somewhere around 105.5 feet off the road. And you know, the porch that's 6 feet is a -- is a size that is actually usable. The previous 3 foot porch is just about useless. You know, you go up a couple of steps to open the door and you just about have to back down the first step to open the storm door into yourself. You can't really -- you can't really sit on a 3 foot porch and have anybody, you know, walk by you without -- your feet are just about sticking off the thing. And it didn't match our architectural plan.

The size porch we have, which -- you know, I brought a copy of the front elevation. It will probably show up on there. If you want me to put it up there, I can show you.

ADAM CUMMINGS: If you can put it up, that was going to be my next question. I would like to see how many steps you have to go up.

MR. COCCIA: How's that?

ADAM CUMMINGS: And -- and extending out from the -- the house, that's the 6 foot dimension that you mentioned.

MR. COCCIA: Correct.

ADAM CUMMINGS: It looks like -- riser-wise, you have three steps and then a landing?

MR. COCCIA: That's correct.

ADAM CUMMINGS: So it is a sizable climb to get up to that front door. You -- and you reuse, you said, a majority of the foundation. Was that a pretty big cost savings to use that instead of pouring your own new foundation and demoing the old?

MR. COCCIA: Well, it -- it -- I'm sure there was some savings there. Um, as far as starting with a new foundation, but there is also an expense of demolishing and removing the existing house.

ADAM CUMMINGS: Exactly. That's the demoing part. The demolition part.

MR. COCCIA: To get what we needed to achieve for our five-person family, you know, it seemed to work for us and we liked the area a lot and we liked the lot and it was worth the investment. So actually it was -- didn't really play a factor into it, quite frankly.

ADAM CUMMINGS: Okay.

MR. COCCIA: But I will show you -- I will show you the side elevation. You can see how far it protrudes.

So here (indicating) is the porch roof.

JAMES WIESNER: So what, is that a landing above it?

MR. COCCIA: That's a roof.

Above the porch?

JAMES WIESNER: Yeah.

MR. COCCIA: It's a metal roof. It's a peak, gable shape.

ADAM CUMMINGS: Is that 6 feet from the house to the edge of the landing or 6 feet from the edge of the house to the edge of the stairs?

MR. COCCIA: To the edge of the foundation of the porch. Yeah. Which -- because this -- that would not include the stairs.

ADAM CUMMINGS: So does not include the stairs.

MR. COCCIA: 6 feet would go right to where the open stairs start.

ADAM CUMMINGS: Fred (Trott), would Ed (Shero) -- would you count the stairs because the foundation does extend out that far?

ED SHERO: We don't do the stairs.

FRED TROTT: He said "Ed" (Shero). I'm Fred (Trott).

ADAM CUMMINGS: Did I say "Fred" (Trott)? It rhymes with "Ed." Sorry about that Fred (Trott), and Ed (Shero). I'm fixated on the foundation.

I don't have any other questions, so we'll go on to Fred (Trott) -- I mean Ed (Shero). (Laughter.)

FRED TROTT: No questions.

MARK MERRY: So if you are denied this evening, what is your fall-back plan?

MR. COCCIA: Take it further through whatever court means necessary.

ADAM CUMMINGS: Or regrade the front of your house.

MR. COCCIA: Well, the porch is a big deal to us. You know, I know lots of houses don't have porches. I'm not criticizing anyone who chooses that style house. Although I personally don't understand either myself or having guests stand in the rain while you try to unlock the door or answer the door.

So I mean, I think a porch makes practical sense and also fits the style of the house.

MARK MERRY: Okay. So what I'm hearing, it is the style of the house. Because feasibility, 3 foot would get your guests out of the rain. I have 3 foot in front of my house now and nobody gets wet in the doorway. So it is really coming down to the style what you want for the front of your house.

MR. COCCIA: That is certainly a big part of it. Everybody about the house has to do with that. But again, when you stand on a 3 foot porch and you swing a 36 inch door towards you, you know, you have to go backwards, and you know, and I do have some concerns about that as far as stepping back to a four-rise, you know, set of concrete steps.

ADAM CUMMINGS: I don't see it on here, but bringing up the landing, how wide is the landing on this one? It would probably be better on the front elevation as opposed to the side.

MR. COCCIA: I believe it's 14 feet, but I can check. So it looks like it is 14 feet 8 inches, outside edge to outside edge. And stairs are 8 feet wide.

ADAM CUMMINGS: Thank you. All right.

I don't have any further questions at this time. Anyone else on the Board before I open up for Public Hearing?

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ROBERT AVERY, 37 Fox Commons

MR. ROBERT AVERY: Robert Avery, Town resident, 37 Fox Commons. I just had a question whether the house burned down that was there. I noticed it was being built the other day and I just didn't know.

MR. COCCIA: No. No. It was crunched up and hauled away in trucks.

ADAM CUMMINGS: Fire Department was not notified.

Any other comment?

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: Any other Board discussion? We're looking at 5 feet to bring it back to that. 5 feet out of 100 foot required. So we're looking at a difference of 5 percent. It does look architecturally appealing.

FRED TROTT: Yes. The plans look very nice. The house looks nice and I think it goes with the house. Only thing I would like to place on that, um, is a building permit for the porch. We will require a building permit for the porch.

MR. COCCIA: We do have an active building permit for the project.

ADAM CUMMINGS: You should go through the Building Department to see if that can be modified or amended in some fashion to incorporate this.

MR. COCCIA: Okay.

ADAM CUMMINGS: I can't speak for them, but they -- but if they need to speak with me as the ZBA Chairman, I would be more than happy to, but I think that's probably a good route to go.

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 condition, and Mark Merry seconded the motion. All Board members were in favor of the motion.

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

1. Building permit must be obtained prior to the commencement of construction.

The following finding of fact was cited:

1. The proposed front porch is a small enlargement of the former front porch, which was removed during the construction of the new dwelling. The variance request is minor in nature as it is 5% of the required front setback value as allowed by Town Code. Additionally, the additional front porch dimensions complement the architectural design of the main dwelling and still maintains considerable distance from Stottle Road.
4. 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 30' by 40' detached garage to be a total of 4,523 sq.ft. (3,323 sq.ft. previously approved) at property located at 351 Morgan Road in AC zone.

Daniel Boon was present to represent the application.

MR. BOON: Good evening. Dan Boon, 351 Morgan Road.

Um, I know I'm asking a lot of barn space, a lot of garage space, but I've -- when I come a few years ago and we built the house, and I put the barn out there, I kind of run out of room in it. Most partially my fault, but I have some old cars I have had for years. I have a 43 foot motor home. I filled that building up to top, I guess, is where I'm going with it.

I have some things if you have been over there and looked that is sitting outside. One is a tractor down the road that has been in the weather for a few years now. I have a trailer that sits up there outside. I have snowmobiles that sit outside.

I'm trying to just put up another structure so I can keep everything -- I think if any of you looked, I keep everything pretty neat and under wraps and I just don't like stuff sitting outside and it certainly weathers it and takes it -- you know, the life out of it a lot faster. So I come in front of you tonight to try to see if we can put up another structure. I have plenty of room. I want to put it down there on the bottom, because I do have all of the room down there. I'm mowing down there, below, there is probably five acres or better down there that all I do is keep the grass cut.

So I just, um, you know -- my whole thing, the building down there will be identical as far as color, windows, the doors. Only thing different is the building will be a little shorter. It will be two, 12-foot doors. 12 by 12s on it. One up above has 14 by 14s on it. The building will be a little shorter. It will be smaller obviously. The same color, the same amount of windows, the same everything. It will look identical to the one that is up on top. I don't know if it means anything, but I'm kind of out there where everybody has two or three, four buildings.

ADAM CUMMINGS: I will say you are in the agricultural zone.

MR. BOON: Yes.

ADAM CUMMINGS: But it is a big structure when you already have another big structure.

JAMES WIESNER: Obviously as Adam (Cummings) stated, the concern being, you came in a couple years ago and asked for something pretty sizable and now we're back a couple years later and asking for something not as big, but still pretty big, and, you know, the -- the hope would be at some point you will figure out what space you need and that would be the end of it. Um --

MR. BOON: Well, I just have -- I will tell you have a boat over at my company, sitting inside over there. I would like to take it home. I have it sitting in the back building over there and it is not supposed to be there either, so. I'm just running out of room. I don't have the room. That is what my hardship is. It is either that or I -- or --

ADAM CUMMINGS: Get rid of the boat.

MR. BOON: No. I won't get rid of the boat. I'll just park them outside. I don't want to do that. I'm not saying that -- it is just I would like to keep everything neat and clean.

I think you see that I do keep things neat and clean. That is where I'm at. I'm at a hardship now. Unfortunately, I have a very large motor home that takes up a lot of space and that's part of the problem, but I built that building up there so I could keep it undercover.

ADAM CUMMINGS: We don't want -- it is over 40 feet so we don't want it outside.

MR. BOON: I understand that. I don't want to leave it outside. That is where my hardship is. It is just I have things.

My wife has a golf cart she rides around. I can't put it inside any more. So it sits outside. If you went up, you would see -- it is just becoming an issue now where I'm trying to resolve it before it -- I am not going to buy any more stuff, but the stuff I have had -- I had the stuff. The trailer I have there, sitting there, the box trailer, if I go to the show, my cars or tractor, I put it inside there and pull it, but it sits outside and it just creates -- number one, because it is sitting outside, but weather, checking the tires and wearing the trailer out prematurely. I try to have it last me the rest of my life if it wasn't sitting out in the sun and weather all of the time.

That's all I'm trying to do. I'm just trying to make it so I can put things away and keep it clean and neat. That's all.

MARK MERRY: I guess I will start again with another statement and a question. I guess my statement is, as far as hardships, I wish I could take those hardships off your plate --

MR. BOON: I understand.

MARK MERRY: -- and replace some of the ones I currently have. I think I would enjoy finding a way to address those.

I'm just wondering, Mr. Boon, as to why we're not trying to pull this structure back off a little bit, because you do have quite a bit of land to work with.

MR. BOON: I have to build a driveway. I have a driveway that comes in there and I'm going to take -- I shouldn't say -- it goes out into the field. I'm going to build a driveway over to that. I don't want to just keep pushing it back going back -- I built the driveway 600 feet over there going to the house. It's just a lot. It's a long ways. It's not cost -- cost effective for me. That building there would be about 105 feet off the road.

MARK MERRY: Right. But if you were to pull it back towards the existing drive, is there a condition I'm not seeing on the site plan?

MR. BOON: What existing drive? There is no -- that's a field there.

ADAM CUMMINGS: He is saying the gravel drive.

MARK MERRY: You have a gravel drive, right?

MR. BOON: Just an entrance off the road. It's a -- it's a permitted -- I have two driveway cuts.

ADAM CUMMINGS: He's talking about your actual gravel drive, the one cut on the road that has the gravel drive up to your existing barn and your house.

MR. BOON: Oh, that's paved. That's all asphalt.

ADAM CUMMINGS: That what he is saying.

MR. BOON: That's a hill. That's all hill.

MARK MERRY: That is what I am asking.

MR. BOON: That's a hill. That elevation where the house is and the other elevation where it is, the elevation is about 50 feet difference.

MARK MERRY: If you move that to the left of the existing structure and situate it out closer to where you already have paved access, that will be a hardship.

MR. BOON: That barn is built on a hill.

MARK MERRY: The barn is already there so you have existing infrastructure already in place. It is too much of a hardship to take the drive, access drive off this existing paved drive.

MR. BOON: It's 50 feet down.

ADAM CUMMINGS: I think he is saying to move your barn, which --

FRED TROTT: Point out on the map.

MR. BOON: What barn are you looking at? The one up --

MARK MERRY: I'm talking about where it says, "New barn."

MR. BOON: Okay.

MARK MERRY: Why does it have to be there? Let me pose the question.

ADAM CUMMINGS: He is actually choosing it to be there. We can see if he -- you're saying to put it up near the existing barn, up at the top of the hill.

MARK MERRY: I'm asking why it needs to be there. Where else can that new barn be on

your property line?

MR. BOON: Has to be down there in the flats. Everything built up there, that road, when you leave Morgan Road at the bottom of the driveway, the existing driveway, the elevation goes at least 50 feet. That -- that driveway is about 9 1/2 percent grade all of the way up. It goes up to the top and up on top, that's all built on a hill. There's nothing flat up there. I would have to dig into the hill somewhere. It -- it is just -- I mean, I don't -- most of you probably know what it looks like there. So that is why I choose to put it down on the flat because I have -- and I have all that acreage down there. There is nothing on it. You know.

MARK MERRY: So the next and final question for me would be again, if you were denied this evening the ability to build such a large structure again on your property, what is your recourse?

MR. BOON: Well, I know I want to park everything down there. I'm still going to build the driveway down there, stone and probably have to roll it up because I don't know -- I would have to get something before the snow flies.

MARK MERRY: Do you have a fall-back plan?

MR. BOON: That would be my fall back for now. I mean, I would have to just do like a lot of people do, I guess, leave it outside.

MARK MERRY: Okay. Thank you.

ADAM CUMMINGS: And just to note that I don't think it is drawn to scale, so it says 100 feet from the road.

MR. BOON: No, I just put that in there. I have to go by code. Code says I have to come off at least 100 feet and I have to be 50 foot off that side lot line.

ADAM CUMMINGS: Correct.

MR. BOON: No, it's actually not. It's probably back further than that.

ADAM CUMMINGS: What I'm getting at, you are not asking for additional variances from the --

MR. BOON: No. The only thing I'm asking for is because I have more garage space than the code. I don't -- there is no other -- I mean, I have plenty of room. I'm not encroaching any lot lines or -- I can, you know, manage all that easy enough. It's just the square footage.

MARK MERRY: Understood. Thank you.

FRED TROTT: The -- kind of on what Mark (Merry) was saying, the only concerns I had was the 150. It looked like there was enough room you could go back 150 feet. I just hate to have you come back and go, "Well, we thought we were 100 feet and" --

MR. BOON: I will make sure.

FRED TROTT: And the window well --

MR. BOON: It's all surveyed on there. I put that on there. I put the 100 foot. I will probably go back, you know, 110 feet or whatever. I will make sure I'm plenty past where I have to be.

FRED TROTT: I just hate looking at a garage up in front.

MR. BOON: Bob (Avery) surveyed it all, so it should be all right.

MARK MERRY: Wow.

FRED TROTT: Other than I would like to have some of your toys, too.

MR. BOON: Well, you know, I know.

FRED TROTT: We went through this last time.

MR. BOON: Almost 60 years old. I have been building cars. All plated. I drive them. But I got my toys, you know.

RON RICHMOND: Tough problem to have. I'm good. I think enough questions have been asked to understand where we're at.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MELISSA PERNESKY, 95 Sheffer Road

MS. PERNESKY: I'm Melissa Pernesky. I live at 95 Sheffer Road.

I have a few concerns about this structure. On this map, it shows nothing about the proximity to any wetlands area, both federal and State, and he -- his 50 foot area is close to some federally protected wetlands. I did go to the Soil and Water Conservation yesterday and looked at their overlay maps. I do have some other concerns.

Um, I want to know what he intends for this building. This is agricultural land. A big part of Morgan Road and Southern Chili. We do farming and we have animals. We have goats, cows, pigs, horses.

Do you intend -- I question if any of those items would be part of this barn? He mentions he had to -- it would be too hard to dig into the hill for this barn to bring it back. However, he did do so that -- for that barn and that house there. I have a clear view, and because of the slope of his property, his property is almost an aerial view to me. I see his barn and I see his house from my house. Where he is going to place that barn anywhere in that lower end, and that is low land -- I have been in this Town for 16 years.

Number one, he is going to be blocking some view of two historical buildings you have in this Town. One is the Cobblestone House down Sheffer Road which you can clearly see when you come down Morgan Road and you're heading west. That big hill, if you look south, you can see part of the Cobblestone House. You can also see a big beautiful Wells barn which is a big part of the history of this Town. There is not many left standing. I want you to take that into consideration that you will be affecting the visibility of those two buildings.

Um, he said he built the driveway himself which means he has the equipment to do so. My concern is truly what he is doing with this barn. He says he has toys. He says it's a hardship. Those two things in the same conversation don't make sense. Something is not right here. It's not a hardship if you have got a 200 plus brand new house and all these toys he is considering he says he has.

I know he owns the Boon Waste Management company on Union Street. I am very reluctant to say I feel part of the usage may be some of the equipment.

Again, he built the driveway himself. He landscaped I believe a lot of that hill himself. Where is the equipment? Does he intend on putting it in some of these barns or on his property? Again, his driveway, if you planned ahead here, which maybe he did or didn't, but he did just apply to build the house, the driveway, the permit for his existing barn. That driveway is not wide enough, nor is the angle of it appropriate for him to use the single driveway now to bring down to that new barn. He's mentioned something about an additional way, did you say, off Morgan Road to get to that barn.

ADAM CUMMINGS: If you can address everything to the Chairman, please.

MS. PERNESKY: If I'm not mistaken, only -- one property is allowed one driveway.

ADAM CUMMINGS: On -- onto the public thoroughfare you're allowed one or you could ask for a permit to get another one.

ED SHERO: You would need a variance.

ADAM CUMMINGS: Yes, but you could go after one is what I'm saying.

ED SHERO: You need a Town variance, though, for a second driveway.

ADAM CUMMINGS: But you could take that route is what I am saying.

ED SHERO: Absolutely. Absolutely.

MR. BOON: You want me to comment on that or not? No?

ADAM CUMMINGS: No.

MS. PERNESKY: There is a farmer 11 miles from there, very well established farm property right on Morgan Road. He had two driveways. The Town asked him to remove one. This is an active cow farm. It was well established. He was asked to remove one driveway. So why would we perhaps even grant it to somebody that is not agriculturally using the land?

ADAM CUMMINGS: We're not saying we granted him one.

MS. PERNESKY: But I think about these things.

ADAM CUMMINGS: They are safety considerations that we try to review.

MS. PERNESKY: That is one of my issues. Morgan Road, wow, that is a bear, that hill. That is a terrible hill right there. Anybody heading west, if you are going down that hill -- his driveway is in a poor spot, let alone to have a building down there. I mean, coming down that -- there is very little visibility going up and over that hill.

ADAM CUMMINGS: To be fair, this is going to be 100 feet off the road way, so it's not likely to impact view sheds of vehicles coming up and down a hill.

MS. PERNESKY: It's an option. The more space, perhaps the more movement of his personal vehicles. It is still an option to consider, the safety of that hill. Again, with the hill there, from north to south, that whole property is one big hill. The hill starts higher on the east and goes to the west.

One of my biggest points is getting back to the wetlands. Before he moved in, his most northern western spot was so low that farmers couldn't even cultivate it because it got too wet. They stopped cultivating it because it was wetland. Might not have been a signed federal or State, but from the Thruway to Sheffer Road and to the north of Morgan Road, it's very wet there. I have seen 16 years how his northwestern corner has been built up again from when he built the house. He pushed that -- that dirt and that topsoil down to that corner. When he did the driveway, I watched weeks and weeks, progress and progress of that corner no longer being wet. I don't know if permits were required for that.

Number -- another thing, he recently had -- because it's a Monroe County road, he had Monroe County come in, huge resources to do some drainage work that would -- was requested by him to accommodate for a less wet property. I realize he has ten acres, but nonetheless, there has been a lot of effort to make that corner not so wet. Okay?

And of course, you're talking this is Chili. This is South Chili. It's agricultural. We want to keep as much possible agricultural. We want to keep as much nature. I mean, you're talking migratory birds. You're talking deer. That's an awesome deer crossing. I think it's a dangerous place. I don't think -- I think that it's a very poor place to put that barn, and you already also discussed with the size of that property, why does it have to be so close to -- to the boundaries there. He has plenty of space and I do not believe his statement it's a hardship because he put that existing house and the existing barn in that same hill.

And I have some more things.

ADAM CUMMINGS: Okay.

MS. PERNESKY: From my home, I mentioned he is almost an aerial view. From my home, I can see Morgan Road. This is in the direct visibility blocking part of that section for me.

I also have a huge concern because he is going to be three times what's our normal limit for storage. Um, I don't think -- really it's not a necessity. Again, it's not farming. It's not agricultural. That's -- I think it's excessive. I think that again, he chose this area, but he was well aware of the slope of the property and what our requirements were.

Oh, the doors he mentioned would be 12 foot doors.

ADAM CUMMINGS: I'd like to hone in -- you had a lot of good points tonight. I would just like to hone in we're looking at the variance and the size of it. The environmental factors are

definitely points that we will take into consideration, but the opinion points and the architectural elements he is looking for we really don't need to address on our Board.

MS. PERNESKY: Okay. Okay, well, then I guess that's it.

ADAM CUMMINGS: Okay.

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: The one that I don't have any information in front of me, the -- it is a low-lying area.

MR. BOON: Well, let me -- can I comment on some of that?

ADAM CUMMINGS: Certainly.

MR. BOON: Um, from that -- from that lot line, on that side, they -- they have that field going towards Kyle Phillips' property. That is his property. That's the line. They have that tilled right now. So if there is wetlands in there, the wetlands are the other side of that.

ADAM CUMMINGS: So they're not on your property, is what you're saying?

MR. BOON: Pardon me?

ADAM CUMMINGS: They're not on your property?

MR. BOON: No. Listen, the County when they came fixed it because the culvert was plugged going under Morgan Road. That was repaired and -- that was -- the Town did it.

ADAM CUMMINGS: The public right-of-way drainage --

MR. BOON: The fill was hauled in there. The Town hauled it in. I can go on and on and on.

But there is no low land. It's low land. I mow it all of the time. Have you looked at it? It's all mowed. You know, that tractor that sits there. So yeah, when it rains for four for five days, it gets a little wet. So is the rest of the place. It's not the wetlands.

Now, the driveway cut, I do have two County driveway cuts, okay? On the record. When I -- when I built the house, I -- I brought you the driveway cut and they told me to leave the other one there, I could leave it. So it is documented downtown with the County. I will prove that.

ED SHERO: I just quoted the Town Code.

MR. BOON: But I have two cuts and they left the other one there. So it's -- you know, there is a reason for it.

ADAM CUMMINGS: Mr. Boon, we'll worry about road cuts at another time.

MR. BOON: All right.

ADAM CUMMINGS: But I just wanted to point out --

MR. BOON: The rest, the view --

ADAM CUMMINGS: The wetlands you're saying are on the neighboring properties.

MR. BOON: Again, they're tilling right up to the road between -- over to the wetlands.

The wetlands are further over.

ADAM CUMMINGS: Yeah.

MR. BOON: And as far as accessing off that building, that is probably 7, 800 feet from the hill. My driveway is closer to the hill than that -- that entrance -- that entrance way down there to go into that building will be way away from the hill, a lot further. I'm down in the flats there. You know, if it is wetland -- if it is wet down there, it usually is not wet on the hill, is it? It's all flat down there.

ADAM CUMMINGS: So just to be clear, you do not have federal or State wetlands down --

MR. BOON: No.

ADAM CUMMINGS: -- that you're aware of?

MR. BOON: No, it's not. It's over. It comes from her property. She knows where it is at. My neighbor is getting ready to come close to that property line. He has made a deal. I told Ed (Shero) about it. He has made a deal with the DEC or the federal government, they're going to put ponds in there. So if I do have any kind of water, you know, what is going to happen when he puts those ponds in over there? I won't have any water at all any more because he is going to build -- he made a deal just like his brother did over on Ballantyne Road when they put them. It's going to be the same thing. That deal has already been made.

FRED TROTT: I'm looking at your plans here. One shows two 12 by 12 doors? One shows one 12 by 12 door.

MR. BOON: I changed it. Because I thought -- the only change I made, I went back and they put them in there. To put a center door in there, it would be easier to have it -- you're kind of fighting to get in the building. My thought was just have the two doors and then you wouldn't have to move something to get something out.

ADAM CUMMINGS: But you're not changing the size of the building.

MR. BOON: No. The size of the building is what it is. Everything I have asked for and like I said, it will be the same color scheme and everything as the other one.

FRED TROTT: Just wanted to point that out that you will have two because somewhere in here I thought I saw one door.

MR. BOON: When I first applied, I brought it, and I changed it.

ADAM CUMMINGS: All right.

JAMES WIESNER: Just to clarify, I mean there is a two legal road cuts that -- on the property.

MR. BOON: Yes.

MICHAEL JONES: Let's not use the word "legal." There is a second cut there. But as Mr. Shero pointed out, the Town Code exists that a variance is required for a second access from the Town.

MR. BOON: From the Town, it's a County Road and the County gave it to me when I bought the property, though, because that cut was there. Well, you know.

ADAM CUMMINGS: We're not -- your application doesn't have a variance --

MR. BOON: That's fine.

ADAM CUMMINGS: If the County has given you one, we'll reach that decision at a later date. Most likely it sounds like -- Ed (Shero), if you could just keep me in the loop and if that -- you're saying it needs a Town variance; back into this Board, is what you're saying?

ED SHERO: I can read the code book. If you have the code, I can give you the section.

JAMES WIESNER: There is only one variance for the property right now.

ADAM CUMMINGS: Right. We're only hearing one variance.

JAMES WIESNER: I'm saying there has only been one variance given on this property.

ED SHERO: Section 500-61, letter I, now, the applicant that was just here prior to Mr. Boon -- Mr. Coccia, I think he left. He actually did a variance for a second -- he is a County road, Stottle Road. He does have a variance for second driveway cut.

MR. BOON: Who issued it, Ed (Shero), the Town?

MICHAEL JONES: Yes.

MR. BOON: Because I have -- I have --

ED SHERO: We issued a variance but not a driveway cut.

MR. BOON: I have the driveway cut. That's what I'm saying. I need a variance for mine, but I have the second driveway cut. When I built the house, I had to go get the cut for the driveway that is there that used to go to the house.

ED SHERO: Okay.

MR. BOON: First, they would have me take the other cut out --

ADAM CUMMINGS: Mr. Boon, just for policy, direct it at me and I will --

MR. BOON: That's fine. You know, I have that -- I have that documentation that they let me keep that second cut there.

ADAM CUMMINGS: We'll have to address that later on it sounds like, so. Um, well, I would like to put that out to the side table.

Mike (Jones), would that make -- would it be prudent for us to table this one if he is thinking about coming forward or --

MICHAEL JONES: Well, so I would not even think to tell the Board what to do. If you want to table, I can tell you whether it's legally appropriate to do so or not. The map that I saw with the application did not indicate the driveway that -- that has gone into some discussion this evening. I had no idea until tonight there was a plan for the driveway, a second driveway to the property. But if that is the case, yes, a new variance from the Town is required.

The fact that the County has approved a cut, they did not -- I have no idea, but the Town Code, zoning requires a variance for a dwelling to have more than one access. That would be an issue if that is what the applicant intends to do.

ADAM CUMMINGS: Well, as you said, this map doesn't really have any information for us to go off of, so we're going to --

MR. BOON: Can I address the side table or no?

ADAM CUMMINGS: You can address myself.

MR. BOON: I stood there with Ed (Shero) in the Building Department and was getting all this, and Ed (Shero) approved it. You know, I told him that cut was there. He never told me then.

So if I was -- if I had had to ask for it tonight, I would have, you know, but I'm under the assumption that the County of Monroe has already told me that, you know, that cut was when I built the house, I had permission to build both those cuts. Because one was already there. I didn't put it in.

ADAM CUMMINGS: Would you enter -- well, you're trying to combat the oncoming snow with this structure.

MR. BOON: Yep.

ADAM CUMMINGS: You probably aren't --

MR. BOON: Yep.

ADAM CUMMINGS: -- looking for any delays to postpone things.

MR. BOON: Nope.

ADAM CUMMINGS: Well, the curb cut is most likely to incur a delay either way, but -- but if this Board did grant a variance for it to --

MARK MERRY: Snow is coming on Saturday, by the way.

ADAM CUMMINGS: He is not going to make it by then. (Laughter.)

I will not bring up any more on the driveway cut. So moving forward with this application, the first condition would be a building permit must be obtained before construction commences.

Also, no commercial businesses can be operated. That includes any businesses you may have of off-season storage, which I think was addressed during the public comment. I don't have any comments I can see here for conditions.

Any other conditions, if you would like to add to the list?

Any other Board discussion points?

RON RICHMOND: I think it's for the Board to clarify whether or not we really have any designated wetlands.

ADAM CUMMINGS: I don't have any information to say otherwise. Typically they're delineated on instrument surveys, and I won't address an audience member, but maybe Mr. Boon could ask a consultant whose land surveying stamp happens to be on this, if there is any background information.

MR. ROBERT AVERY: I'm not aware of any registered wetlands at that northwest corner.

ADAM CUMMINGS: All right.

MR. ROBERT AVERY: Of course, that would have been something that would have been brought up through the site plan approval.

ADAM CUMMINGS: Through Planning Board.

MR. ROBERT AVERY: For the -- for the somewhat new house where Dan (Boon) lives now.

ADAM CUMMINGS: Correct. And I don't have any notes on mine with regard to that.

JAMES WIESNER: The Town should have record of that, too, right?

ADAM CUMMINGS: Yes. It would have been brought up during the Planning Board process.

So two conditions on there, and with that, I will read SEQR.

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.

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

DECISION: Denied by a vote of 3 no to 2 yes (Fred Trott, Ron Richmond) with the following finding of fact having been cited:

1. This property was previously granted a variance for total garage storage space of 3,323 square feet. This proposed variance application resulted in an increase of 1,200 square feet of storage space to a total of 4,523 square feet of total garage storage space, which was deemed to be substantial since it is more than 300% of the allowable storage space stated in Section 500-60 of the Town Code and would result in detached structures with a combined storage space of 3,600 square feet. This variance application did not clearly display the means of access to the detached structure and did not promote any type of agricultural practices within the Agricultural Conservation District.

5. Application of Carol Thoms, 122 Stryker Road, Scottsville, New York 14546, property owner: Judith Tobey; for variance to create an undersized lot to be 1.26 acres (5 acres required) at property located at 124 Stryker Road in PRD and FPO zone.

Robert Avery and Carol Thoms were present to represent the application.

MR. ROBERT AVERY: Robert Avery, land surveyor, here with the applicant, Carol Thoms. I have done work for the family for a number of years since 1990. Carol (Thoms) and her sister, Judith (Tobey), are children of Bill and Helen Doherty, who own that whole farm out there, and back in '91 when Bill (Doherty) wanted to have a house built on a separate lot, we did the site plan for that, and that's the parcel that we're looking at. Trying to receive a variance for it to be less than the five acres in the zone.

I do want to point out something again, though, that unfortunately Carol (Thoms) lost her sister who passed away this past Sunday, the owner of the parcel we're talking about, so unexpectedly, but in any case, this is all agricultural land all around. They have horses. Um, you can see that we're setting this lot line against the pasture fence that is there, with the horses grazing in that pasture behind the house. The line also replicates the -- I would say occupied part of this five acres that is required in this southern -- south of Chili. With the house, and driveway, and the lawn, anything north of that fence there is, of course, just pasture and beyond goes quite a ways back 800 feet in depth additionally beyond there.

So, um, we're -- we're asking this, and Carol (Thoms), maybe you can help me out, what initiated your call to me, in -- in getting a smaller sized lot and adding this back piece to the agricultural land.

MS. THOMS: This farm has been in my family for many, many years and just last October it was -- the home was put in preservation by the Town of Chili. One of the things I had been intending to do is to have this put into farmland protection, so it was guaranteed to be forever farmland.

And I had -- what my dad did when he took -- took and went back in narrow like that, he didn't want to use up a lot of road frontage for the -- for it. He went back down in and actually behind the pasture, there is a hedge row and then behind that is part of a 100-year flood plain and

then the woods which is damp.

So -- but what my thought is, is now that my sister has passed and we hadn't anticipated -- she did have some health issues -- that we don't have right-of-way from the right side of that property to the left side, on the north side of the road. And I wanted to keep also as much of the original farm intact as possible. There are no plans to build anything. It would just be used for pasture grazing and that's it. If ever I needed a shed out there, it would be a portable one on skids. There would be nothing permanent. So it's not a matter of putting a building on. It's a matter of saving that property. If the property -- chances are we're going to have to sell the house, and you don't guarantee when somebody comes in, that they may not want to put a -- a barn out in the middle there and I'll lose -- I just had that pasture put up with Judy (Tobey)'s approval last fall for my daughter that moved back from Maine with -- she has 36 horses and we needed a lot of pasture and I entered into a -- an agreement with Monroe County Soil and Water to -- to claim some of the crop lands back and put into pasture because that was one of these efforts.

And another thing that I just recently completed on my -- on the south side of the road, um, there is a stream that goes along there and I have worked with, um, the Monroe County Soil to put a -- a buffer zone.

So I'm -- so I'm doing a lot of things to keep that property properly taken care of. And I -- I don't want to see the back end of that property go to somebody else. I want it to stay with the farm and -- and be in the farmland protection forever. And my sister agreed that that is what she wanted, too. Unfortunately, she passed away, you know, before we could culminate this, but we have talked to the lawyer and he said continue on with the proceedings.

ADAM CUMMINGS: Thank you.

MR. ROBERT AVERY: Thank you, Carol (Thoms).

We also have contacted the Monroe County Health Department based on the approved system that's in the ground for this -- for this parcel, and the perk rates, the standard in-ground system. We have provided for -- an area for expansion, if ever required for the septic system in the rear of the yard there. Um, we have provided the setback from the existing field, greater than the 10 foot, which is required. And we show an area that could possibly be used for expansion, one again, if needed, so that the parcel isn't limited if it becomes divided for a reason like that. We have provided for over 10 feet on the side tie for that. But it was an in-ground system, actually pretty good perks for that part of Chili, to be honest with you. And we're on public water out here.

MS. THOMS: Right.

MR. ROBERT AVERY: On Stryker Road, so no well.

So as indicated, we're taking this five-acre parcel and that, of course, is an old, longstanding minimum in this particular area, and, of course, that was really -- I think the reasoning for that was to keep the rural nature and -- and, in essence, even with splitting this and making this less than the five acres, we're doing that, because it's going to be part of the farm. She has indicated that she is -- is going to get that designation for it to be forever farmland. So we feel we have provided for expansion, if required, on the septic system. The setbacks are fine. Plenty of room for that house. Um, so we have decided to come before you to get -- to -- with the variance prior to continuing with any subdivision in the process obviously. That's all I have.

JAMES WIESNER: It appears pretty evident that that parcel that's left in the back would not be landlocked, so it would just be part of a greater parcel.

MR. ROBERT AVERY: Correct. We show that on the overall plan that is to the left side of the -- of the map, which shows the balance of that larger tax account number, 75 acres there. On both sides of Stryker Road. Yes, that would become part of that.

MARK MERRY: My condolences to you and your family.

MS. THOMS: Thank you.

MARK MERRY: I have no questions.

ADAM CUMMINGS: I just wanted to point out I did do some history fact-finding on this one. Back in 1991, there was a variance application for this parcel back then. The total was 20-acre parcels.

MR. ROBERT AVERY: Forgot about that.

ADAM CUMMINGS: And a first variance application was submitted for a five-acre parcel to be subdivided out. That was -- or sorry, first it was a four-acre parcel. That was denied and then later in 1991, a five-acre parcel was granted a variance for five acres.

Now our code is five acres, and is -- there was a previous variance granted for five acres which now matches our current code. I just wanted to point that out, so someone can't point at the Board members of not doing their homework.

MR. ROBERT AVERY: Yes. I remember when they were 20 acres down there.

ADAM CUMMINGS: I just wanted to point that out for the record, that this one is considered smaller than what was previously denied put in.

FRED TROTT: Just for clarification, you own the house and the property behind it?

MS. THOMS: There is no house behind it.

FRED TROTT: I mean, the property behind.

MS. THOMS: I own the whole parcel, surrounding it.

FRED TROTT: You want to separate it so you keep the rest of the parcel for -- forever wild and -- for farmland.

MS. THOMS: Put it back in the farm. Keep it forever wild and have it designated -- right now the rest of the farm is in the Ag District, and --

FRED TROTT: Why not take the house down and just put that back in the Ag District?
ADAM CUMMINGS: The whole five acres.
FRED TROTT: The acre --
MS. THOMS: Take the house down? Well, I don't know what is going to happen to that. Because I'm not the sole heir.
FRED TROTT: Oh, okay.
MS. THOMS: I --
FRED TROTT: Again, I'm sorry for your loss.
MS. THOMS: Thank you.
I mean, that's a possibility. The house is only 25 years hold old, but it has some -- it got some real problems right now. There is some mold in the basement.
FRED TROTT: Didn't look like it was in the greatest shape.
MS. THOMS: Well, the outside is not bad. I just had a roof put on it, but the inside, there's -- it is going to have mold abatement done before it can even be sold.
FRED TROTT: Did you talk to your lawyer, because Dorothy (Borgus) probably can answer that question, being on the Comprehensive Plan. The five acre lots, a lot of times they have agreements with the existing farmer to -- of the farmland that was there, they would have agreements --
ADAM CUMMINGS: She can't answer it until Public Hearing, so.
FRED TROTT: I know, but I'm pointing to her because she probably has better memory than me. But did you talk to your lawyer about having that, an agreement with the property to sell it? That it would still --
MS. THOMS: I'm sorry, I don't understand what you're saying.
FRED TROTT: That agreement upon selling the property of the house, you --
MS. THOMS: Well, my sister just passed Sunday, and we have an appointment Monday morning with the lawyer to go over the -- she was on Medicaid and Medicaid can come back and say they want some financial remuneration --
MR. ROBERT AVERY: Remuneration.
MS. THOMS: -- remuneration for what they paid out for her, and so when they have -- we may have to sell the house. But originally when my sister and I talked, that was -- that was going to be hopefully a way we could preserve that back part of the land, which the part goes down into the woods isn't usable for anything. And it's not that I want it, you know, for monetary purposes. I want it because I want to get -- it was part of the family and it goes way back. That house is almost 200 years old, and, you know, my family has owned it for over 75 years of that 200 years. It just want to see it stay that way, and I want to see it be agricultural, used for agricultural.
ADAM CUMMINGS: So, Fred (Trott), what you were alluding to is instead of subdividing this lot, you can take the house out and dissolve or resubdivide the entire five acres and put it into ag land, is what you're saying?
FRED TROTT: One step. The other step was having to put in the paperwork upon selling the property that this -- the land that is now agricultural, so to say, stays with farm -- with being leased for \$1 a year.
ADAM CUMMINGS: Development rights. You're saying -- pertaining to the --
FRED TROTT: When we were on the Conservation Board, they were talking about that is how they did a lot of the properties there, because a lot of the people wanted the five-acre lots, but they had no way of taking care of them, so they leased it back to the main farmer owner.
ADAM CUMMINGS: I don't remember --
FRED TROTT: I had a friend of mine that -- in another Town, that was part of the deal if he bought the house. Is that he had to still keep it within the farm.
ADAM CUMMINGS: Uh-huh.
FRED TROTT: The people that owned the farm. I know I'm not making any sense.
MS. THOMS: Then I don't know if you can put it into farmland protection if it wasn't under my name.
FRED TROTT: Oh, I see.
MS. THOMS: I want the whole thing to be farmland protection. I don't want somebody coming in and saying I want a barn out there or a little racetrack for my kid and his go-cart. You know, and I have already got substantial costs into -- into putting the fence up.
ADAM CUMMINGS: So I -- so I think I would like to hone in the conversation a little. We're focusing on the smaller lot. The variance is for the smaller lot.
RON RICHMOND: Was just going to ask, for clarification, even though the application is for the 1.7, that's really not the issue. The issue is putting the other 3 1/2 back into the existing farm.
MS. THOMS: Right.
RON RICHMOND: That is what the focus is, trying to get that application.
MS. THOMS: I own a good portion of that Stryker Road there. If you look at the map, I go down almost -- a good long way there. I have probably -- between Chili Scottsville Road and Stryker Road, I have over miles of road front in general sides. There is a farm down below me, and then there is a couple houses on that side, and that's it. But my daughter owns the little house on the corner, across from the Grange, and that's -- that's not -- you know, there -- there's nothing on there much that's -- that's under five acres.
RON RICHMOND: The real intent of the application is to get the 3.74 back into the larger parcel.
ADAM CUMMINGS: Well, her application is to get it less than five acres so -- and one

benefit would be to -- correct.

MS. THOMS: Right.

ADAM CUMMINGS: So either they stay with the existing variance -- well, it's not really a variance any more because the code changed, but the five-acre lot either stays as it is, or like you said, we're able to absorb some of it back into the ag land that was subdivided 23 years ago.

RON RICHMOND: Really isn't applicable any more.

ADAM CUMMINGS: Still is applicable.

RON RICHMOND: Even though the minimum requirements have changed?

ADAM CUMMINGS: Right. So we legalized it, correct.

MR. ROBERT AVERY: Excuse me, Mr. Chairman, I did in the paperwork point out, but it wasn't brought up, it is not really out of character to have less than a five-acre sized lot here. It -- in this area, which is that corner lot, as indicated, and also the homes that are over several of the properties located over on the east side of the Chili Scottsville Road, north of Stryker, are less than the five acres, as well.

ADAM CUMMINGS: Correct. Thank you for pointing that out.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road.

MS. BORGUS: Just for clarification, I see -- number one, let's start with the house. Is this the house that Miss Thoms lives in?

MS. THOMS: No. That's my sister's house.

MS. BORGUS: There's a house there.

MS. THOMS: The little one next door, next door to the farmhouse. I'm sorry, I shouldn't --

MS. BORGUS: And I see three shadings on that -- two shadings and one -- and white on that map. What does the white indicate?

ADAM CUMMINGS: That is the -- you're saying on -- where it says "Town of," you have got technically two parcels there that they're looking to -- not really create three parcels. The white space they're looking to subdivide that off from the five acres and resubdivide it into the crosshatched "Town of." So that would all be crosshatched and then you would have a small parcel where the word "site" is, and that would be the 1.26 acres.

MS. BORGUS: All right. But Miss Thoms just said she would still like to use that for pasture.

ADAM CUMMINGS: In the back would be pasture.

MS. BORGUS: Although it would be still part of the farm.

MS. THOMS: Yes.

ADAM CUMMINGS: Yes.

MS. BORGUS: My next question is, and I don't know if this is pertinent or not, what is the white on the south side of Stryker Road?

ADAM CUMMINGS: That's another parcel.

MR. ROBERT AVERY: That's a separate parcel.

MS. BORGUS: This was subdivided, as well?

ADAM CUMMINGS: Correct.

MS. THOMS: And -- may I say something about that? Um, it was sub -- my dad subdivided. He was going to give it to my daughter to build a house on, and she didn't do that, and costwise, I would have to put it -- it is used as farmland and I just haven't put it back into the farm because it an expensive thing, but at the time I haven't been able to afford to do that.

ADAM CUMMINGS: To answer your question, there has been off the main property, the main farm property, it appears there have been three subdivisions of that, and they're all depicted up there.

MS. BORGUS: Okay. All right. Thank you.

ADAM CUMMINGS: You're welcome.

MS. PERNESKY: 95 Sheffer Road. Um, I guess I just want to note that Miss Thoms has very much preserved this area between her house and the property. She is very much, from my watching it over the 16 years in driving by, um, having more horses on the property, trying to keep it more agricultural. I think she should definitely be applauded for what she is doing for this community and trying to put that acreage back into keeping this agricultural, so I am definitely for this project.

ADAM CUMMINGS: Thank you.

MATT COCCIA, 117 Stottle Road

MR. COCCIA: As someone who has -- has requested several variances on my property, I certainly do not intend to be hypocritical, so please don't take it that way. But I do have some questions and some clarifications I would like to request. And what the possible implications for future subdividing in other PRD areas might be.

Um, as this fellow just mentioned -- I'm sorry, I didn't catch your name, but as he previously mentioned, there are other lots under the five acres. I live in PRD over on Stottle Road. Five-acre lots. Minimum road frontage 275 feet.

The first question I want to ask, is there a road frontage limitation in this part of the PRD District that is also 275 feet?

ADAM CUMMINGS: Very good question. I don't know the exact footage. I would have

to defer that to Ed (Shero). Minimum road frontage? Ed (Shero) will have to bring up the big book.

MR. COCCIA: The reason -- while that is being looked up, appreciate that --

ADAM CUMMINGS: I believe, and it's coming back to me now, I believe part of the five-acre variance that was granted in 1991 reduced it down to -- I don't know the exact number, because I don't have the paper in front me. I believe it was reduced down to 170 feet, but let me see if it is --

MR. ROBERT AVERY: 200 feet, I believe.

ADAM CUMMINGS: 200 feet. So it was reduced down to 200 feet, the variance request.

MR. COCCIA: Okay. Thank you.

So thinking of the other parts of the PRD district like my -- the road I live on, Stottle Road, if larger pieces of property -- and there are several, even if they're only 10, 15 or 20 acres in size, setting precedent by doing this, could that precedent allow future development in other parts of the PRD areas to have smaller and smaller building lots so that our rural character PRD becomes more of a housing subdivision look with 150 to 200 foot wide lots in one-quarter-acre sized lots?

I guess I have concern long-term. I have been in Chili 10 years now. I have concern that maybe the character of things might change if precedent continues to happen. The PRD is a fairly small area. Really.

The -- the other question I would like to ask is, couldn't the other 3 3/4 acres that are already on that lot just be farmed the way they are? As opposed to actually having to subdivide and, you know, cut it off the property? I mean, I don't have any reason why the farmland or pasture just couldn't go right across the backyard.

ADAM CUMMINGS: That is up to the property control of whoever the owner happens to be.

MR. COCCIA: There has been a lot of talk about making it farmland and how that would benefit the Town. So what I'm saying is, is there any reason why it can't just be farmed the way it is? If it is not already. Maybe it is. It not hashed out, but maybe there is farm there. I'm not familiar with the property.

So -- and also on the lines of the farming, I can certainly appreciate preserving the ruralness and the agricultural districts. Really I'm in favor of that. But at some point it's not going to be farmed. No one is going to want to farm it some day. Might not be tomorrow. Might not be next year. Might be there in 30 years. But at some point a farmer is not going to farm that land and then what is going to happen to it? It is designated forever farmland, but no one is going to farm it, and there is going to be somebody that comes in here with a subdivision plan asking for a variance to reverse the forever farmland aspect because it's not going to be farmed any more. We don't -- I'm just saying these are hypotheticals.

ADAM CUMMINGS: They absolutely are, and I just wanted to interject because those really go beyond the scope what we can -- there are other protocols you can go to, whether it is the State Agricultural and Markets --

MR. COCCIA: I agree, but there's been Board members speaking and audience members talking about really the importance and the discussion of the farmland itself. So I mean if we're just going to throw all that out and say the farmland right now does not matter, doesn't matter what you're going to do with that, you just want to subdivide it, thank you for expressing your thoughts about the farmland, but we just don't care about the farmland right now, we're only here to talk about the lot size, maybe that should be the attitude, you know, that we're -- that we're having here.

But again, I think the possibility is that through continued precedent setting, the lots are going to be become smaller and smaller. Now this is an existing house. The next application might be for a new house. Again, the lots get smaller and smaller. You gave it to them. Why can't you give it to me? That's a great argument in court, I will tell you. It's really hard to start reversing yourself and I can see the land across from me that is 20 acre parcels becoming many, many, many houses.

ADAM CUMMINGS: The only way we can truly control 30 years from now is to continue to do what we have been doing and planning as best we can.

MR. COCCIA: That is why I'm asking the question. So if you pass these and maybe this ends up going to the -- to Town Council, but does the precedent allow future variances --

ADAM CUMMINGS: No.

MR. COCCIA: -- more ability to be passed?

ADAM CUMMINGS: No. There are no precedents. They all stand on their own basis and information that's -- yes, we can refer to other decisions and use those as points of reference, but no, there truly is no precedent being set. Each of them stands on their own merit. The individual land they reside on.

MR. COCCIA: The point this gentleman made about other lots in the area also having reduced lots, that's now been -- that is not being considered, that comment?

ADAM CUMMINGS: It's -- it's being taken into account, but no, it's --

MR. COCCIA: Right. I know it's being taken into account. That is why I brought it up.

ADAM CUMMINGS: It's absolutely -- there are other ones in here. There is one right at the corner, but we have to weigh the entire application in here, and we will do that.

MR. COCCIA: I guess I will ask again, you know, we have talked about -- during my application, "Hey, what is the alternative?" Right? So is the alternative here? Those hash marks just get brought across there and they farm that part of the land even though they stay with the house?

ADAM CUMMINGS: They can do whatever they would like on the property. We're not restricting use. The alternatives that is on there is we can maintain the five acres as it stands right now. We can resubdivide the whole five acres.

MR. COCCIA: Pardon me. I'm asking through the Chair to ask the applicant.

ADAM CUMMINGS: Certainly.

MR. COCCIA: It is possible that that is just farmed, if it is not already. Would it hurt anything? Is that -- does that relieve the hardship? You know the desire is to have it farmed. The desire might be to lower the tax burden because you take land off the housing part of the parcel and that tax base is going to go down. Well -- maybe.

ADAM CUMMINGS: There are definitely some additional benefits to -- to resubdividing it and putting it into other parcels.

MS. THOMS: May I say something?

ADAM CUMMINGS: Certainly.

MS. THOMS: By putting it into farmland preservation, the house portion could be sold to cover any financial burdens from her estate. Because she didn't have anything else. The woodland and the wetlands down back can't be used for construction or building houses or anything. We can use the one lot down below where we're using pasture now as a late summer pasture. We can't crop it. Put crop lands in because in the spring it's got standing water and it's in the 100-year flood plain. My stream goes right through the woods. And that's undergoing to change. And those are based at lower -- lower than regular property where you would put a house acreage wise. It's valued at less back in there so there is not a lot of tax value to it, for the Town. Yes, it would go into an Ag District. Um, but I think that's a beneficial thing for the Town and -- and the Town right now is looking -- is looking to promote agriculture by preservation -- by preserving -- went in and I talked to Dave Dunning about this with the -- with a lady from the Genesee Valley Trust. I told her what I wanted to do with this because there was an opening last year to -- to put this into farmland and forever protect it.

ADAM CUMMINGS: I just -- we have talked a lot about farmland protection, and -- and those aspects of it. I just want to remind everyone that this is for a variance. We're not looking into agricultural protection or any land use development rights that we're trying to apply. We're just looking at the sizing of the lot.

FRED TROTT: Well, I think it's important, though, because if we would deny this application, they would be forced to sell the property as a five-acre piece of parcel of property and that person can come along and do whatever they want to do, a/k/a, build barns on it and just cut lawns and not have it as a horse farm or agricultural.

ADAM CUMMINGS: That was the risk that was taken 23 years ago when it was subdivided out from 20 --

FRED TROTT: For a farmland.

ADAM CUMMINGS: Are we perpetuating things or being hypocritical at that point? It's the land by itself. It is this five-acre parcel. Yes, it's a benefit to put it into agricultural protection. But again, we don't have anything in the Town specifically doing it. That's not saying we're not developing something right now, but we don't have anything to use as a guide just yet. We have the County's agricultural management plan but nothing at the Town wide yet. I just want to point that out. It could be in development, but not part of the purview of our Board here.

FRED TROTT: I look at it both ways. I look at then you're also not cutting to -- to cutting it down. You're cutting out that five-acre minimum. By subdividing it.

ADAM CUMMINGS: Right. The focus tonight is the fact we're granting a variance from five acres down to 1.26. I think the Public Hearing is still open. I will allow it tonight, but typically we only allow one set of comments per person, but we'll allow it tonight.

MS. PERNESKY: It -- just because the gentleman over there, again, Mr. Avery --

ADAM CUMMINGS: Would like to keep it to points and --

MS. PERNESKY: They mentioned smaller lots. She is taking the five acres. She is dividing it. The other lots they were talking about, those are road frontage lots. Her -- her rear three-acre lot doesn't have road frontage, so again, that would be a protection that that is not going to be eventually put into any other use that they were concerned about back there.

ADAM CUMMINGS: Thank you.

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

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

ADAM CUMMINGS: I think we discussed this at length. The old variance has been discussed. I did want to bring that up, because as we always have with these applications, the variances stick with the land, not the property owners. The land. It takes the personal part out of it. And this one was granted a variance of five acres before, which we already alluded to. It's now gone, but there is that other part of the variance of the 200 feet.

So this one, the variance of 200 feet, if I'm not mistaken, Counsel, would still carry. It would just be a smaller 200 foot frontage. Just to point that out to the Board. So there is now -- there will be two variances on this lot is what I am saying.

JAMES WIESNER: Active on it.

ADAM CUMMINGS: Active on it. That would continue on. The remaining 3.74 would be absorbed into that agricultural parcel, but we would be taking what was granted to be before a five-acre variance and a 200 foot road frontage variance to be minimized down to a 1.26 acre lot size variance and a 200 foot road frontage variance. Just to bear that in mind. But there are right across the street other -- I just heard a noise.

MICHAEL JONES: Mr. Chairman, I'd offer the Board a gentle reminder if I may, but I was looking for the right point to do that, because there that been a lot of discussions about -- factors that are aside from the five factors that this Board is legally required to take into consideration. I just want to remind the Board although we had a lot of discussion about the farmland goals and so forth, the Board is really restricted to make its decision based on the five factors. And during the application, because you have to identify the benefit, and if they have been unable to do that, can they be achieved by any other way, whether it's a change in the neighborhood and whether it's a substantial variance and the environmental effects and whether they're self-created.

So it's a balancing of those five things. I wanted to remind the Board you're constrained to make your decision based on that.

ADAM CUMMINGS: Thank you. Good reminder.

RON RICHMOND: Doesn't this actually create two parcels less than five acres?

ADAM CUMMINGS: No. The one parcel would go into the bigger one, is --

RON RICHMOND: By default it automatically goes into it.

ADAM CUMMINGS: The plan here, Mr. Avery, correct me if I am wrong, but when we subdivide this out, we are creating three parcels. We're taking that third one, the -- where Judith Tobey shows up, right in the -- in the box, that would -- part of the subdivision would be to take that into the overall tax ID 158.04-01-5.11.

MR. ROBERT AVERY: We're starting with two lots and we would end with two lots. The larger lot would just become larger. The house lot would become smaller. We're not creating any new parcels of land.

RON RICHMOND: So this becomes part of that. By default that happens --

ADAM CUMMINGS: That's what we're looking to go do here. That's the whole reason for subdividing and asking for the variance. Clear then?

MARK MERRY: Crystal.

ADAM CUMMINGS: Crystal clear. All right.

Before I go there, conditions, do we want any? No. This one -- I keep thinking we're trying to look into houses going on it, but it is an existing house, but we're just looking at the lot size. So no conditions that I can see.

Adam Cummings made a motion to declare the Board lead agency as far as SEQOR, 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 no conditions, and Ron Richmond seconded the motion. All Board members were in favor of the motion.

DECISION: Approved 3 to 2 (Mark Merry, Adam Cummings) with no conditions, and the following finding of fact was cited:

1. The variance granted is not substantial and does not create any new buildable lots within the PRD zone in accordance with Farmland Protection Practices within this area of the Town.
6. Application of Al Hain, 352 South Drive, Rochester, New York 14612, property owner: Robert Tyo and Debra Lisena; for variance to create a proposed lot (Lot Number 2) to have 15' frontage on a road (40' required), variance for existing garage on proposed Lot Number 2 to remain without a dwelling, variance for garage to be 10' from proposed front lot line (75' setback at buildable part of lot required) at property located at 206 Chestnut Ridge Road in R-1-20 zone.

Robert Avery was present to represent the application.

MR. ROBERT AVERY: Robert Avery, land surveyor.

I'm here with the property owners, Bob Tyo, Debra Lisena and two gentleman from the P & A Old Tractors, Al Hain, and, of course, Pete Morris. And the P & A Old Tractors, LLC are the property owners immediately to the east. If this was approved, they would be the purchasers of the rear portion of this property located on Chestnut Ridge Road, north side, house number 206.

We have a couple variances that we need to talk about regarding this lot. One is the flag width being less than the required. And also we have the side tie dimension on the existing garage, which is construed as being a front, even though the front door of the garage faces east. Um, not towards the new proposed property line. And also the variance, I believe, for the auxiliary structure without having a primary residence. Correct me if I am wrong.

ADAM CUMMINGS: Nope. That's how I have it.

MR. ROBERT AVERY: Okay. We have looked at this, and we -- we placed the 15 foot wide flag there logically right where there is the existing driveway, approved driveway entrance for number 206, and we have extended back 277 feet to that point where we then turn west at 90 degrees and straighten a line that is actually halfway between the wooden deck and the left side of that garage as you're looking at the front door of it.

We have a similar parcel, of course, immediately next door to us bound by P & A Old Tractor, very similar mirror of this parcel, so to speak. My understanding is that the front piece there, I think, may be going on the market.

Is that true?

MR. TYO: Yes.

MR. ROBERT AVERY: Yes. And the plan would be for P & A Old Tractor to purchase that back piece, the back flag. So we have three conditions that we're seeking relief on. One is for a flag. As I mentioned, one, the interpretation of that front, because it doesn't meet the front. You got it as a side for that garage, and also there is just a garage on that piece of land. I'm sure that they will be adding more and be glad to answer questions as well as myself.

JAMES WIESNER: So the ultimate goal is to combine these into one property or? I mean, why go for the --

MR. ROBERT AVERY: We only have one parcel. We're dividing it into two.

JAMES WIESNER: I'm saying if the neighbors to the east --

MR. ROBERT AVERY: Oh, I'm not sure if they will be combining.

MR. HAIN: Some day down the road -- I'm Al Hain, property owner of the property at 204 next door along with Pete Morris. We're partners on it.

ADAM CUMMINGS: Hold on real quick.

MR. HAIN: When Bob (Tyo) approached us, he is trying to downsize, and, you know, we have been neighbors for years since we owned the property. He would like to keep use of the garage, so he wanted to know if we would be interested in the property.

MR. TYO: The ultimate goal is that we can keep the shop for a few years.

MR. HAIN: He wants to stay as a tenant, I guess you would say, and we would have the property. Down the road, that's a possibility to combine it, but tonight, being here we thought the simplest way was to bring in what we brought in so he can get his house on the market. They're trying to become a -- these people that spend their winter in Florida, and, you know, come back in the summertime. So he -- he's hoping to get the house on the market and we figured this was the cleanest proposal out there right now.

JAMES WIESNER: I was just thinking out loud if the two parcels were combined, would you have 36 feet of road footage, which would be at least more.

MR. ROBERT AVERY: The piece currently owned by Al (Hain) and Pete (Morris) does have a wider flag than the proposed one, 21 feet.

JAMES WIESNER: Right now I don't -- that 21 foot must be a flag lot, but I don't see a variance for that.

MR. ROBERT AVERY: Well, I believe -- did that receive a variance, Pete (Morris), the existing parcel?

MR. HAIN: Had a variance, I think.

JAMES WIESNER: There isn't anything in our records.

ADAM CUMMINGS: We don't get it for that parcel on ours.

MR. ROBERT AVERY: That situation on that piece may be preexisting. I'm not certain of the history, but we're not combining with that.

JAMES WIESNER: All I have.

FRED TROTT: I'm a little bit confused. So the neighbor is looking to go buy the flag lot.

MS. LISENA: Eventually.

FRED TROTT: Eventually, and you're looking to sell the front lot so --

ADAM CUMMINGS: So we really can't think about the neighbors just yet is what I -- what I think you're getting at.

FRED TROTT: No. I'm trying to understand the whole concept.

MS. LISENA: We're friendly neighbors.

FRED TROTT: I was confused on which part was being sold.

ADAM CUMMINGS: None of it is being sold yet. They're hoping to sell it.

FRED TROTT: The house.

ADAM CUMMINGS: They're trying to turn it into two saleable lots instead of one; is that correct?

MR. HAIN: Technically I guess, yes.

ADAM CUMMINGS: And that's what prompts the variances here, is one is that frontage part. They can make the flag lot.

FRED TROTT: I guess I agree with Jim (Wiesner) on that. I would rather see them coming in with the proposal to bring this lot into that lot.

ADAM CUMMINGS: Because they're all different property owners, though. We're not at that point.

FRED TROTT: I know.

ADAM CUMMINGS: So this application we're looking at a variance for the narrowness of the entryway of that flag lot and the accessory structure because it's not a residence on the second lot. So there is no -- then it is also 10 feet off the front property line, when it is supposed to be 75 feet. So this building, by code, is supposed to be 20 -- or 75 feet off --

FRED TROTT: That line? From that line, correct. Not from where the road is. Our code

is very confusing with flag lots.

FRED TROTT: This is very confusing with this one.

ADAM CUMMINGS: Any other questions? Or not yet is what I'm gathering?

FRED TROTT: Not yet. Yes. I need more.

RON RICHMOND: I get it. I'm good.

ADAM CUMMINGS: It's a good set of plans.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: You come to these meetings long enough and you think you seen it, heard it all. I looked at this application and thought no, I haven't seen it all yet.

I know you don't want to talk about adjoining properties, but I think you have to hear. How -- the -- the adjoining property, the one that these -- this P & A Old Tractors owns, is that currently a flag lot, as well?

ADAM CUMMINGS: Yes.

MS. BORGUS: And -- and now -- this is important. What use is the back part of that flag lot put to?

ADAM CUMMINGS: I honestly don't have any information on that parcel. So I can't answer that.

MS. BORGUS: My worry, and I'll be very honest about it, I don't know what these people do. I assume that they -- this is an assumption, buy, repair, resell, whatever, old tractors. And I -- I'm a skeptic. Call me a skeptic. But I can see this turning into a commercial enterprise in the back. I can't imagine why anybody would want that much land, especially next to another piece of a flag lot, and -- in back of houses. The -- this is -- this is a real concern. My -- my first thought was, "Well, what do they want this for?"

I'm wondering how you can manage to plow snow on that driveway that comes in there, that 15 foot driveway is pretty -- that's a pretty small entryway. I don't know where -- where does the snow go? Do you plow it over on the neighbor? Flag lots are a problem. I don't care where you put them. I have been coming to these Boards, these meetings for years, and flag lots are a problem. And I know the Town discourages them. That is why I'm surprised there is one right next door.

And I'm also -- this may not be an issue, either, but I think it's out of curiosity sake and just public information, how did two lots get on that small -- on that -- that lot is only 115 feet wide and it has two houses on it, plus is a swimming pool and a deck and a shed. How do two houses get on a lot 115 feet wide? I mean, we got too much on that piece of land, as it is. Never mind going back and maybe turning a business into the back part.

It is just -- it's a hodgepodge. This kind of a proposal doesn't do the Town of Chili any good. I cannot think of a good thing about it. And I know this man would like to sell his property, but it seems to me his best bet is to sell it the way it is. Maybe somebody wants that land in the back, you know, for another -- they just want a little -- may they want a garden or whatever back there, but if you want to sell it, I don't think you hack it up into pieces.

That second building, now, I know this is not part of the application, but it's only 26 by 24 feet. When was that put up? Was it always a house or was it a barn or shed that was converted into a dwelling?

FRED TROTT: Been there since I was a little kid. It's been that way ever since I was a little kid.

MS. BORGUS: A house?

FRED TROTT: Yeah. Yeah.

ADAM CUMMINGS: I'm still a little kid, so I don't know. (Laughter.)

MS. BORGUS: I don't know. This whole thing is just -- it's too many variances on a lot that's too small with the proposition out there that you can't deny that whole thing, this piece and the one adjacent to the -- to the -- to the -- excuse me, to the east will turn commercial on you. And I think the applicant should be asked about that so it's on the record.

Thank you.

ADAM CUMMINGS: Thank you.

MR. HAIN: We'll be on the record, the first little house was built in 1920 by my grandfather with his own hands and my uncle's. The original piece, the -- this whole piece of property was -- was initially part of the Hebert's farm and he gave lots to his children. And the two -- two of the lots on Chestnut Ridge Road were given and a lot on Coldwater Road. This was all part of the farm. And the -- the bigger house was built in 1929.

ADAM CUMMINGS: Thank you.

MR. TYO: Just for the record, my grandfather's badge in Chili Fire Department was 5. He was one of the original founding members, so I think this -- I think this piece of property has been part of the community.

MR. HAIN: I just like to say that I would just like to say that this is not commercial. Pete (Morris) and myself have an interest in antique tractors. You go to the parades and see the tractors around, all restored, um, throughout Monroe County, different shows. That's what we're about. We're not into buying and selling tractors. That's why we have the storage, because we want to keep them inside after they're restored.

Um, as far as snow removal, um, we talked about maybe you could even add an easement down the side of 5 feet, but, you know, some of your Town roads are probably only 18 feet wide.

And that's designed for a track, subdivision.

MR. TYO: I have been plowing that for 31 years. So it's not an issue.

MR. HAIN: But -- and the reason we went with 15 is so that the main lot is 100 foot and it doesn't make that another variance by going under 100 foot for the width of the main lot where the two houses are.

ADAM CUMMINGS: That's a very good point to make.

MR. HAIN: That's one reason why we ended up with the 15 feet and not looking for a fourth easement.

As far as the one easement for the 10 foot setback, um, I understand technically that is a front property line because it runs parallel with the road.

I also know that the Town of Hamlin just changed their code two years ago because they ran into this problem, as long as the structure was existing, it -- it wasn't a -- a variance wasn't required. The garage does face to the east, so that's the side of the garage that is abutting the rear of that property with the two houses.

I know it's not the Town of Hamlin, but I'm just -- sort of comparison. I mean, you know, that's --

ADAM CUMMINGS: Because if that line was shifted to the south, then you would have another fun part of it because you would have a pool in a front yard.

MR. HAIN: That was the thing, is you could move it and then ask for a variance for the pool. Maybe you could move it and take the pool down, but now you're making the front lot smaller. There is still a lost depth.

ADAM CUMMINGS: Yep.

MR. HAIN: Behind there. That is still a deep lot.

MR. ROBERT AVERY: It's in excess of 10,000 square feet, I believe, more than the minimum required in this zone. It is not a small lot for the zone.

MR. HAIN: We're not creating undersized lots by cutting this in half.

ADAM CUMMINGS: So did you also look into moving the lot line to include that -- that framed building and keeping all three buildings into one?

MR. TYO: No.

ADAM CUMMINGS: Because that would get rid of another variance, having --

MR. HAIN: The reason we're doing this is Bob (Tyo) has had that garage for many years and he has vintage cars, and he wants to keep the garage. He thought seeing we were right next door, we go hand in hand. We're in tractors. He is in cars. That he -- he could become our tenant.

He still plans on using the garage. But he wants to sell the -- the two houses off, go to Florida in the winter and I think you have a summer place on Conesus Lake.

ADAM CUMMINGS: I just point that out, because taking both of you out of the equation, we're trying to weigh it in terms of the land and the variances and the property lines -- taking you two and your hobbies and uses out of it, the next property owners may not want such a synergistic relationship so then the Town would have a different dynamic to contend with.

MR. HAIN: The other thing I should note, is he does have some pictures and some letters from neighbors that have no issue. This property, with these buildings has been there for years. It's not like we're creating a new building. Nothing is changing other than making two lots is what we're changing.

FRED TROTT: And the property you own, that used to be a machine shop, wasn't it?

MR. HAIN: Yes.

MR. ROBERT AVERY: That was commercial.

FRED TROTT: That was commercial property.

MR. ROBERT AVERY: Commercial property many years ago and for a long time.

FRED TROTT: I can't remember the name of it.

MR. HAIN: Well --

MR. ROBERT AVERY: Lenhart.

FRED TROTT: Len's. That's right.

MR. TYO: The pool really is not an issue. If it became an issue, um, we could -- we could add to the front of that pool to give us say 60 feet, and it wouldn't be ideal. I just know the people that we sold the house and stuff to would like it. If we did that, I'd just tear it down.

MR. ROBERT AVERY: The thought was to try to make that -- the house lot there, the front as big as we could, based on what the desires of the two parties were, which is how we have it, which is 10 foot. Construing it more as a side than a front, even though it is construed a front per -- per the Town. In reality it's the side of the building.

ADAM CUMMINGS: I just jumped into a procedure. We still have Public Hearing open, don't we?

FRED TROTT: Yes, we do. They're still talking, though. We're just having a little bit of a banter. I apologize.

ADAM CUMMINGS: That's okay. I just want to point it out to make sure I am still remembering. Clearly not much other public in here, so we'll continue it on.

But I just wanted to read the letters. I do have one here from Cheryl Hutchings at 211 Chestnut Ridge Road. She says, "To whom it may concern, I have lived across the street from 206 Chestnut Ridge Road for 25 years. I can see the garage from my kitchen window. There has been no noise or activity that has caused any problems. Debbie (Lisena) and Bob Tyo have been great neighbors and the garage has had no impact on anything on our street. I approve of the subdivision of the lot at 20 Chestnut Ridge Road.

Um, I also have one from Debbie and Greg Elliott at 210 Chestnut Ridge Road. "I have lived next door from 206 Chestnut Ridge for over 20 years. I can see the garage from my deck and family room window. I approve of the subdivision of the garage and any activity in it. Have not caused any problems with us or the neighbors."

And I also have the County's referral from Planning and Development, and they call it to be a local matter. Just wanted to point that out, as well.

And with that, if there is no more public comments.

MS. BORGUS: I didn't hear an answer to my question. What -- if they own a flag lot next door, what use is that put to, because I think that has -- is very relevant considering the fact that they want to take the back of two other properties and -- and they will own a big part then, a big parcel in the back. I think what they do on the land next door is relevant.

ADAM CUMMINGS: The -- the responsibilities I heard from one of the gentlemen is that they repair tractors, store tractors and use them for different entertainment purposes, parades and country fairs.

MS. BORGUS: So I guess -- I guess it would be kind of logical to think that that is what the intent would be if they double the size of their property in the back.

ADAM CUMMINGS: Could be, yes. Could be more storage.

MS. BORGUS: Other question I had, and I hadn't asked this before. I have heard "hobby." I have heard "hobby." We -- you know, with regard to old tractors. And then I see that that -- it's an LLC. It doesn't sound like an a hobby. Is this a business? Or a hobby? If it's a business, I think the Board better think long and hard.

ADAM CUMMINGS: Thank you.

With that, I think I will make a motion to close the Public Hearing.

Adam Cummings 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: It's a maze.

Does everybody understand all of the variances here? Are we at least clear on those, first and foremost?

MARK MERRY: I think so.

FRED TROTT: I understand it.

ADAM CUMMINGS: First things, first I do have some recommended conditions. The first one is the pool deck, according to our records, was built without a permit and it requires a permit so you can get things in compliance. Either obtaining a permit from the Building Department or the other option is to remove the pool, hence no need for a pool permit.

ED SHERO: Pool deck. The pool is permitted. The pool deck.

ADAM CUMMINGS: Pool deck doesn't have a permit. My mistake. Sorry about that. They need a permit for the pool and the pool deck?

ED SHERO: No. The pool -- the pool is permitted. The pool deck is not permitted.

ADAM CUMMINGS: Thanks. Had nothing to do with this application. It was for my own benefit. All right. The other fun part is Lot 1, if a variance for -- was approved and we did see a subdivision of this lot, would now have two residences or single-family homes on a single parcel. So that's not really compliant with our code.

So one condition could be to recommend or require the removal of one of them. A hefty requirement, but one, I think, we should consider.

RON RICHMOND: Without --

JAMES WIESNER: Maybe we could ask them what they're doing, the two owners, right now?

MS. LISENA: They were built in 1920.

MR. TYO: Original house was built in 1920. Um, and that was supposed to be -- called the garage house, I guess, at that time.

Then in 1929, my grandparents built the other house. And it's just been there. It's been called "The little house." I was born in that house.

ADAM CUMMINGS: The two of them.

JAMES WIESNER: You don't live in both houses?

MR. TYO: Pardon me?

MS. LISENA: No. It's been a -- family as -- you know, it's -- it sort of been like -- I don't know how to explain it.

ADAM CUMMINGS: Ed (Shero), would it be reasonable to conceive that the 1929 two residences or two homes on a single parcel might predate our code?

ED SHERO: Absolutely.

ADAM CUMMINGS: So -- so that's how they have two houses on it. It is a preexisting, nonconforming. It is our current code and as soon as we subdivide this lot, that's what makes it illegal or not in conformance -- I won't say "illegal," but not in conformance.

JAMES WIESNER: If nobody is living in it, so.

MS. LISENA: Could be converted -- it was originally supposed to be a garage, but his grandfather kept it as a little house. Family members would live in it, and that type of stuff. So we just --

MR. TYO: In-law thing.
MS. LISENA: In-law apartment.
MR. TYO: That's what we're trying to sell it as. It's a functional house. Couldn't be converted into a garage.
MS. LISENA: There's a basement.
ADAM CUMMINGS: It would be nice if there was a breezeway to connect it so they weren't detached. All right. I'm going to give myself a pat on the back for an idea there.
JAMES WIESNER: Could be called a pool house.
ADAM CUMMINGS: So a connector -- what is happening here, is you have two buildings that are single-family homes. It's because they're detached. If they were attached, it would be one big house, because of one connector.
RON RICHMOND: What is the distance between the two houses?
MR. TYO: Close.
ADAM CUMMINGS: Where the wood deck is it, it's real close.
MR. ROBERT AVERY: Less than 10 feet, I believe.
ADAM CUMMINGS: So we could put that down as a requirement, if you would be willing to entertain such a notion of connecting the two, otherwise one requirement would be to get -- to get the subdivision of the two parcels, you have to be code compliant. So therefore, with that --
MR. TYO: Isn't there any kind of grandfather clause?
ADAM CUMMINGS: Yes, if you don't subdivide the lots.
MR. TYO: Okay.
ADAM CUMMINGS: If you leave it as a single lot, it's preexisting, nonconforming and can stay as it is.
MS. LISENA: A breezeway would be considered combining the two.
ADAM CUMMINGS: Yes.
JAMES WIESNER: Actually, if you brought the deck to it.
MR. ROBERT AVERY: The deck is already up to it really.
JAMES WIESNER: I have seen houses where they have done that.
ADAM CUMMINGS: Well, no, that is the pool deck.
MR. ROBERT AVERY: Well, no, that is the deck in the back --
ADAM CUMMINGS: I don't think that counts as actual structure.
Is that correct, Ed (Shero)? I -- I hate to bring it up if the deck has a permit. Or is that pre-existing, too?
ED SHERO: We determined -- the wood deck right behind the house was built prior to 1991, and at that point did not need permits for the deck.
ADAM CUMMINGS: So if they connected the deck, the wood deck --
ED SHERO: No.
ADAM CUMMINGS: -- to the wood -- that is not an attachment.
ED SHERO: No. They would have to be connected -- they would have to walk through a breezeway or a hallway preferably from one building to the other building.
ADAM CUMMINGS: Okay.
MR. TYO: Have to be enclosed.
ED SHERO: Have to be enclosed and used as a one single-family house.
ADAM CUMMINGS: With multiple bedrooms.
ED SHERO: Or you said it has a basement in it? I said, you could convert to it a garage, but would a garage -- you need a -- a floor that is non-combustible.
JAMES WIESNER: If they put a fake garage door on it.
MARK MERRY: Just to fool Ed (Shero) (Laughter.)
ADAM CUMMINGS: So those are some options that we would like to entertain for this, because once again, you have a lot of variances going into this application and they're all connected. So there is really no reason I see to separate them out. Because if you don't put in the -- you don't put in a flag lot and subdivide it, then you don't need the other variances. And then if you do the flag lot and then don't do anything with that back building and the getting it compliant with the two -- the two residences, the two single-family homes, it's all related. So we'll keep it as one application. Unless someone wants an objection.
FRED TROTT: I'm just wondering if we should ask the applicant if he would consider tabling it until he can address fixing some of the major issues here of the two separate buildings, two separate single houses.
JAMES WIESNER: I was going to suggest that also. I mean, they're hearing some of the concerns. I mean, the risk if it gets voted on, giving some of the substantial issues and it gets turned down they have less options. They -- they can come back. Otherwise if they table it, they can come back and investigate some of these things.
ADAM CUMMINGS: So what Jim (Wiesner) is explaining is we can table this to gather more information for you to see the options now that you have heard the requirements that we're going to impose to get you to be compliant with our current code. You could table it and wait until that later date and we can work through those options, whether it's converting it to a garage. I'm not saying that is one of the options or connecting them in some way or removing them all together. And then -- and then the other one is you run the risk if you do proceed with this application and it is denied, then you will have to wait a year before you can reapply for a variance.
Any -- any of these variances.

MR. ROBERT AVERY: Any variance is there.

ADAM CUMMINGS: Well, you can come up with a significantly different one and it would be a new application. But I don't know what other variances you would come up with this one. You're looking for a flag lot with the frontage, so you will not change a lot there.

MR. ROBERT AVERY: Right.

ADAM CUMMINGS: So the flag Lot 1 is really restricting you. Or the road frontage part of it.

JAMES WIESNER: I would say the, I think, other item is a substantial request as far as the -- the frontage. I don't know what it would take to look into combining the lots and coming in with a less substantial --

ADAM CUMMINGS: Oh, you are saying combining the two flag lots.

FRED TROTT: Two flag lots. That would be a thought.

JAMES WIESNER: Then you're coming in with less of a substantial variance, which is more attractive. Then you're voting on something that --

ADAM CUMMINGS: You guys are bringing -- now you guys have mortgages and two property owners.

FRED TROTT: That's basically what they're looking to do, from -- from the sound of it.

ADAM CUMMINGS: That's a plan for them to do. They're not doing it.

FRED TROTT: Yeah, but I look at it, it would be a lot cleaner if we just took this and make this one flag lot and then addressing the house here, I would look at it a lot more favorably. I think we're cleaning the place up.

JAMES WIESNER: Obviously one of the standards we have is how substantial the -- the variance is. Right now it's, you know, 25 out of 40 feet, whereas if it was combined, it is 4 out of 40 feet. I mean it is just something for the applicant to consider, because again, tabling the application would give you more options at this moment than voting on something and not having it go -- go favorable, I guess.

MR. TYO: Well, appreciate -- I appreciate your advice. I guess we have no choice but to table it for now.

ADAM CUMMINGS: Well, I was going to offer up, it would be another option to withdraw it at this time and resubmit it and just make sure we work with the Building Department.

MICHAEL JONES: If the applicant's on Board with tabling it, that would save them another application fee. So if they're consenting to tabling it and dealing with some of the issues that the Board has addressed, we can work with them on the timing and they don't have to pay another application fee; whereas, if they withdraw, they have to start all over again.

ADAM CUMMINGS: All right. Thank you.

MR. ROBERT AVERY: I believe the owner and applicant would like to table the application.

ADAM CUMMINGS: So I will make a motion to table this application.

FRED TROTT: Second.

ADAM CUMMINGS: Until a future Board meeting. I won't even say which Board meeting. Is that all right?

MICHAEL JONES: In this case. Yes, in this case it would be fine given the consent.

ADAM CUMMINGS: What we'll do is continue working with you and identify when we're prepared to moved forward and just make sure everyone is clearly understanding everything, because there is a lot of risk involved with this. Hearing what your plans are, um, we would like to manage that risk for both your benefit and the Town's.

MR. TYO: Appreciate it.

ADAM CUMMINGS: I made a motion.

Is there a second?

FRED TROTT: Second.

DECISION: Unanimously tabled by a vote of 5 yes to table at the applicant's request.

Adam Cummings made a motion to approve the 9/23/14 Zoning Board meeting minutes, and Fred Trott seconded the motion. All Board members were in favor of the motion.

The meeting ended at 9:32 p.m.