

CHILI ZONING BOARD OF APPEALS
June 28, 2018

A meeting of the Chili Zoning Board was held on June 28, 2018 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Adam Cummings.

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

ALSO PRESENT: Eric Stowe, Assistant Town Counsel; Paul Wanzenried, Building Department Manager.

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: Any issue with the signs?

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

1. Application of Anthony Ardillo, c/o Passero Associates, 242 W. Main Street Suite 100, Rochester, New York 14614; property owner: Phildom, LLC; for approval to amend variance granted on 8/2/60 to allow existing building and proposed addition to be 49' from front lot line (75' previously approved), amend variance granted on 10/26/04 to erect addition 5.1' from side lot line (11' previously approved), variance to allow existing fence to be 8' high (6' allowed) at property located at 1421 Scottsville Road in G.I. zone.

Joseph Kellenberger, Anthony Ardillo and Matt Sinacola were present to represent the application.

MR. KELLENBERGER: Good evening. My name is Joe Kellenberger of Passero Associates. I'm here tonight on behalf of our client, Mr. Anthony Ardillo. He is the owner of Gates Towing.

Also with me tonight is Mr. Matthew Newcomb -- or Matt Sinacola. I will get it for that. We're here tonight for the purposes of receiving approval of three bulk area variances and we have gone for the preliminary and final Planning Board approval and it is contingent upon these.

I will give a brief rundown of the current site and the proposed project. Mr. Ardillo currently operates, as the name implies, a towing service. Along with that, however, is an impound lot to the rear, vehicle maintenance garage and he also deals cars there. It is located at 1421 Scottsville Road and will be on the north side. That will be between Old Beahan Road and just north of Paul Road.

This project calls for the construction of a 2,770 building addition. Its main feature is going to be a drive-through vehicle garage used for the purpose of maintaining his fleet of tow trucks. It's going to have both front and rear overhead doors, one bathroom and one employee lounge.

As I said, we're here for three bulk area variances and I will begin with the first, that being the existing 8 foot high fence that currently surrounds the site.

Town Code calls for 6 feet high. As I stated, he currently impounds vehicles to the rear. I believe he also impounds vehicles for the Sheriff's Department. At nighttime, he made it known he does store customer vehicles and his dealership vehicles in the rear, so there is certainly a degree of security having an 8 foot fence over a 6 foot fence.

Public safety also comes into play with both machinery and moving vehicles that are obviously back there. So it certainly keeps any errant pedestrians from wandering on the site and serves as a greater deterrent to what a 6 foot high fence would be.

The second variance we're here for is the 35 foot side setback. I didn't mention it, but it is General Industrial. We are going for a distance of 5'1" feet. As you can see, the existing structure is centrally located and the width of the lot is 150 feet. We considered putting this to the north end of the site. However, this would, as well, include a variance for the same reason.

The existing flow of traffic would also be interrupted. If I can move that quick, you can see the current gate as it is -- is lined up with the main entranceway.

Also, we considered the fact there are two existing maintenance bays to the southern side of the building. We would like to keep that in -- the general use in that same area.

We also considered, as well, putting it to the rear of the site. However, as we stated, he operates an impound lot and doing so would ultimately make this impossible because it would -- just for the turning radiiuses and the tow trucks and loss of space that would allow for the two uses at the same time.

So we considered putting it to the south. We did take several site visits to view how it would impact its neighbor. Its neighbor to the south is Fleet Pride. They just, I believe, finished

up a remodeling. There are no windows on that side of the building that would visually be impacted by this construction. There is a parking lot and a drive aisle between the two.

And then Mr. Ardillo's property, there is an existing retaining wall and the 8 foot high fence. There is no further construction that can take place on the Fleet Pride side as there is an existing sanitary sewer easement that runs through there.

And then to our final variance we're here for tonight is the 75 foot front setback. The existing structure as it sits is at 49.6 feet and for symmetry, he would like to keep the building in line with that. As I said, doing otherwise would mean moving the structure to the rear and this would ultimately impact his business.

So at this time, I'm open to any comments and concerns.

JAMES WIESNER: I have one question. So I guess I have got all of the vehicles kind of to the right of the property were part of the impound yard, but it appears then it is on somebody else's property over there and it is not part of what you're proposing for an impound lot tonight.

MR. KELLENBERGER: That is not going to be part of the impound lot. There is vehicle storage, I believe. There is space for employee parking rather and additional overflow parking. I believe Niagara Mohawk Power owns that and he leases that for \$100 a month. That was one of the conditions of the application for the Planning Board, was to provide proof of that.

JAMES WIESNER: So it won't be used as an impound lot in that area?

MR. KELLENBERGER: Due to its openness, no. It would be very easy to come upon that property and burglarize a vehicle.

JAMES WIESNER: Good. That is all I have.

MARK MERRY: Page 3, question 5. Can you clarify for me what that response is directed toward for the variances that you're requesting this evening?

MR. KELLENBERGER: Okay. Pretty unclear on that one. I can see where that question comes from.

I made that comment in regards to the existing surrounding structures, both Fleet Pride and across the street insofar as their building size, insofar as coming with the setbacks. Across the street, the building has moved since. My general understanding of that question was a comparative one. That this would not be an extreme. And I -- I assume the one you referred to mainly is the 5.1 side setback.

As I saw it, I didn't see due to the narrowness and the character of the site, that the -- this would be a major aspect. However, I can -- I can -- just looking at my answer, I see I really didn't answer the question as it was intended.

MARK MERRY: Okay. Thank you.

ADAM CUMMINGS: Just piggy-backing on that, it's self-created. He owns the property. In essence, it will always be self-created, but as you said, it may not be major enough to tip the scales to warrant a "no" or anything like that. But you would agree, and I think that is what the question you're posing, very simply, your first answer -- or your first word is where you say "no," it's not self-created. I just want to make sure that, yes, this was self-created.

MR. KELLENBERGER: Are you referring to Question 3 where it says -- is the variance substantial?

FRED Trott: 5.

ADAM CUMMINGS: Page 3, question 5.

MR. KELLENBERGER: My bad.

MARK MERRY: It's okay.

MR. KELLENBERGER: So yes, I can see it is self-created insofar as choosing the placement of the building. We considered all of the other options short of demoing the building. So yes, I would agree, yes, it is self-created.

ADAM CUMMINGS: That's good. Thank you. I just wanted to -- it's not on the screen anymore, but that sliver of land that is about 20 feet, you said it was a sewer easement, sanitary sewer. I just want to make sure I'm reading that correctly.

MR. KELLENBERGER: That's correct.

MR. SINACOLA: Yes, it is.

ADAM CUMMINGS: That strip of land, so that does help the fact that that is close -- it is -- close to the property line at 5.1 feet doesn't require a State variance greater than that amount, but there cannot be a neighboring property or development within that 20 feet, which, in essence, is a nice buffer.

And the existing fence, you're not looking to replace any of the 8 foot fence?

MR. KELLENBERGER: No.

ADAM CUMMINGS: Okay. It's not called out in the plans. I just wanted to make sure. I jumped over you, Mark (Merry). Any other questions?

MARK MERRY: No, I'm good for now.

ADAM CUMMINGS: I'm trying to think if I had anything else. A lot of properties on Scottsville Road do have security fences along with the properties we have in the Industrial over on Paul Road. Offhand, do you know what height any of those are?

MR. KELLENBERGER: I do not.

ADAM CUMMINGS: I would have a guess we have some other 8 foot ones.

MARK MERRY: We do.

ADAM CUMMINGS: I think Kozel might be 8 feet, because it is older. I just wanted to point out that.

PAUL WANZENRIED: Only United Rental there right around the corner has an 8 foot barbed wire. So yes, it is there.

FRED TROTT: One question. What if you moved your proposed building back a foot? How much more would you have gained on the side lot?

MR. KELLENBERGER: I know the existing -- the '04 variance, I believe it was 11 feet. We still would be certainly over that. We're -- or under it insofar as that. If we moved it back a foot, you -- you might gain a foot, but certainly no more than that certainly.

FRED TROTT: I notice it is a little pie shape, so I didn't know how much of a distance that was. So I was just curious.

MR. KELLENBERGER: Okay.

MR. VALERIO: Has there been any discussion with your neighbors to the west about the fact that, you know, you would be probably within 5 feet of the setback?

MR. ARDILLO: I will introduce myself. My name is Anthony Ardillo, the owner of Gates Towing, 1421 Scottsville Road. The owner of the property, "Sharky" I guess they call him, he owned Universal Joint Sales. You're talking about that right there (indicating)? He doesn't own it. He just sold the property. I don't know if the deal went through or not, but he has absolutely no issue with it from -- from what -- from my conversation with him. He needed some stuff from me recently and called me so I asked him and he did not have an issue with it.

ADAM CUMMINGS: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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: Anything else from the Board? Any questions, comments?

We will have one condition of approval. You're putting in a new building, so obviously you need a building permit for that. That goes without saying. Part of the reason you're here.

MR. ARDILLO: Yep.

ADAM CUMMINGS: I don't see anything else on there.

There is that one condition I will place on there.

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 an Unlisted action with no significant environmental impact, and Fred Trott seconded the motion. The Board all voted yes on the motion.

Mark Merry made a motion to approve the application with the following condition, and James Valerio 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 construction.

The following finding of fact was cited:

1. There are nearby properties that also have these types of security fences, which are appropriate for the G.I zone. The setback variances will not encroach or hinder the development of the neighboring property due to the presence of a 20' sewer easement.
2. Application of Donald Aselin, owner; 16 West Bellaqua Estates Drive, Rochester, New York 14624 for variance to allow a 10' diameter gazebo and 12' x 14' pergola to be a total of 268 sq. ft. (192 sq. ft. allowed) at property located at 16 West Bellaqua Estates Drive in R-1-20 zone.

Donald Aselin was present to represent the application.

MR. ASELIN: Hello. My name is Don Aselin. I'm here for a variance to put up my pergola next to the gazebo in my backyard where you can see on the drawing submitted we had put a large patio so I can enjoy my retirement.

Been a resident here 48 years. Had several businesses in this Town over the years and now it is time for me to retire in this nice Town. So I'm asking for the Board's permission for the variance.

JAMES WIESNER: You made a comment about 45 East Bellaqua there is something similar. I didn't see anything.

MR. ASELIN: Steve Olstein (phonetic) lives on Bellaqua Estates Drive. He has the exact same one in his backyard.

Ferrari's across the street here has the exact same pergola over their fire pit right in the plaza, 3240. The same thing. They're all from the same manufacturer, all identical.

JAMES WIESNER: Do you know if this was considered to be a permanent structure, it

could be pulled down?

MR. ASELIN: It's a -- good question.

Paul (Wanzenried)?

PAUL WANZENRIED: Yes, sir?

MR. ASELIN: How is it bolted down?

PAUL WANZENRIED: The pergola?

MR. ASELIN: Or is it just sat on the patio?

PAUL WANZENRIED: No. It will sit on the patio. It will be bolted to a pier.

JAMES WIESNER: So there will be a structural member per se?

PAUL WANZENRIED: Yes. Not taking it down every year, so it's not temporary. It's a permanent structure.

JAMES WIESNER: That's all I have.

FRED TROTT: I'm just trying to understand. You're having this structure and two other ones? Or is it --

MR. ASELIN: Let me explain that. I currently -- I used to live on Battle Green Drive. For my wife for Mother's Day about 15 years ago, I bought her a small 10 foot gazebo that she just absolutely loves. That's her place away from the house, place away from the kids and so on.

When we built over here in Bellaqua Estates, I got a permit from the Building Department to move that. I built a concrete paver, set the gazebo on it. Not realizing that when I put our little -- our little pergola up next to it and put the picnic table and everything else, we were over in square footage. I didn't know anything about that.

So that's the reason why we're in here for this now because we didn't realize it, having the little 10 foot gazebo that she enjoys and putting this next to it would cause a problem.

FRED TROTT: So the one is for her and this one is for you?

MR. ASELIN: Definitely for me. It's the lady cave and man pergola.

ADAM CUMMINGS: That's a good question, though, Fred (Trott), because the square footage does stick with it.

So, Counsel, it's not like it sticks with the structures. We're just changing the square footage of a structure -- accessory structure that we're allowing on the property?

ERIC STOWE: Correct.

ADAM CUMMINGS: Just want to make sure everyone was aware.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Valerio 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: Is this up already?

MR. ASELIN: No. Wouldn't dare.

ADAM CUMMINGS: Condition of approval would be a building permit.

MR. ASELIN: We'll go see them in the Building Department and get a permit.

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

James Valerio made a motion to approve the application with one condition, and Fred Trott seconded the motion. All Board members were in favor of the motion.

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

1. Building permit to be obtained prior to construction.

The following finding of fact was cited:

1. Several neighboring properties have similar pergola structures and the lot is large enough to adequately contain this amount of accessory structure coverage without encroaching on adjacent properties.
3. Application of Maureen Isaac, owner; 19 Freedom Pond Lane, North Chili, New York 14514 for variance to erect a 12' x 16' deck 20' from rear lot line (25' req.) at property located at 19 Freedom Pond Lane in P.U.D. zone.

Maureen Isaac was present to represent the application.

ERIC STOWE: I need to disclose to the Board and Ms. Isaac my father represented her when she purchased this property, so if there is any issues with anyone, I will certainly recuse myself with the conflict, but if nobody has any issues, I would be happy to sit in. Just wanted to

disclose it.

ADAM CUMMINGS: Thank you for disclosing it. Very good.

You will note it on the survey plat that was provided it does identify Stowe Law Firm. But once again, it has been disclosed. If we have any questions, it's up to us.

MS. ISAAC: My name is Maureen Isaac. I'm from 19 Freedom Pond Lane. And I'm looking for a variance for a deck that is 12 by 19. 12 by 17 across the back of my house, which backs up to forever wild woods. And the deck, I need an additional 5 feet variance. I -- the lot line is 30 feet from the house and I need an additional 25.

ADAM CUMMINGS: Pretty self-explanatory. Just want to clarify a couple numbers on that one. The deck, I have it listed on the agenda as 12 feet by 16 feet on your plan. You also call it out -- you said 12 feet by 17 feet there. I just want to make sure it is 12 feet by 16 feet.

MS. ISAAC: I think it is 12 by 16.

ADAM CUMMINGS: Okay. All right. Then on the number she is requesting -- as I said, she is allowed to be 25 feet from it. But she has got to go 20 feet from the rear lot line to be able to fit that 12 foot wide deck. Just to make sure it is clear to everybody what we're discussing.

MARK MERRY: Is there an existing patio there today?

MS. ISAAC: Yes. Concrete slabs.

MARK MERRY: How many patios do you have?

MS. ISAAC: I have a patio on the side.

MARK MERRY: So the reason for the deck being?

MS. ISAAC: It will be raised. The ones out there now are just blocks, concrete blocks that are there.

MARK MERRY: And you're set on that size? There is no way to make that a little more narrow, reduce your variance?

MS. ISAAC: Not really. I mean 12 by -- I could go 10 feet, but --

MARK MERRY: But you rather not?

MS. ISAAC: Yes.

MARK MERRY: Okay. Thank you.

FRED TROTT: Behind your property is forever wild, you said?

MS. ISAAC: Yes. It's owned by the Homeowners Association.

ADAM CUMMINGS: I have one I wanted to disclose. With the Homeowners' Association, just so it is clear, we have nothing to do with rules and regulations with Homeowners Associations, nor do our decisions -- we don't weigh in on any of those.

That is, meaning if we grant a variance here and your Homeowners' Association does not allow to you put this deck on --

MS. ISAAC: I already had that cleared.

ADAM CUMMINGS: Okay. We just ran into that a few years ago.

MS. ISAAC: No. I already had that cleared. Thank you.

FRED TROTT: Side setback is okay?

ADAM CUMMINGS: Side setback, yes, because it's in the PUD zone, so it doesn't need to be the 10 feet. They changed it.

MR. VALERIO: Will the slabs that are under what is going to be the current deck be moved?

MS. ISAAC: I did move them so it would give me a little bit of a walkway leading up to the deck.

MR. VALERIO: Okay.

ADAM CUMMINGS: And the 12 feet -- Mark (Merry) asked the question if you could reduce that down. That's to maintain a standard deck dimension size and to house patio furniture and be able to navigate around it --

MS. ISAAC: Correct.

ADAM CUMMINGS: -- as you got on top of the deck?

MS. ISAAC: Correct.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Valerio 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: Similar to the first two applications, part of the reason why you're here, you will have to get a building permit from the Building Department before you can start construction. So that is a condition of approval.

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

PAUL WANZENRIED: Adam (Cummings), just express to the applicant they don't have to wait for your letter, please.

ADAM CUMMINGS: Yes.

PAUL WANZENRIED: Thank you.

ADAM CUMMINGS: I will just say it now, depending on our vote, if we vote yes and the

variance is granted tonight, you have that verbal and can proceed immediately in the morning. You don't have to wait until the letter comes in the mail or go to the Building Department in the morning. You can get the letter whenever it arrives.

MS. ISAAC: Okay. Thank you.

ADAM CUMMINGS: Once again, that is if we vote yes. We have not done a Board action yet.

Any other questions -- or conditions, I mean?

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 Mark Merry seconded the motion. The Board all voted yes on the motion.

James Valerio made a motion to approve the application with one 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 to be obtained prior to construction.

The following finding of fact was cited:

1. This parcel abuts the nature conservation lands to the rear of the lot, so it will not encroach on a developed parcel.
4. Application of Janeen Cusimano, owner; 38 Brian Drive, Rochester, New York 14624 for variance to erect an 8' x 8' deck 53' from front lot line (60' req.) at property located at 38 Brian Drive in R-1-15 zone.

Janeen Cusimano was present to represent the application.

MS. CUSIMANO: Hi. I'm Janeen Cusimano at 38 Brian Drive. I have myself in a bit of a situation. Um, tax money came and I kept waiting for warm weather because I wanted a deck because I like to sit outside and enjoy the little bit of warm weather we get in Rochester.

I talked to my husband's niece's husband, okay, and he has a business of doing siding, decks, things like that. And so I had planned on for him to build this for us. He came in and took a look and I asked if we needed a building permit and he said, "No, not if it is not attached to the house. You know, if it is freestanding, it is okay."

I'm like, "Okay."

So the front deck is pretty much up. It's 8 foot by 8 foot. And he just didn't finish the bottom part to make it look like it is just done. And I was talking to my brother and he said, "You know, Janeen, I think you need a building permit."

I'm like, "Oh, crap."

So, um, we went to go take care of the building permit and they said, "Your" -- "You're over" -- I don't understand this whole variance thing -- "but the house is set at 61 and there has to be 60 feet, so your deck is 7 feet over."

So I came on lunch and went from one spot down to make copies to the other spot, down to get it notarized, back to Building -- did all that.

So it is up and I'm asking forgiveness and if I can get that approved so I don't have to tear it down and flush my tax money down the drain.

But any ways, yes. And then I will go ahead with the permit that I need for that one and have them dig out around the --

ADAM CUMMINGS: To inspect the footings?

MS. CUSIMANO: Yes.

ADAM CUMMINGS: So obviously if you had to take it down, there would be an economic burden on you to take it down and then also reconstruct it?

MS. CUSIMANO: Yes. I wouldn't bother reconstructing it. I can't afford it. It is a one shot.

ADAM CUMMINGS: I don't need that answer for it tonight. I just need the answer if it -- there is going to be an economic burden on you.

MS. CUSIMANO: Yes, huge.

ADAM CUMMINGS: How much was it, estimate-wise? A few thousand dollars? A couple thousand dollars?

MS. CUSIMANO: Yes. I have given -- I have given him about \$4,000.

ADAM CUMMINGS: That's --

MS. CUSIMANO: It was supposed to be a little under 2,000, and after he started everything and I had already given him cash, because it's a nephew through marriage, um --

ADAM CUMMINGS: That's all I needed.

MS. CUSIMANO: -- he said he needed more. So yes, it would be a burden, yes.

ADAM CUMMINGS: And then -- to explain why you're here, structures from your front lot line, which is the property line along the road, they're allowed to be 60 feet. You're not supposed to build anything within that 60 feet within the house. That's why you're in front of us,

is because you need a variance because the Town Code says no, and you're asking for relief of that. That is the whole -- I just want to explain the purpose.

MS. CUSIMANO: I have a curiosity question. Before the deck -- the deck goes over the steps. There was the big concrete steps with a little bit of a landing, which would be far over the variance. That doesn't matter?

ADAM CUMMINGS: The front stoop? What -- well, I can't guess what happened back then, but that should have been called out back then. But the code does change sometimes. We have had zoning code changes where those distances change, so that one might have been in compliance in the past and not now.

MS. CUSIMANO: Right. Okay. Thank you.

ADAM CUMMINGS: That's to answer that curiosity question.

It's looking like it is an expanded front porch where the deck -- and that's it, 8 by 8. Smaller than the last application.

JAMES WIESNER: I think you already said it. When you stepped out of the house previously, you were just stepping out on a set of concrete steps and you're replacing those concrete steps with this?

MS. CUSIMANO: Yes. With a little bit of a sitting area. The idea was to sit out and have coffee with my dog, and my dog passed a month ago, so now I would have a deck.

JAMES WIESNER: It appears to me there are some other ones in the neighborhood, by the looks?

MS. CUSIMANO: There are some people through -- I think it's a fairly big neighborhood. There are some people through there that do have front ones, yes. I have not measured anybody's. I don't know -- I have no idea if they're bigger or smaller. I -- I'm a woman. We don't look at those kind of things.

JAMES WIESNER: There are others in that neighborhood, which is important, and there are.

MR. VALERIO: Have your neighbors asked you about it at all or had any problems with it?

MS. CUSIMANO: My neighbor had came over, "What is up with the sign?"

I said, "Don't worry about it. I hope it comes down tonight." I said, "This wasn't supposed to be here yet."

MR. VALERIO: But there has been no complaints about --

MS. CUSIMANO: No, no, I have wonderful neighbors. Thank goodness.

MR. VALERIO: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Valerio 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 will need a building permit.

MS. CUSIMANO: Right.

ADAM CUMMINGS: You were misinformed about that.

MS. CUSIMANO: Which is really hard to believe for someone whose his business. He does it for a living.

ADAM CUMMINGS: Well, to side with him a little bit, some towns do do it differently, but it is his responsibility to come and check in, as well. So he is not completely off the hook. Which is why you're here tonight with us this evening.

One condition of approval, that you have to obtain a building permit.

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

James Wiesner made a motion to approve the application with one 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. Building permit to be obtained prior to construction.

The following finding of fact was cited:

1. The neighborhood has several other properties with front porches/decks and this new deck replaces, enlarges, and enhances the existing front steps. It would impose a significant economic burden to remove and reinstall this structure.

5. Application of Mr. & Mrs. Herman Brown, owner; 26 Yolanda Drive, Rochester, New York 14624 for variance to allow existing gazebo to be 7.5' from side lot line (8' req.) at property located at 26 Yolanda Drive in R-1-12 zone.

Mary Ellen Brown was present to represent the application.

MS. BROWN: My name is Mary Ellen Brown. I live at 26 Yolanda Drive.

My husband and I are the owners. About 30 years ago, um, we had a gazebo installed. It was already pre-made by the Amish. We had hired a contractor. We assumed -- that word -- that he had gotten all of the necessary things done to put the gazebo in.

So it has been there about 30 years. Um, we have got -- the foundation was done with crushed stone, as you see in the application, and then I will be back because I know I have to get a building permit for it after I get -- if I get this approved.

And then there is a hot tub that I didn't know I had to get a permit for that is sitting inside the gazebo.

ADAM CUMMINGS: So you're getting compliant with the code?

MS. BROWN: That's correct. I came in for a totally different reason to ask a question, and this is when it was pointed out that I was out of compliance.

ADAM CUMMINGS: But you're not looking to sell the house?

MS. BROWN: To sell it?

ADAM CUMMINGS: No.

MS. BROWN: No. We're trying to -- no, we're --

ADAM CUMMINGS: Usually that is the reason.

MS. BROWN: We're trying to age in place. We're both retired.

ADAM CUMMINGS: Good. I just point that out, because that is why people usually come into this. Then you get to the closing part and you need to have all this paperwork -- so I'm just pointing it out to you in the future you're making life much easier.

MS. BROWN: The neighbor that is next to us that actually would be the only one that would be impacted has no problem. I talked to both of them about a week and a half ago.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

ADAM CUMMINGS: On this one, it will be a condition of approval to get a building permit, not going to be before construction starts. When construction is done, so just obtain that building permit.

MS. BROWN: Got you. Thank you.

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

Mark Merry made a motion to approve the application with one condition, and James Valerio 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 commencement of construction.

The following finding of fact was cited:

1. The gazebo has existed at this location for more than 30 years with zero complaints from the neighbors. Relocating the gazebo is not feasible as a hot tub is contained within it.

6. Application of Mr. & Mrs. Christopher Rutterbush, owner; 52 Woodside Drive, Rochester, New York 14624 for variance to erect a 14' x 16' enclosed porch 32' from rear lot line (40' req.), variance to erect a 20' x 24' addition to garage to be 45' from front lot line (60' req.) and 27' from side lot line (60' req. abutting a street) at property located at 52 Woodside Drive in R-1-15 zone.

Christopher Rutterbush and Melissa Rutterbush were present to represent the application.

MR. RUTTERBUSH: Hi. I'm Chris Rutterbush, 52 Woodside Drive. My wife, Melissa, is over here.

The idea behind this project is my mother-in-law is wanting to retire, and in doing so, also

wants to live with us. So we're looking to make changes to the home to facilitate her as she needs to live with us and care for her.

She really needs one-story living. Our house is the tri-level, so it is stairs everywhere. So what we have identified is the best possible way to -- would be to convert the existing garage into almost a full in-law. We weren't going to do a kitchen, but bathroom, living space, bedroom and then build a new garage of equal size in front of it. And then also to create space so we're all happy together, to put an enclosed porch in the back over an existing patio.

The setback on the house is 60 feet -- is the current requirement. This would make us -- I believe 45 feet, if I remember correctly off the front. On the side yard, um, through this process, we learned it is also 60 feet. Although my current garage is about 30 feet off the side. Because of the angles and we wanted to continue the angle of the house so that it would look a little more natural with it, it's about an extra 3 feet or so that we need there.

And then in the back, um -- I forget what it was. 40 feet was the requirement and we would like to -- 32 feet off is what we would need. Because the house is angled, we -- we get to save a little space there and not to ask for the full distance.

I think I covered all of it.

ADAM CUMMINGS: And these dimensions that you have laid out, have you measured those? So the addition, you haven't had an architect or anybody look into that?

MR. RUTTERBUSH: No. We are still in the very early phases of this. We wanted to make sure it would be allowed and then kind of work through it and then start getting quotes. Her hope to move in with us -- would be at the end of next summer, so we have got time, which is nice to start getting quotes, getting drawings, that sort of stuff.

ADAM CUMMINGS: I ask, because the dimensions as you're sketching out may not be the dimensions that are necessary to construct it and we have had that happen in the past where we grant something and then you come right back if -- because you're off by 6 inches or 2 feet or 3 feet and I just want to avoid that.

MR. RUTTERBUSH: It is certainly a fear of mine. Um, but I really want to continue the house -- especially on the garage where we would be on the shorter side. I really want to continue the side of the house so it is natural, redo the siding along the whole thing and make it all blend in so it doesn't look much like an addition. So we would have to make that work.

More than likely, if we get off on dimensions, I will get an even smaller garage than I have today, which I'm hoping is not the case, or the side that comes in the front door would probably be where we would have to take it.

ADAM CUMMINGS: And you're looking -- you just said it. You're looking to change the garage to a living space?

MR. RUTTERBUSH: Yes.

ADAM CUMMINGS: And then you would have that new space be the garage, but you have not depicted the driveway there. So you're still leaving the driveway on to the road in the same location?

MR. RUTTERBUSH: Yep. Actually, this past year we moved the driveway over to match the front of the house, because that is where we're addressed.

ADAM CUMMINGS: Okay. I didn't see the driveway on the sketch. Now I see the snake.

MR. RUTTERBUSH: That was an interesting challenge because of the fire hydrant and trying to make sure we stayed decently clear of that. We wanted the driveway on the same side that we're actually addressed in. It makes it less confusing for something delivered to the house as well as for the bus stop for my daughter. So the driveway is actually already there. We would basically be putting the garage over part of the top of the driveway.

We had quite a few neighbors stop and ask what we're up to. Most of them were just -- most of them were happy with it. They were excited to see money put into the houses in the neighborhood and things built up.

As far as the enclosed porch, I would probably say there is -- every fifth house in my neighborhood has one at this point. They're really common.

ADAM CUMMINGS: And the hot tub would stay?

MR. RUTTERBUSH: The hot tub would stay.

MR. VALERIO: Should we split this up because they're different, the garage and the enclosed porch? And -- Adam (Cummings) mentioned it, might it be a good idea, just a recommendation to get this drawn up by an architect so you know the exact variance you need. Because like he said, if they tell you, "Well, there is something going on where you can't fit and it has to be like this," and now you're a couple feet off and you have to come in all over again --

MR. RUTTERBUSH: My big fear is I didn't want to spend \$1,000 on an architect if this wouldn't be entertained, if we were asking for too much or something like that. I have heard architect drawings can be fairly expensive.

ADAM CUMMINGS: Especially the architect drawings. The engineering ones, they're not so much. (Laughter.)

Now, that is understandable. I also understand where James (Valerio) is coming from. We have a concept here, but I do need to explain our Board's stance. We design it to the land, so the story of why you're doing it is important, but it's not the majority of why we're making the decision we are. Because it goes on to the next person of whether we want a situation like this where it is closer -- everything is closer to each of the property lines.

And I still have the concern of you don't have the exact dimensions, so it's really tough to consider an exact one when it sounds like it is more than likely going to change.

PAUL WANZENRIED: So this is how it is going to pan out. You -- you may or may not grant him this variance of 27 feet, 45 feet. When he comes to the Building Department for a building permit, I'm going to have him pin those corners and if that building addition turns out to be 17 1/2 feet by 19 feet, that's what he is going to have to work with. Or as you say, he comes back for an amended variance.

ADAM CUMMINGS: Which is going to be very difficult to get depending on which Board you have in front of you here.

MR. RUTTERBUSH: And I ---

ADAM CUMMINGS: I like that approach, because we're going to set limits today of how far you can go, and then you can pare in. What it gives is an out of bounds and you have to do everything within that, if we approve this.

In terms of the other question of making these separate, I think that's a good idea. What does the Board think? Instead of tying them all together in one decision, meaning if we vote "no" on the screened-in porch, the addition is also a no.

If we put it in -- just consider it as a separate decision the addition to the garage, then that sits on its own legs, its own vote.

MARK MERRY: I guess I would like to hear from the applicant how he feels about that.

ADAM CUMMINGS: Your preference.

MR. RUTTERBUSH: I'm okay with voting on them separately. It's -- I just kind of wanted to make sure I sent out our whole vision and came in once with you guys.

And to the other point, I -- the out of bounds, whatever I'm approved for, that -- I will figure out how to make that work.

ADAM CUMMINGS: Okay.

FRED TROTT: Can I ask a question?

ADAM CUMMINGS: No. I'm just kidding. Go ahead.

FRED TROTT: Could we have it written that -- I was going to say that the -- but that would get us in trouble. I would say that the garage matches the side of the house?

ADAM CUMMINGS: In terms of -- no. We're only going off the dimension.

FRED TROTT: Yes. Yes, I -- as I'm thinking about it, I am making my own -- that is not a good idea.

MARK MERRY: So you will split it?

ADAM CUMMINGS: I will split it into 6A being the garage addition, which would be the two variances, the one being 45 feet from the front lot line, and 27 feet from the side lot line.

6B will be the screened-in porch which is 32 feet from the rear lot line where 40 is required.

Okay?

JAMES WIESNER: Is there any scale to that drawing or is that --

MR. RUTTERBUSH: I will ask my wife on that one.

MS. RUTTERBUSH: It is close as I could get it.

ADAM CUMMINGS: If you can identify yourself, name and address just for the record.

MS. RUTTERBUSH: Melissa Rutterbush, 52 Woodside Drive.

ADAM CUMMINGS: Thank you.

MR. RUTTERBUSH: Just so it is known, as you look at the drawing, that dotted line in the back is the start of our easement. There is a drainage easement that last 10 feet of our property. The shed is not on the property line. It's 10 feet off.

ADAM CUMMINGS: Okay. Which on the one you submitted and on the application shows the shed was relocated.

MR. RUTTERBUSH: Yep. When I found out about the easement, I picked up the shed and moved it over there.

ADAM CUMMINGS: Okay.

JAMES WIESNER: I asked my question about any scale to the drawing.

MR. VALERIO: So again this is a case where the house is already out of ---

ADAM CUMMINGS: Yes.

MR. VALERIO: -- compliance?

ADAM CUMMINGS: Yes.

MR. VALERIO: Which -- it's not your fault.

MR. RUTTERBUSH: Yeah. I was shocked when I learned that because I'm pretty sure that goes part way through my kitchen.

ADAM CUMMINGS: Oh, yeah.

MR. RUTTERBUSH: The 60 feet does.

ADAM CUMMINGS: And you're on a corner lot is the -- a lot of people probably thought off of Woodside Drive that's a side lot and it is not. You have two front yards.

MR. RUTTERBUSH: Yep.

ADAM CUMMINGS: And two side yards.

MR. RUTTERBUSH: Yep. I have two ---

ADAM CUMMINGS: No rear.

MR. RUTTERBUSH: Yeah. It's strange. And then -- then even then, the property is still almost 15 to 20 feet from the road.

So if I measure from the road to the front of my house, it's 90 feet.

ADAM CUMMINGS: All right.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Fred Trott made a motion to close the Public Hearing portion of this application and James Valerio 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: We're doing two separate.

Counsel, is it okay if I do that Public Hearing to cover both?

ERIC STOWE: The Public Hearing is on the application. The vote will be --

ADAM CUMMINGS: On two --

ERIC STOWE: -- broken out.

ADAM CUMMINGS: -- two actions. Thank you.

Condition of approval on both of them will be that a building permit must be obtained prior to construction.

MR. RUTTERBUSH: Absolutely.

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

ADAM CUMMINGS: Now I would like to ask for a motion to adopt the application 6A for the garage with that one condition of approval.

On 6A, Fred Trott made a motion to approve the application with one condition, and James Wiesner seconded the motion. All Board members were in favor of the motion.

JAMES WIESNER: 6A is two variances in regards to the garage?

ADAM CUMMINGS: For the garage, yes. Which would be the 45 feet from the front lot line and that is the one off of Woodside Drive.

And then the other one is 27 feet from Evergreen Drive.

DECISION: Approved by a vote of 4 yes to 1 no (Mark Merry) with the following condition:

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

The following finding of fact was cited:

1. The existing garage is planned to be converted to living space and is currently located 30.25' from the front lot line fronting Evergreen Drive. The proposed variance is minor in nature as it is just a 3' (10%) reduction in the existing distance of the main structure to Evergreen Drive.

ADAM CUMMINGS: Now, we will move on to 6B, which is the porch, the screened-in porch.

ERIC STOWE: It's an enclosed porch.

ADAM CUMMINGS: Enclosed porch to keep the verbiage the same.

On 6B, James Wiesner made a motion to approve the application with one 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. Building permit to be obtained prior to commencement of construction.

The following finding of fact was cited:

1. The location of the proposed enclosed porch does not encroach on the existing drainage easement in the rear of the property nor will it encroach on any neighboring properties.

7. Application of Mr. & Mrs. Jared Case, owner; 23 Shrubbery Lane, Rochester, New York 14624 for variance to erect a 30' x 28' garage addition to be 40' from front lot line (60' req.) at property located at 23 Shrubbery Lane in R-1-15 zone.

Jared and Julie Case were present to represent application.

MS. CASE: Do you need both of us up here?

ADAM CUMMINGS: That's up to you, to answer your question.

MS. CASE: Can our son do it?

ADAM CUMMINGS: If he wants to run the video camera, he can do that.

MS. CASE: Hi. I'm Julie Case, 23 Shrubbery Lane.

MR. CASE: Jared Case, 23 Shrubbery Lane.

MS. CASE: We're here to ask for a variance for a garage addition. It needs 60, but we're asking for a variance of 40. I don't know what else to say.

Our back story is we moved into a house that is 1,050 square feet. The garage was converted before we moved in. That's -- he have two young boys. It is a nice big space, but we are getting older and we need a place to park our stuff.

As you can see on the other drawing, it is -- shows that next to it is a preexisting shed. If we get the garage variance, that will come down. We will have no sheds on the property. We just want to keep everything in one big garage. That's -- 28 by 30.

ADAM CUMMINGS: Two-car with a man door on the front?

MS. CASE: Yes.

We did go around and talk to all of our neighbors. They were all fine with it. We chose to go off the front because if we went off the side, it would encroach on one of our neighbor's side yards and we didn't want to do that, so we thought this would be the best option.

ADAM CUMMINGS: Do any of your neighbors have two-car garages?

MS. CASE: Um, yes. But they don't really use it. It is full of stuff.

MR. CASE: They -- to the north of us, they have two-car garages.

MS. CASE: Dave and Tess is one. Skip --

MR. CASE: South of us.

MS. CASE: Skip and Barb across the street. So sorry.

ADAM CUMMINGS: That's all right.

MS. CASE: Maybe we --

ADAM CUMMINGS: I actually grew up with friends on Shrubbery Lane. There are houses there with two-car garages.

MS. CASE: Yes. The way the house is angled on the lot, trying to figure anything else out -- when we worked with the architect, she was trying to angle it -- any place else, is just a pain.

MR. CASE: When the house was built -- sorry. When we moved in, there was -- the space that was converted was for a two-car garage. So there are two existing doors that make it look like a garage now.

MS. CASE: I know it says on the plan there is an enclosed porch off the back. That doesn't exist anymore either. The pool is done, all of the sheds will be done. The porch will be done. It will be nice and clean.

MARK MERRY: So this is a self-created variance?

MS. CASE: (Ms. Case indicated non-verbally.)

MARK MERRY: The reason you need a two-car garage is not real clear to me yet.

MR. CASE: We don't have a garage currently.

MS. CASE: Right. And the shed is falling down. So it was either spend another 10 grand, 15 grand for a brand new shed or we need a place to house our cars. Or we would have to rip out what the previous owners had done to the current garage.

MARK MERRY: So you do have options available to you?

MS. CASE: Yep. Yep. We do.

ADAM CUMMINGS: The 40 feet isn't really coming -- sorry. I'm reading your -- never mind. I don't have that question. It's -- it's not encroaching too much. You answered that question already. The existing garage went straight out the house, so you're just coming out.

MS. CASE: Coming right out the front, yep.

FRED TROTT: I'm just trying to understand. It's coming forward of your house?

MS. CASE: Yes. Yep.

FRED TROTT: Okay. The pictures aren't very distinctive on that. I kind of thought that, but I wasn't sure.

ADAM CUMMINGS: Once I looked at this one -- I couldn't read the front setback until I went in -- but yeah, that dark black line is the line we're considering right now. So that part, that is very clear. Thank you for putting that in. I just couldn't read it at first.

MR. VALERIO: There is a previous variance for a 12 by 16 shed. They say they will take it down, but is there any way to make it a condition that -- can that be overturned or is that permanent?

ADAM CUMMINGS: No. Permanent.

MR. VALERIO: Even if it comes down ---

ADAM CUMMINGS: They could put a shed back up. You have a variance on the property already. You could put a shed back up.

MS. CASE: That would annoy me a little, though. I just want it clear.

ADAM CUMMINGS: Even 30 years from now, 50 years from now and you're not living at that house any longer, the next owner could put up a shed.

JAMES WIESNER: I thought our code was 192 square feet is allowed.

ADAM CUMMINGS: 192 -- yes, without a permit.

MS. CASE: There was another shed on the property.

ADAM CUMMINGS: I think it is because it is 8 feet.

JAMES WIESNER: Not the shed size.

ADAM CUMMINGS: Not the shed size.

MR. VALERIO: Did that change since '97?

ADAM CUMMINGS: I don't have the card right now.

JAMES WIESNER: It just caught my eye.

ADAM CUMMINGS: I don't know. I'm happy you're taking the sheds down.

MS. CASE: It will look nice.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

TESS CROZIER, 21 Shrubbery Lane

MS. CROZIER: We are Jared and Julie's next-door neighbors and we're totally in favor of what they're doing. We have seen the plans and we think it will be a big improvement for their house. They need a little extra space for their family and I think that's good for the neighborhood and like to keep them there. We like them.

MS. CASE: We like these guys, too.

ADAM CUMMINGS: Just one question.

Are you okay with it being closer to Shrubbery Lane? You don't see any issue with that?

MS. CROZIER: Am I okay with it?

ADAM CUMMINGS: Yes.

MS. CROZIER: I don't really see an issue, no. I love the look of an L-shaped ranch and I think it will be nice.

ADAM CUMMINGS: Okay. Thank you.

Are you sure you don't want to say anything?

MS. CASE: I told him (indicating) I'd give him \$5 if he raised his hand and said, "I really want a pool." (Laughter.)

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: You will have to get a building permit as a condition of approval. I think that's all I have.

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 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 one condition, 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 condition:

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

The following finding of fact was cited:

1. The original garage was already converted to living space by a previous owner to enlarge this small house. The proposed addition does not hinder any viewpoints of adjacent properties. The neighboring property owner stated they were in support of the project and felt that its location close to Shrubbery Lane would not be a detriment to the neighborhood character.
8. Application of Mr. & Mrs. Samuel Terrana, owner; 72 Alger Drive, Rochester, New York 14624 for variance to erect a 6' high fence in front setback area per plan submitted (4' allowed abutting a street) at property located at 72 Alger Drive in R-1-12 zone.

Samuel Terrana and Ms. Terrana were present to represent the application.

MR. TERRANA: Good evening. I'm Sam Terrana, 72 Alger Drive.

So what we have done here is put in an in-ground pool. The pool is in place at this time. There is no water in it, no liners, just a big hole. What we would like to do is put a 6 foot fence around the property.

Obviously being a corner lot, we have no backyard and we don't have privacy because of that. So the fence would serve two purposes. One, it would serve the privacy factor and also being that we don't have a backyard and people, kids, children and others walk up and down the street all of the time riding bikes, 6 foot would also give us a better security almost, as well.

Since the pool has been put in, when they painted it on the ground, it doesn't look as big as it really is. So as you can see, um, on the drawing, I added -- I don't know if we would have to apply a second time, but if we can come 10 feet off that line to give us a little more space in between the pool and the fence, um -- we had to come closer to the fence because of the drainage easement on the west side of the property. And it definitely created a little tighter space. It's doable, but that extra 10 feet would be a lot more comfortable if we were able to do that.

The other -- so the picture that I have above there, the Google Earth picture, this house is actually a family home. I bought and purchased it from my father five years ago -- or Tammy and I purchased it from my father five years ago. Those bushes were about 8 foot high and are way closer to the road than that 10 feet. Just to sort of show it doesn't create any issues when you're coming around the corner, blind drive or anything like that. Those bushes are now gone. They were torn out when they put the pool in. So there is nothing there. That whole entire side yard is completely bare.

ADAM CUMMINGS: Um, we cannot consider the 10 feet addition tonight because it hasn't been publically noticed.

Is that correct?

PAUL WANZENRIED: No. There is no -- there is no distance for this.

ADAM CUMMINGS: Oh, that's right. It's not a structure.

PAUL WANZENRIED: It's not a structure. There is no permits for fences.

ADAM CUMMINGS: Right.

PAUL WANZENRIED: So if he wants to put an additional 10 feet, that is -- that is up to him.

ADAM CUMMINGS: Actually, we don't --- we don't care either way, correct? We're an indifferent Board.

ERIC STOWE: You care about not infringing on easements and rights-of-way.

ADAM CUMMINGS: Right.

PAUL WANZENRIED: Which we could check out in the Building Department.

ADAM CUMMINGS: Agreed.

So as they point out, you do have a 10 foot drainage easement? The Building Department will verify that one and any encroachment on Alger Drive.

MR. TERRANA: The Building Department has already approved on the 10 -- the 10 foot drainage. We're already -- we obviously -- we took care of that before we put the pool in. Obviously we don't want the pool in the easement and then you would be in all kinds of trouble, right? That has already been addressed. That is actually why we moved the pool a couple feet further east, so that we were making sure we have no issues whether it was with the pool or the diving board that is coming up. We're well within that -- it was -- far enough away from that 10 foot drainage easement.

ADAM CUMMINGS: Thank you for working with them and continuing to work with them.

I say this jokingly because we did have an application years ago, you're not planning on putting a play set next to it two stories tall with a slide into the in-ground pool?

MR. TERRANA: Absolutely not.

ADAM CUMMINGS: Just checking.

JAMES WIESNER: So the drainage easement that pushes it out 10 feet, that is not shown on the plot map?

MR. TERRANA: It's on the back side.

ADAM CUMMINGS: That drainage easement, and then that's the encroaching that (indicating) not to say -- it's approaching the Alger Drive right-of-way. Right there (indicating). So they have already had that checked out and the Building Department is checking that one out, so they're all set.

JAMES WIESNER: So the 10 foot on this side --

ADAM CUMMINGS: There is no 10 foot. They're just adding 10 feet here (indicating).

JAMES WIESNER: I'm just making sure they're out of the easement on the other side.

ADAM CUMMINGS: Well, they will be in the easement.

JAMES WIESNER: But they will get clearance to do it?

ADAM CUMMINGS: Right.

JAMES WIESNER: That's all I have.

MARK MERRY: No questions.

FRED TROTT: Um, I didn't have any questions. I saw your backyard. You are exposed. Having a pool --

MR. TERRANA: Oh, were you at my house? This is my wife (indicating).

ADAM CUMMINGS: Make him get a shovel next time and start digging.

PAUL WANZENRIED: Just -- did you get an easement release?

MS. TERRANA: Yes.

PAUL WANZENRIED: Thank you.

MS. TERRANA: Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

ADAM CUMMINGS: The one condition of approval is -- oh, wait. There is no permit. It is a fence. So you have no conditions of approval.

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 Mark Merry seconded the motion. The Board all voted yes on the motion.

Mark Merry made a motion to approve the application with no conditions, and James Valerio seconded the motion. All Board members were in favor of the motion.

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

1. The location of the fence will not hinder any vehicular views or adjacent properties along Alger Drive and will provide appropriate privacy for this unique lot.

Mark Merry made a motion to adopt the 5/15/18 meeting minutes, and Jamie Valerio seconded the motion. The Board was unanimously in favor of the motion.

Adam Cummings made a motion to adjourn the meeting, and Fred Trott seconded the motion. The Board was unanimously in favor of the motion.

The meeting ended at 8:15 p.m.