

CHILI ZONING BOARD OF APPEALS
July 26, 2022

A meeting of the Chili Zoning Board of Appeals was held on July 26, 2022 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, Philip Supernault, James Wiesner and Chairperson Adam Cummings.

ALSO PRESENT: Dawn Forte, Supervisor's Secretary; Matthew Piston, Assistant Counsel for the Town.

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

ADAM CUMMINGS: Any issues with signs?

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

1. Application of Michael Emerson 14 Berry Lane, North Chili, New York 14514 owner; for a variance to erect an accessory structure (shed) 280 sq. ft. (192 sq. ft. allowed) at property located at 14 Berry Lane in R-1-15 District.

Michael Emerson was present to represent the application.

MR. EMERSON: My name is Michael Emerson. I currently live at 14 Berry Lane in North Chili. I'm requesting to get a larger shed than allowed. I gave reasons in the application. Nothing has really changed from that point until now.

ADAM CUMMINGS: Okay. That's fine.

Paul (Wanzenried) discussed it with me ahead of time. He didn't have anything to add on to this one. Pretty cut and dry. We're not asking for any side or rear settle back variances. It is just for that area one.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Mark Merry made a motion to close the Public Hearing portion of this application, and James Wiesner seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: You do meet the threshold, so be sure to get a building permit with the Building Department. So that will be one condition of approval, is the building permit must be obtained.

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 2 Action with no significant environmental impact, and Philip Supernault seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Motion to adopt with one condition of approval?

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

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. Variance requested is not excessive and there are numerous similar structures on properties in the area.
2. Application of James and Deborah Ramsell 639 Beahan Road, Rochester, New York 14624 owner; for a variance to erect A.) Extension of front porch steps 13.24' from side yard setback (50' allowed) B.) An accessory structure (shed) 1.34' from side yard setback (8' allowed) C.) Accessory structures (two sheds 198 sq. ft. & 122.21 sq. ft.) total square

footage to be 320.21 (192 sq. ft. allowed) at property located at 639 Beahan Road in RA-10 District.

James and Deborah Ramsell were present to represent the application.

MR. RAMSELL: Can we talk about that for a second? I wasn't aware you put "front steps." If you look at the application, it is actually the back steps.

ADAM CUMMINGS: So technically it's in your backyard, but it's off your side yard. So yeah -- yes, we'll just call them porch steps or deck steps.

MR. RAMSELL: You had me confused. As long as we're okay that.

JAMES WIESNER: That's the one on the corner -- this is not the one on the corner?

ADAM CUMMINGS: No. No. It is deceiving because it's talking about front steps when it is actually the back deck steps from the side lot line. It's not front stairs. It is just stairs off of -- it's not even a porch. It would be a deck. So our setback is technically for the distance from the side yard setback. It's a missed description of the steps.

MR. RAMSELL: Just wanted to be clear.

ADAM CUMMINGS: Okay. Thank you.

So that one was 13 by 24 feet from the side yard where 50 feet is allowed.

B.) An accessory structure (shed) 1.34' from side yard setback (8' allowed) C.) Accessory structures (two sheds 198 sq. ft. & 122.21 sq. ft.) total square footage to be 320.21 (192 sq. ft. allowed) at property located at 639 Beahan Road in RA-10 District.

It is my understanding that you have already submitted your application for a State variance to that 1.34 -- for the sheds.

MR. RAMSELL: Yes, I did.

ADAM CUMMINGS: Okay. You haven't heard anything back, correct? You just submitted the application to the State?

MR. RAMSELL: They came back and said they received it. And I guess we're waiting to hear the results of this.

ADAM CUMMINGS: No. They will give their own decision.

MR. RAMSELL: Oh, okay.

ADAM CUMMINGS: But they have at least acknowledged --

MR. RAMSELL: Yes. I don't have the decision.

ADAM CUMMINGS: I haven't heard you have received a decision. I was just told it was submitted. So that confirms what I was told.

So we'll go with each of these individually. Once again, there is that clarification or correction of letter A, where it is called -- I'm not the architect. I don't know the distance between a back porch, front porch, a deck and everything there. So I'm just going to call them steps and because they're a built structure, that's what we're looking at, is the -- the allowance by code is 50 feet off the side -- the side lot line. And you're looking for 13.24 feet. It doesn't actually --

JAMES WIESNER: 13.24 feet is off the house.

ADAM CUMMINGS: Yeah. I don't actually agree with any of these measurements.

MR. RAMSELL: Right. The house is like 13.24 feet --

ADAM CUMMINGS: Correct.

MR. RAMSELL: -- from the lot line.

ADAM CUMMINGS: The steps will be 16 feet 6 inches.

JAMES WIESNER: Something is squirrely there.

ADAM CUMMINGS: What is happening, this appears to be -- this appears to be a non-conforming preexisting.

Would you agree with that, Matt (Piston)?

MATTHEW PISTON: Can you repeat that?

ADAM CUMMINGS: This appears to be a preexisting, nonconforming or maybe the code changed. The lot itself is 75 feet wide and to have the code requirement that side yard setbacks have to be 50 feet, it is not possible to build anything on a 75 foot wide lot.

So what I'm reading here, this applicant would just like the variance to be for their side steps and the closest between both sides of the house is 13.24 feet. So that is -- we're not actually looking at the steps. We're looking at the building, the structure and giving a variance for a built structure to be -- 13.24 feet from the side yard is the -- is the closest measurement out of everything that we have to consider here. Because by this, doing any addition on anything to this house, any modification to this house --

MATTHEW PISTON: Would require a variance.

ADAM CUMMINGS: -- would require a variance.

MR. RAMSELL: Just wondering what this does to my State application.

ADAM CUMMINGS: Your State application will still hold water -- well, that's actually different. We're not onto the shed. So that will be a different thing. That is not about your main structure.

MR. RAMSELL: Okay. That's fine.

ADAM CUMMINGS: That's about the principal structure. Your shed would fall under the accessory structure definition. That is why it is separate in terms of distance from the side setback.

MR. RAMSELL: Okay.

ADAM CUMMINGS: You have one of the more technical applications we have had in a

long time. So we're going to stick with A, the 13.24 feet. I think we have clarified that one well enough.

MR. RAMSELL: Okay.

ADAM CUMMINGS: It's for the principal structure, not necessarily just steps.

Now, to be clear, your plan shows the steps to be 16 feet 6 inches off the side lot line. If we grant this tonight, your steps could go to 13.24 feet.

MR. RAMSELL: But we're not doing that.

ADAM CUMMINGS: Correct. I'm just saying that the variance we're considering tonight could allow that.

MR. RAMSELL: Okay. Thank you.

ADAM CUMMINGS: Any questions on the steps?

PHILIP SUPернаULT: So the --

ADAM CUMMINGS: Just the steps.

PHILIP SUPернаULT: So the application talks about stairs being replaced with a deck.

MR. RAMSELL: It's a safety issue. My wife and I are in our 70s and -- and there is no handrail there. It's just for safety.

MS. RAMSELL: It's just the steps come off the porch.

PHILIP SUPернаULT: You're not actually creating a deck?

MR. RAMSELL: No. We are creating a deck so we can step out, grab the railing.

PHILIP SUPернаULT: You wants stairs to go down --

ADAM CUMMINGS: Yes. We're just worrying about how close it is to the side.

JAMES WIESNER: Closest approach of the structure to the lot line.

PHILIP SUPернаULT: Got you. So we're striking from -- from our wording -- whoever worded the legal notice, we're striking -- we're striking "front" and "porch"? Or --

ADAM CUMMINGS: I'm not sure -- Matt (Piston), it is kind of a stretch to me on this one. The application is for extension of front porch, because -- or front porch steps. It should be rear porch steps. But still porch steps, there is an existing enclosed porch that they are now turning it into a deck; correct?

MR. RAMSELL: No. We're -- the porch is staying there. There is three steps down, all of the way around it. It unsafe for us. So we decided to put a deck off the back of the house and an extension on the sides. And then steps down with a handrail. So it's safer for us.

PHILIP SUPернаULT: From the back, not all of the way around.

MS. RAMSELL: From the back.

MR. RAMSELL: Yes.

MS. RAMSELL: The steps used to go all of the way around. Now they're just off the back.

PHILIP SUPернаULT: A traditional deck with a railing or whatever?

MR. RAMSELL: Yes. There will be a landing on the sides in case I have to do roof work. I have to rake snow off the roof.

PHILIP SUPернаULT: Got you.

ADAM CUMMINGS: Do you see any issues with it?

MATTHEW PISTON: No.

ADAM CUMMINGS: Because once again, the intent of this is its proximity and the variance request off the side lot line.

MATTHEW PISTON: It is still within that 13.24.

ADAM CUMMINGS: Correct.

MATTHEW PISTON: Okay.

ADAM CUMMINGS: I will move on to B. B is the 1.34 feet from the side yard, which that's going to be for the easternmost shed, the one closest to the house. And it looks like those are existing?

MR. RAMSELL: There were sheds at both locations when we moved in in '83. We have either upgraded or replaced both sheds.

ADAM CUMMINGS: But there weren't permits for the sheds previously, correct?

MR. RAMSELL: I don't think so.

ADAM CUMMINGS: So the original ones, they were with the house when you bought it. They were there.

MR. RAMSELL: They were there.

ADAM CUMMINGS: Then you replaced them but you didn't verify if there was a permit or not?

MR. RAMSELL: I did not.

ADAM CUMMINGS: And then they advised you to meet code, it would have to be 8 feet. You would have to move those sheds to be 8 feet, correct?

MR. RAMSELL: That's right. Which is why there is a variance. That would be very costly.

ADAM CUMMINGS: That is my next question. Are those sheds able to be moved -- or to move them to 8 feet from the property line?

MR. RAMSELL: I don't even know how you would get equipment in there to move them.

MS. RAMSELL: We don't have any entrance in there.

MR. RAMSELL: There is very limited access to our backyard.

ADAM CUMMINGS: Because you're 13 feet on one side and 15 feet on the other.

MR. RAMSELL: Yes. And -- anyhow.

ADAM CUMMINGS: Yep.

PHILIP SUPERNAL: When you replaced the sheds, you put them where the original ones were?

MR. RAMSELL: That's correct.

ADAM CUMMINGS: How long have you owned the house?

MR. RAMSELL: Since '83.

ADAM CUMMINGS: Okay. We'll move on to C, the square footage total, 320.21 square feet where 192 is allowed. Once again, these are sheds there for almost 40 years.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Adam Cummings made a motion to close the Public Hearing portion of this application, and Philip Supernault seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: Those are existing, so no building permit on the sheds. But I will start with A, the setback -- setback once again is technically for the principal structure as it is right now. But you will have to continue getting a building permit with the Building Department. That will be a condition of approval of that one.

MR. RAMSELL: Contractor has already agreed to do that.

ADAM CUMMINGS: Okay. Continue to work with Paul (Wanzenried) on that.

MR. RAMSELL: Yes, I will.

ADAM CUMMINGS: For B and C -- I will do SEQR next -- but for B and C, because they are existing I will not -- I actually am going to require permits for those. It will be the same condition for B and C.

MR. RAMSELL: Yep.

ADAM CUMMINGS: Whether one gets denied or both do or both are approved, the condition -- it will -- we'll go through it as we do the vote. But a shed permit will be necessary for those as a condition.

JAMES WIESNER: Would you condition it on the State approval, too?

ADAM CUMMINGS: Um, we don't get to put a condition on the State approval, but are you saying you want a condition of this approval that it is subject to getting an approval from the State variance request?

JAMES WIESNER: I thought we have done that before.

ADAM CUMMINGS: We have done that by Buffalo Road. And by default it actually kicks to State Law anyway.

Our condition is kind of redundant to the State Law, correct?

MATTHEW PISTON: Yes.

ADAM CUMMINGS: Fair to say?

MATTHEW PISTON: Yes.

MR. RAMSELL: Will they notify me?

ADAM CUMMINGS: They will notify Paul (Wanzenried). They don't notify me. They notify Paul (Wanzenried) and then he notifies me of that. And then he will notify you, as well.

MR. RAMSELL: Okay. I hope so.

ADAM CUMMINGS: And I don't know their turnaround time.

MR. RAMSELL: No idea. I did -- I did get an email from the County.

ADAM CUMMINGS: Yep. I got that. They deemed it to be a local matter.

MR. RAMSELL: Okay. I tried opening the PDF file. It would not open. I tried the link. It would not work.

ADAM CUMMINGS: Got you.

MR. RAMSELL: Hopefully as long as you're happy, we're happy.

ADAM CUMMINGS: They just have their normal boiler plates in here. I will leave it -- I will leave it to the Building Department to do those.

Matt (Piston), just so you're aware, this one is within the Greater Rochester International area -- review area.

MATTHEW PISTON: I presumed.

ADAM CUMMINGS: But these structures are nowhere near -- there is going to be no potential projectiles going above 100 feet and we don't have any machinery grinding or anything else.

MATTHEW PISTON: If there are projectiles going above 100 feet, we probably have another set of circumstances.

ADAM CUMMINGS: Correct. So I'm comfortable with us to move toward with this and continuing on with that -- that side of the review.

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 2 Action with no significant environmental impact, and Mark Merry seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: We'll move to letter A. This is for the 13.24 side yard setback where 50 feet is required.

Motion to adopt this application with one condition of approval?

Mark Merry made a motion to approve Application 2A with a condition, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 2A: Unanimously approved by a vote of 4 yes with the following condition:

1. Building permit must be obtained.

The following findings of fact were cited:

1. Variances requested are not excessive and the primary structure was pre-existing, non-conforming in terms of side setback area dimensions.
2. The new porch upgrades are further from the side lot line than the existing principal structure.

ADAM CUMMINGS: Now we're on to B. This is for the 1.34 feet from the side yard setback of the existing sheds. One condition of approval is a shed permit must be obtained. Ask for motion to adopt this application with that one condition?

Philip Supernault made a motion to approve Application 2B with a condition, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 2B: Unanimously approved by a vote of 4 yes with the following condition:

1. Shed permit must be obtained.

The following finding of fact was cited:

1. Variance requested is not excessive and will not detrimentally encroach on neighboring properties since the sheds have existed for many years with no complaints.

ADAM CUMMINGS: That one carries. I will still put the same condition of approval on 2C even though you already have the approval for the shed. Total square footage. Letter C. Motion to adopt application with one condition of approval?

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

DECISION ON APPLICATION 2C: Unanimously approved by a vote of 4 yes with the following condition:

1. Shed permit must be obtained.

The following finding of fact was cited:

1. Variance requested is not excessive and will not detrimentally encroach on neighboring properties since the sheds have existed for many years with no complaints.
3. Application of Amanda Carter 7 Evergreen Drive, Rochester, New York 14624 owner; for a variance to erect a front porch 49' from front yard setback (60' req.) at property located at 7 Evergreen Drive in R-1-15 District.

Amanda Carter was present to represent the application.

MS. CARTER: Hi. I'm Amanda Carter. I live at 7 Evergreen Drive. I don't really have anything else to say other than I just really like to add onto my existing porch.

ADAM CUMMINGS: Okay.

JAMES WIESNER: This is actually an existing structure, correct?

MS. CARTER: Yes.

JAMES WIESNER: Just clearing up the zoning code.

ADAM CUMMINGS: I guess I'm confused. Are you adding onto the existing porch?

MS. CARTER: There is like a small little concrete porch there and I just want to build onto it.

ADAM CUMMINGS: Okay. And you're moving it -- there is already a concrete and then there is the enclosed porch. You're just moving it to the concrete?

MS. CARTER: Yeah. Not the enclosed porch. Just the one in the front.

JAMES WIESNER: The one on Brentwood Drive.

ADAM CUMMINGS: Yes. So the one going to Brentwood.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Philip Supernault made a motion to close the Public Hearing portion of this application, and Mark Merry seconded the motion. The Board unanimously approved the motion.

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

JAMES WIESNER: How is the porch on the opposite side within code if it is .3 feet?

ADAM CUMMINGS: That is what I have been confused on this one. Because I don't understand why it's not in here for a variance request --

JAMES WIESNER: Says there has been no previous zoning --

ADAM CUMMINGS: Right.

JAMES WIESNER: -- determinations on this property.

ADAM CUMMINGS: Because that -- well, of that back that is technically a side lot line -- well, I guess we'll focus on this one right now.

But, Matt (Piston), our question is, there is enclosed porches on both sides of this. One on the north side is a side setback, not a front setback like we're considering tonight, but that existing enclosed porch is .3 feet off the side yard lot line.

MATTHEW PISTON: .3 feet?

ADAM CUMMINGS: .3 feet.

MATTHEW PISTON: And there's never been --

ADAM CUMMINGS: We don't have any record of a variance from the State or the Town. And tonight we're only considering the southern one for expanding that enclosed porch.

MATTHEW PISTON: I think that is probably something the Building Department will have to take up.

ADAM CUMMINGS: So you will probably be here for a future meeting about that one.

MS. CARTER: Okay.

ADAM CUMMINGS: But I don't want to address it tonight because we did not publicly notice it.

MATTHEW PISTON: And there has been no determination from which to take action from.

ADAM CUMMINGS: True.

JAMES WIESNER: She won't have to pay the filing fee twice, so.

MATTHEW PISTON: We can't --

ADAM CUMMINGS: We can't hear it tonight.

MATTHEW PISTON: There has to be a determination that -- that it is in violation.

JAMES WIESNER: She could --

MARK MERRY: Table?

ADAM CUMMINGS: She could table it.

We can, but we still have to have Paul (Wanzenried) -- what Matt (Piston) is saying, Paul (Wanzenried) has to find it and deny it as the Code Enforcement official.

MATTHEW PISTON: Correct.

MARK MERRY: Still, if he did that --

JAMES WIESNER: If he does do that, then she has to pay a second fee.

MARK MERRY: If she tables it --

JAMES WIESNER: If she tables it, she pays one fee.

ADAM CUMMINGS: Yes. If she tabled this one -- or better yet withdrew this one and then resubmitted -- maybe not withdraw. But yes, if we modified it.

So if you're following what I'm saying --

MS. CARTER: No, not at all.

ADAM CUMMINGS: So --

MS. CARTER: I know I have two side porches. I have one like a mud room and other one is -- I call it a sunroom.

ADAM CUMMINGS: Yep.

MS. CARTER: And then the front which is the small little area, which is what I want to -- add on to.

ADAM CUMMINGS: So the front -- so you have two front yards because you are on a corner. So you have technically got a first front yard, which is where your driveway is off of Evergreen Drive.

Then what we call a secondary front yard is -- is Brentwood Drive. You don't really have a backyard because you have two front yards and then two side yards.

MS. CARTER: Okay.

ADAM CUMMINGS: If you're following me there. So what we have is -- as we're considering today, is 60 feet is required. Oh, my goodness. As I'm looking at this entire map, your house is not even 60 feet off the front. It is 59.2 feet. But those are pre-existing, nonconforming. But I would rather just clean up the whole thing. So if we --

JAMES WIESNER: Where is the 49 actually coming from?

ADAM CUMMINGS: It is not being shown, but it is changing it from 66.2 feet. It's not measured -- see how it's measured -- 66.2 feet to the south boundary of the house, the frame house -- it doesn't take into consideration the 7.1 feet of the enclosed porch. So what she is

doing is going from the house -- it's actually --

JAMES WIESNER: That's 59.1 feet.

ADAM CUMMINGS: She is adding another 10 feet on there to get to the 49 feet.

JAMES WIESNER: Going to be 17.1 feet --

ADAM CUMMINGS: Correct.

JAMES WIESNER: -- off the house.

ADAM CUMMINGS: Correct. So that is being expanded another 10 feet that way, which is why we have 49 feet. But as I'm reading this right now, we have a deficiency of a front setback on Evergreen Drive of .8 feet. My opinion, it's minor, but still not there.

And then the enclosed porch on the north side -- I think you called it the mud room.

MS. CARTER: Well, if you're going off of Brentwood, you said?

ADAM CUMMINGS: On the garage side, what is the enclosed porch?

MS. CARTER: I don't have a garage.

ADAM CUMMINGS: Where is -- the driveway is.

MS. CARTER: So the driveway, I just call that like a mud room.

ADAM CUMMINGS: Yeah. I was trying to use your same language.

MS. CARTER: But right next to that is another house.

ADAM CUMMINGS: Right. And what I'm saying is -- or what we're saying is you're supposed to be -- any structure you have is supposed to be 8 feet off your side lot line and you're less than a foot off of it.

MS. CARTER: Oh, okay.

ADAM CUMMINGS: So by having that enclosed porch, it looks like it wasn't considered before because they just measured your house and your house is 10.1 feet off of it. But having -- but having the enclosed porch, a built structure attached to your house, that's what is not compliant from what we're seeing.

Is that fair to say, Board?

JAMES WIESNER: Yes.

ADAM CUMMINGS: So my question, Matt (Piston), would it make more sense to table this one for more information, to modify it and do another public notice to add those two on there or to consider --

MATTHEW PISTON: I think it is the applicant's call whether she wants to run the risk of having to pay another application fee and come back. Or perhaps nothing ever happens. And perhaps the Building Department determines it's a preexisting, nonconforming use and there is no modification. Maybe they're okay with it.

ADAM CUMMINGS: Yes.

MATTHEW PISTON: So I think it's the applicant's decision whether or not she wants to run the risk of having to come back and pay another application fee.

ADAM CUMMINGS: Thank you. So that clarifies that.

The other rewording of that question to you is to be clear tonight, we are only talking about that 149 feet from the side yard setback for that three-season room. Not the mud room as I just talked about?

MATTHEW PISTON: Correct.

ADAM CUMMINGS: So we don't have to worry about those ones.

That goes back to you. So if you would like to move forward with this one, there is a risk -- I don't know if you have talked to Paul (Wanzenried) about this one -- about the other ones.

MS. CARTER: No. The only thing I have -- that I discussed anything is just that front little porch. So anything on the side -- I mean that's --

ADAM CUMMINGS: I don't want to speak for him, but I suspect that could be the case. Because you're modifying this one, that is why he is considering this one. The house you're not modifying, other than that side setback. And then the enclosed porch, the mud room on the north side, you are not changing or proposing any changes to that. So I suspect it was a preexisting, nonconforming.

How long have you owned the house?

MS. CARTER: Three -- this November will be three or four years.

ADAM CUMMINGS: You didn't build that enclosed porch?

MS. CARTER: No. I didn't build any of it.

ADAM CUMMINGS: So needless to say, that thing is probably more than ten years old.

MS. CARTER: Probably.

JAMES WIESNER: Usually you clean up all when you -- when -- you do an inventory and you --

ADAM CUMMINGS: I know. That's -- that's what our practice is.

JAMES WIESNER: I understand. It's your choice if you want to come back a second time.

ADAM CUMMINGS: So now the question will go back to you. I will try to explain this, because it is new to --

MS. CARTER: Very new.

ADAM CUMMINGS: And probably confusing.

We're trying to weigh having you come back and have to do another \$100 application for a variance request.

MARK MERRY: Potentially.

ADAM CUMMINGS: Potentially, correct.

So we really have got three options to do here. We could table it tonight to get more information from the Building Department to find out that determination on those. That would clarify if we needed to do more variances.

The second option we have is to table or modify this one for the next Board meeting where we would re-public notice if we needed to do more than one. Meaning it wouldn't cost you another \$100. It would modify this one -- once again, find out that information and modify this and decide not tonight, but at a future meeting.

Or the third option, we could move forward with this one right here, but then you do run the risk of if the Building Department says you have to have variances for one or two other things, then you would have to come back with application fees for that.

So it really comes down to how pressing is it for you to construct this one or can you wait a month or two?

MS. CARTER: Um -- so I can do the front porch tonight?

ADAM CUMMINGS: Yes.

MS. CARTER: And maybe I get something, maybe I don't?

ADAM CUMMINGS: Yes.

MS. CARTER: And if that is the case, I pay \$100 for another variance?

ADAM CUMMINGS: Yep.

MS. CARTER: And I am going to have to like take that down or -- is it just -- like how -- how is that going to work?

ADAM CUMMINGS: On the enclosed porch, that one because it's so close, it is deemed to be done. You would have to file with the State, too, which is what the first applicant -- or second applicant had to do. I don't know what the fee is for that. I'm not even sure there is one. Think you just submit it.

MS. CARTER: To be able to keep it up?

ADAM CUMMINGS: They would have to grant the variance and you would have separate discussion from us whether we keep it or grant the variance. I -- I can't speak for Paul (Wanzenried). But you can certainly for tonight move forward with that one.

MS. CARTER: Let's just move forward with that one.

ADAM CUMMINGS: And you may have something going on with something else. So we'll do that.

MS. CARTER: Sorry.

ADAM CUMMINGS: That's okay.

One condition of approval will be the need for a building permit for this structure, this enlargement.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Philip Supernault made a motion to close the Public Hearing portion of this application, and Mark Merry seconded the motion. The Board unanimously approved the motion.

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

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 2 Action with no significant environmental impact, and Philip Supernault seconded the motion. The Board all voted yes on the motion.

JAMES WIESNER: What was the condition?

ADAM CUMMINGS: Building permit must be obtained.

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

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. Variance requested is not excessive and will not adversely encroach or impact the visibility or line-of-sight for pedestrian or vehicular traffic along the adjacent right-of-way.
4. Application of Christian Ward and Jennie Tran, 1 Prestwick Lane, Churchville, New York 14428 owner; for a variance to erect a 6 ft. fence in the front yard (4' allowed) at property located at 1 Prestwick Lane in PRD District.

Christian Ward and Jenny Tran were present to represent the application.

MR. WARD: Evening. My name is Christian Ward. This is Jenny Tran. We live at 1 Prestwick Lane. We're just looking to get the 6 foot fence approved. It is -- we are a corner lot,

so it is stated that is a front yard instead of a backyard.

Our main two concerns are the privacy and the safety of our dog. Because the yard is on a down slope, the 4 foot fence, he would easily scale. So the 6 foot would be the one -- the one that would prevent that. I think the main concern would be the visibility with it, with cars pulling out of the neighborhood, but we have pictures to show there is actually a structure, neighborhood structure that comes out further.

MS. TRAN: The fence itself would be about 24 feet from the road. So far away. It's in the backyard. So it wouldn't actually be in the way of drivers trying to turn left. And we have pictures if anyone wants to see it.

ADAM CUMMINGS: Yes. If you have a picture --

MS. TRAN: We also spoke to our neighbors and got their awareness and approval of our fence.

ADAM CUMMINGS: Those are the types of documents we like to see. So I will keep these and add them to the project folder.

I can't read the names. I see five signatures. Can you tell me where they reside? Or where they reside?

MR. WARD: So we have -- on Prestwick Lane those represent five different households and there is another verbal okay from a -- another neighbor on Archer Road.

ADAM CUMMINGS: Okay.

MR. WARD: Just --

MS. TRAN: They're all the ones next to us, in front of us, behind us.

ADAM CUMMINGS: Okay. I will not attempt to try to put it in. And I will say, for anyone listening on video camera, if you get signatures, please have them print their name next to it, too, because we must have a couple of doctors here with the way these signatures are. But thank you for getting notifications from the neighbors.

You haven't had any neighbors objecting to it? They're -- have been in support?

MR. WARD: Right.

ADAM CUMMINGS: Good points about it being so far off. There are multiple easements there. Especially that sign easement for the monument neighborhood sign.

JAMES WIESNER: On the front of your application, you didn't check the two boxes. One of them was -- was whether this had already -- the work had already begun. It looks like the work has already begun.

Is that a correct statement?

MS. TRAN: Yes. They started working on it and did the one side that was away from the road, so it is the side in between the two houses. So then they paused to do the side that would need a variance for the 6 feet.

JAMES WIESNER: Okay. And it was paused because the Town saw it?

MS. TRAN: Yeah.

JAMES WIESNER: How far off the house are you proposing it to be?

MR. WARD: Off the house or from the road?

JAMES WIESNER: From the house?

MR. WARD: Would have to be about 10, 12 feet maybe.

ADAM CUMMINGS: Looks like that from the map.

JAMES WIESNER: We can't condition something like --

ADAM CUMMINGS: No. Just the height.

JAMES WIESNER: Theoretically they could bring it all of the way out to the road.

ADAM CUMMINGS: Um, yes. And no. They're restrictive -- they could make it jog. They have got a restriction for sign easement Number 1.

So they can't go any farther than where they got it shown on the map. They could jog further down and get to the right -- or to the 10 foot wide utility easement, but they can't go past those utility easements.

JAMES WIESNER: So they're actually -- if this map is drawn correctly, they're right on the easement?

ADAM CUMMINGS: They're right on the sign easement. Number 1. Yes. That is the line they're following. And then that framed shed, did you move that or is that gone?

MS. TRAN: No. Still there from the previous owner.

ADAM CUMMINGS: How does your fence go through it?

MS. TRAN: The shed is like that (indicating) and it's halfway between.

ADAM CUMMINGS: I see. You're connecting the fence to the shed?

MS. TRAN: Yep. Yep.

ADAM CUMMINGS: I got you.

JAMES WIESNER: That's all I have.

ADAM CUMMINGS: Did you get a waiver to put the fence into the 20-foot wide drainage easement from the Town Engineer?

MS. TRAN: We're actually -- we made sure that we weren't going to be near that.

MR. WARD: It cuts it before that. I don't know what the measurement is, but it is easy access to it.

ADAM CUMMINGS: Can I just ask -- you drew it and it went into it. Are you going all of the way to your property boundary?

MS. TRAN: No. Not going to the edge.

ADAM CUMMINGS: Then are you matching it up? You don't -- you don't have the final line where that fence is going. Are you going from the edge of your pavers, all of the way down?

Are -- I'm confused on your fence.

MS. TRAN: Can we come up and doodle on the --

ADAM CUMMINGS: Yep. I know it's not part of this request, but is it closing somewhere over here? Along the house -- then how are you not getting into here (indicating)?

MS. TRAN: It does not cut that far back.

MR. WARD: So it cuts like the front of this.

ADAM CUMMINGS: But that will still be in the drainage easement. If you draw a line straight over, it's going to be in that drainage easement.

MR. WARD: Got you. It is from there and part of the edge down. So we got cleared -- I mean the drainage is like a clear path.

ADAM CUMMINGS: You don't get to make that call. You have to talk to the Town Engineer and the Commissioner of Highways to grant that because you have wording in your deed that says you can't build anything in there, including a fence. So you will want to get that cleared.

Otherwise if they ever had to do work in there, they get to rip out your fence and they don't have to tell you.

MR. WARD: Okay.

MARK MERRY: And the cost is to you.

ADAM CUMMINGS: And the cost is to you.

MS. TRAN: Since that part is already built, is there a way we can get a variance for --

ADAM CUMMINGS: We're not actually considering that part of our variance tonight. I was contemplating putting it in as a condition, but we're really only looking at the height tonight. But I will let you know that I will let them know they have that issue.

I will not speak for David (Lindsay) whether he will permit that or not, but he gets the question a lot. He does require fence permits. So fence permit must be obtained, which I think you already started that application with the Building Department.

JAMES WIESNER: Fence permits now.

ADAM CUMMINGS: I thought so. Is there a fence permit? I am pretty sure he gives one so there's a record.

Or maybe I'm mixing up my towns.

Dawn (Forte), would you know if there is a fence permit? I will give you a question tonight.

DAWN FORTE: I would revert that to the Building Department.

ADAM CUMMINGS: Okay.

MARK MERRY: Well done.

MS. TRAN: We were told we don't need a fence permit, but if it needs to be a requirement --

ADAM CUMMINGS: If they told you no, then that is what the Building Department says. I mix it up with the other towns.

JAMES WIESNER: If they did, it would present itself sooner.

ADAM CUMMINGS: I will take that off. So there are no conditions of approval for this. And to be clear, it's the 6 foot as proposed in here. And I will go ahead and -- oh, I didn't do Public Hearing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ANTHONY AND MICHELE SLOMINSKI, 6 Prestwick Lane

MR. SLOMINSKI: My name is Anthony and my wife, Michele Slominski. We live at 6 Prestwick Lane and have no problem with this.

MS. SLOMINSKI: The line of sight visibility entering and exiting the development is a non-issue. It sits back and yeah, there is clear view all around.

ADAM CUMMINGS: Excellent. Thank you. And thank you for coming in.

MS. SLOMINSKI: One of those signatures is ours.

ADAM CUMMINGS: Not sure whether you're the doctor not.

MS. SLOMINSKI: No. No. Thank you, though.

ADAM CUMMINGS: But thank you for coming in to support and to speak to that.

STEVE TARBELL, 29 Prestwick Lane

MR. TARBELL: Steve Tarbell. I live at 29 Prestwick Lane at the top of the hill. When I come down the hill and make a turn or coming in, if the fence is going to be 6 foot tall, there isn't any kind of sight distance problems at all.

ADAM CUMMINGS: Okay. Great. Good to know. Thank you.

Philip Supernault made a motion to close the Public Hearing portion of this application, and Mark Merry seconded the motion. The Board unanimously approved the motion.

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

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 2 Action with no significant environmental impact, and Philip Supernault seconded the motion. The Board all voted yes on the motion?

ADAM CUMMINGS: Motion to adopt application?

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

DECISION: Unanimously approved by a vote of 4 yes with no conditions, and the following findings of fact were cited:

1. Variance requested is not excessive and will not adversely obstruct or impact the visibility or line-of-sight for pedestrian or vehicular traffic along the adjacent right-of-way.
2. Additionally, the monument sign and associated easement area prevent the fence from encroaching too close to the roadway.

ADAM CUMMINGS: Board members, anything on the minutes from June 30th?

MARK MERRY: Was not here.

JAMES WIESNER: No comments.

ADAM CUMMINGS: No comments either.

Wait. You weren't here either?

PHILIP SUPERNALT: No.

JAMES WIESNER: Just Fred (Trott), you and I.

ADAM CUMMINGS: We don't -- so we'll have to hold off our minutes until next month because you two should really abstain. I'm not blaming you, but you should abstain. If you vote and you weren't here, then we don't have a quorum then.

MARK MERRY: Darn Fred (Trott) (laughter).

ADAM CUMMINGS: We'll wait until Fred (Trott) comes back to get a quorum next month. So we will not approve the minutes tonight.

Dawn (Forte), so you're aware, we did not approve minutes tonight.

Adam Cummings made a motion to adjourn the meeting, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

The meeting was adjourned at 7:48 p.m.