

CHILI ZONING BOARD OF APPEALS  
December 22, 2022

A meeting of the Chili Zoning Board of Appeals was held on December 22, 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 Vice Chairperson James Wiesner.

PRESENT: Mark Merry, Fred Trott, Philip Supernault, James Wiesner and Chairperson Adam Cummings (arrived during meeting).

ALSO PRESENT: Matthew Piston, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manager.

Vice Chairperson James Wiesner 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.

JAMES WIESNER: Any comments relative to the signs?

FRED TROTT: I didn't see one for Westside Drive.

JAMES WIESNER: I did not see one on Westside Drive either.

MARK MERRY: Neither did I.

JAMES WIESNER: I did not see one at the one on International Boulevard either. I don't know if you folks did see that one?

FRED TROTT: I thought I did. I was there early.

JAMES WIESNER: I mean it looked like there was a post there, but just wasn't a sign.

MARK MERRY: A stake but no sign is what you're saying?

JAMES WIESNER: Yes. We'll start with the one on Westside Drive.

Paul (Wanzenried), do you know if they picked it up in the Building Department?

PAUL WANZENRIED: Yep.

JAMES WIESNER: Is the applicant here tonight from Westside Drive?

PAUL WANZENRIED: That would be --

JAMES WIESNER: Misty Irwin.

PAUL WANZENRIED: Is Ms. Irwin here?

No one responded.

PAUL WANZENRIED: Nope.

JAMES WIESNER: So I guess -- given that the sign didn't go up and they're not here, I guess we have to make a decision on that one.

PAUL WANZENRIED: So you can -- you can wait and see if the -- to see if the applicant shows up. It is also your prerogative to hear it with or without signage. You know that. Okay?

JAMES WIESNER: So we'll set that one aside to the end of the agenda right now and we can come back to that one and see what transpires. If the applicant doesn't come in, it's a non-issue all together.

PAUL WANZENRIED: As to the one on International Boulevard, that one was -- that one was there. They were doing work in the right-of-way. Somebody was laying cable, boring cable, so they may have moved it around or knocked it around. There has been activity all this week. I did see it the other day because I had inspections over there.

JAMES WIESNER: Okay. We'll leave that one alone.

Is -- the first application is Misty Irwin. That we'll put to the back of the agenda at this time.

2. Application of Melissa Denagle, 95 Sheffer Road, Scottsville, New York 14546 owner; for a variance to allow lot width of farm to be 292.62' (500' req.) at property located at property located at 95 Sheffer Road in AC District.

Melissa Denagle and Robert Hatch were present to represent the application.

MR. HATCH: Good evening. My name is Bob Hatch. I'm with Schultz Associates, Engineers and Land Surveyors. I'm here with my client, Melissa Denagle.

Mrs. Denagle is here to request the variance as stated before. She is looking to subdivide their 25.23 acre parcel into two lots. She wishes to keep 5 acres with an existing pond, with the house lot, which is the lot in pink on the map that is up there. And the remaining 20.214 acres will remain as farmland and in farm production.

The lot configuration as we showed here to include the pond reduces the frontage upfront so it would not meet the 500 minimum requirement for the farmland. There are no plans that I'm aware of to build any structures or anything on this parcel. It's basically -- it's field crops and I understand it's going to stay in field crops. That is the basis of what we're looking for.

I don't know if you guys got a copy of the color rendering for this particular project. I do

have some extra copies if you want them.

JAMES WIESNER: The copies I see don't have the color.

MR. HATCH: This is a little more detail, overlay with the soils. And also with the -- the -- the proposed property line. You can see that basically we're trying to run the property line along the existing field. Kind of makes more sense to put the property line through the field, running along the side, because the farmers are going to be able to utilize -- utilize that land and he has no use for the other portion where the pond is or anything like that. So that was our -- our thinking when we put the line where it is. So...

FRED TROTT: Can I ask why you're subdividing?

MS. DENAGLE: Yes. I have had this property 25 years and I have always leased the farm field to the farmer. He expressed some interest over the last few years to purchase it. Based on the topography of the land, this is really just giving him just the field and that way he doesn't end up with land that is not useful for the farming production.

JAMES WIESNER: Anything else you were going to present? Is that everything at the moment?

MR. HATCH: I can go through -- I don't know if you want me going through the short EAF or anything like that as part of the -- as part of the application. You know, there's no proposed changes to the parcel except for the subdivision. There is no proposed construction or anything like that. Like we said, the farmland will stay in production and then the house will stay on Lot 1 with the existing pond that is there.

JAMES WIESNER: Okay. I guess why don't we start with Phil (Supernault).

If you have any questions at all.

PHILIP SUPERNAULT: Not at this time I don't, no.

FRED TROTT: I remember you coming in for a dog kennel thing years ago.

MS. DENAGLE: That was many years ago, yes.

FRED TROTT: Brain is not gone yet.

So is that still something that you do?

MS. DENAGLE: No. I -- I let --

FRED TROTT: I don't know if that would change with the property selling.

MS. DENAGLE: The -- the subdivision where the green is, the farm field, the farmer has a lot of cows in Caledonia so he just wants to maintain corn. He is not building anything. I don't have a dog kennel permit. I haven't had over what the normal limit is in many years.

PHILIP SUPERNAULT: I have one question. The proposed subdivision, does that pretty much mirror the use of the land now? Are you -- are you using about five acres with your home?

MS. DENAGLE: Yes. I pretty much mow a good part of the area in pink. You know, again, the pond is there and that's wetland. Especially from the pond to the road. So that is the aesthetics of what would be like a normal house property.

PHILIP SUPERNAULT: Thank you.

JAMES WIESNER: Only thing I had -- and, Fred (Trott), you touched on it -- whether there are any other variances that had been granted for the property. I think there was at least one time, as Fred (Trott) stated, that you had been here maybe twice.

MS. DENAGLE: Again, dog kennel is years ago. At one point I was allowed a ten-dog limit. But again, the southern end of my property is all New York State Thruway. The dog kennel permit had been allowed for the period. I let it expire because I really didn't go over at that time the three-dog limit so I haven't needed it or wanted it and I probably won't at this point.

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. The Board unanimously approved the motion.

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

JAMES WIESNER: In preparation for vote, is there any Board discussion on this matter? So this is not something that has gone before the Planning Board, Paul (Wanzenried)? Just a zoning matter?

PAUL WANZENRIED: Yes. Minor subdivision. So it's -- so it's administrative. Doesn't have to go before the Planning Board.

JAMES WIESNER: Then as far as SEQR goes, is this Unlisted or Type II?

PAUL WANZENRIED: I will say Unlisted and yes, you have to do SEQR.

JAMES WIESNER: So Unlisted?

PAUL WANZENRIED: Yes, sir.

FRED TROTT: Paul (Wanzenried), I have a question. The farmer that plans on buying it, would he be putting it into -- zoning it into his property or requesting that to be part of his property?

PAUL WANZENRIED: No. To the best of my knowledge, it's going to remain an individual property.

FRED TROTT: Okay.

JAMES WIESNER: So from what I see then, there is really -- there is no conditions.

Would you agree with that, Paul (Wanzenried)?

PAUL WANZENRIED: I would agree with that.

There is no building permit required, so.

JAMES WIESNER: There is nothing else that I can think of. Okay.  
So let's start with SEQR.

James Wiesner 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 Philip Supernault seconded the motion. The Board all voted yes on the motion.

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

DECISION: Approved by a vote of 6 yes (Adam Cummings absent for vote) with no conditions and the following finding of fact was cited:

1. This property has been used for similar agricultural purposes for many years with no complaints.
3. Application of Ian Smith, 8 Woodbridge Court, Rochester, New York 14624, owner; for a variance to A.) Erect an accessory structure 7' from principal structure (8' req.); B.) 240 sq. ft. accessory structure (192 sq. ft. allowed) (120 sq. ft. existing) (120 sq. ft. proposed) at property located at 8 Woodbridge Court in R-1-15 District.

Ian Smith was present to represent the application.

MR. SMITH: My name is Ian Smith. To be honest, I'm a bit confused about A myself. I'm guessing that is something that the Town added.

I currently have a shed that we had, gosh, probably four or five years ago. I wasn't there when they delivered it. At the time my wife said somebody from the Town was there to make sure that it met all code and clearances.

JAMES WIESNER: So you're saying for A --

MR. SMITH: I'm saying I didn't ask for it and I'm not sure that it doesn't really need to be there. I'm happy to have it approved, but I'm not sure where it came from. I didn't ask for it here. And to the best of my knowledge, at the time that shed was placed four or five years ago, my wife said, "Somebody from the Town said that's good where it is."

Again, to the best of my knowledge, nobody has been out recently to measure between that existing shed and my house, so I don't want to confuse things. But in the interest of --

JAMES WIESNER: Paul (Wanzenried), do you have any idea?

FRED TROTT: This says "proposed shed."

How many sheds do you have on your property?

MR. SMITH: I currently have one shed. My permit is to get a second shed to use as a workshop.

FRED TROTT: So --

JAMES WIESNER: It's showing the existing shed being 7 feet off the property line.

You're saying it is not?

PAUL WANZENRIED: No. It is 7 feet from a principal dwelling.

JAMES WIESNER: From the other shed?

PAUL WANZENRIED: From the back of the garage. I took my measurement from pictometry. Your application didn't give me a measurement. So to get the application completed, I measured on the drawing where the existing was to the existing structure and I came up with 7.1. And 8 feet is required. That's how it came about, Ian (Smith).

MR. SMITH: Okay. I had no idea.

PAUL WANZENRIED: That's fair. That's fair.

MR. SMITH: I picked up a sign that had like a paragraph and a half on it and I thought it was going to say second shed.

PAUL WANZENRIED: No.

JAMES WIESNER: So that is for the existing shed, Paul (Wanzenried)?

PAUL WANZENRIED: That's for the existing shed.

JAMES WIESNER: That is for the existing shed?

PAUL WANZENRIED: The proposed shed is only an area variance.

JAMES WIESNER: Okay.

PAUL WANZENRIED: Okay? Proposed shed conforms to -- from the drawing that Mr. Smith has given us, the proposed shed will conform to all of the setback requirements.

JAMES WIESNER: Okay.

FRED TROTT: But then it is a size issue we have.

PAUL WANZENRIED: Yes. An area. You have two sheds, a 10 by 20. That is 240.

JAMES WIESNER: Is that clear for you now?

PAUL WANZENRIED: Or 12 by 10. Sorry. Excuse me.

MR. SMITH: Yep.

JAMES WIESNER: I see you provided some information on the shed that you're planning to put up?

MR. SMITH: That was not necessarily the one that I'm going to buy, but that was an example more size-wise than anything else.

JAMES WIESNER: Okay. Is there anything else you wanted to add to the application?

MR. SMITH: No.

JAMES WIESNER: Does that cover everything?

MR. SMITH: That covers everything for me.

PHILIP SUPERNAULT: The existing shed that was out of compliance, that was there when --

MR. SMITH: No. We got that in when we purchased the house. There was a shed that was -- actually, it was probably a foot from the rear living space in the garage and it was in disrepair. It lasted about two years and we took that down.

The existing shed that is there now, the property was -- or the -- the placement was flagged off. I wasn't there when it was delivered. To the best of my knowledge, it was going to be basically at the minimum setback from the house. But I thought that it had complied to code.

PHILIP SUPERNAULT: Got you. So basically you -- so you -- you razed or you tore down an older shed. You ordered this one. They delivered it. They didn't put it in in compliance.

MR. SMITH: As far as I know. Like I said, I hadn't actually measured it. I didn't know what the measurements would have to be. When the guy sold it to me, he bragged they last 20 years. You can pick them up and move them around. So if it's a big deal, I will try to move it away from the building.

PHILIP SUPERNAULT: So when you applied for the permit for your present shed --

MR. SMITH: Incidental finding.

PHILIP SUPERNAULT: The Compliance Officer noted it was not in compliance?

MR. SMITH: Yes.

JAMES WIESNER: How many square feet was that shed? That was 120?

MR. SMITH: Yes.

JAMES WIESNER: That did require a permit then for that size. Must not have come back out and checked it after that.

MR. SMITH: My wife said she was there when the shed was delivered and she said that somebody from the Town was there and signed off on it.

JAMES WIESNER: Well, at this point then, it is probably more an administrative matter. So we will take it under consideration as we process the application.

PAUL WANZENRIED: If the applicant is disputing this.

MR. SMITH: No, no. I'm not. I'm sorry. I just had no idea where it came from.

PAUL WANZENRIED: That's all right. Relax. It's all going to be good.

You can table that aspect of the variance.

I can go out and meet Mr. Smith out there tomorrow and verify it yes or no. And if it's not 8 feet as required per code, he can come back next month and, you know -- and hear that end of the variance.

MR. SMITH: It's definitely 7 feet away from my house.

PAUL WANZENRIED: There you go.

MR. SMITH: And needs an additional variance.

PAUL WANZENRIED: Okay.

JAMES WIESNER: Okay. It's truly not too big of a deal. I can't say how people would vote, but if you wanted to clear it up tonight, it would take care of it.

MR. SMITH: That sounds preferable.

FRED TROTT: So what was the purpose of the second shed?

MR. SMITH: To serve as a workshop. I do hobby blacksmithing from my garage and I would like to have a shed away from my house for safety purposes and as well as having my garage for a second vehicle instead of having it in the driveway all of the time.

FRED TROTT: Blacksmith, you said?

MR. SMITH: Yes. I do it maybe one to three times a month.

FRED TROTT: Do you plan on doing something as far as having -- heavily insulate or something to keep the noise down?

MR. SMITH: Yes. I have that in the plans.

FRED TROTT: Would you be having a kiln there, too, then?

MR. SMITH: Forge.

FRED TROTT: Forge. I apologize.

MR. SMITH: Kiln, I think, is for ceramics. Maybe glass, too.

FRED TROTT: Would that have to be approved by the Town for Fire Code?

PAUL WANZENRIED: Might have to be. Yeah. Sure. So -- so would any electric he would drag out to it, as well.

MR. SMITH: Wouldn't be using electric.

PAUL WANZENRIED: No. Okay.

JAMES WIESNER: You use coal or --

MR. SMITH: Yep. Sorry. I'm hearing a lot of noises behind me.

FRED TROTT: I don't have anything else at this time.

MARK MERRY: So I drove through the neighborhood because I'm looking at your response to Number 3 in regard to other residents have two sheds or larger buildings.

Can you elaborate on that? My -- my ten-minute survey, I didn't see too many homes near you that had two 120-square-foot sheds.

MR. SMITH: I know there is at least one in the neighborhood had two. But if I'm wrong, then I'm wrong.

MARK MERRY: That's all I have.

JAMES WIESNER: So --

FRED TROTT: I have another question. Would you consider just getting one large shed -- larger shed?

MR. SMITH: I mean I would prefer not to just because it -- I already have the existing shed that I'm currently using mainly for the storage of like gardening type stuff, lawn mower, things like that. But yes, that potentially could be a fallback option for me.

JAMES WIESNER: So the Town did get correspondence on this one. So I am going to read this into the record. And I'm trying to figure out -- it's from Donna Harman, who appears to be a neighbor.

MS. HARMAN: I'm right here and brought a statement, as well. The correspondence you received I probably sent to Mr. Dunning. I'm assuming --

JAMES WIESNER: Do you want to read it through the Public Hearing?

MS. HARMAN: Yes. Can I read my statement?

JAMES WIESNER: Let us finish up and when we open up the Public Hearing, we'll give you that opportunity.

MS. HARMAN: Perfect.

JAMES WIESNER: Any other questions from the Board? Are there any -- any comments from the Side Table, from Paul (Wanzenried) or Matt (Emens)?

PAUL WANZENRIED: No, sir.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DONNA HARMAN, 6 Woodbridge Court

MS. HARMAN: My name is Donna Harman. I live at 6 Woodbridge Court. This is the statement I will read that I have -- with information I have compiled about blacksmithing that I was not aware of and how I see it affecting my family living next door to Ian and Marylou.

My husband and I are retired and have lived on Woodbridge Court for nearly 38 years. Ian and Marylou Smith are our next-door neighbors and we have all been good neighbors and supportive of each other since they moved in a few years ago. I think approximately seven.

Ian has been working on blacksmithing projects in the past and we assumed that they were one-off projects and ignored the noise. The new shed he wants for his yard is for a blacksmithing workshop, which he just stated to you. That because of electrical considerations -- which I now know he does not plan to do -- would need to be seated -- in this case if it did require electrical, my understanding from Marylou is it would be seated very close -- behind the existing shed and very close to our property line. Because that's where the electrical outlets are and whatever connections are needed.

The new shed he wants for the yard is -- let me see here. I lost -- I had to edit myself here.

JAMES WIESNER: Could you pull your microphone down, too?

MS. HARMAN: Sure. Sure. Hope that is better.

So his -- the new -- if he -- if the new shed is to be where he intended it initially, from my understanding, it will be seated 40 to 60 feet from our living space and from our backyard patio. The noise from hammering, forging and chiseling runs about 120 to 140 decibels, which equates to the sound of jet engines, fireworks, race cars and gunshots. And since we have heard Ian's summer projects, that -- this accurately describes our experience and what we can expect if his hobby becomes a permanently housed activity.

I have read the Chili Town noise ordinance and noise issues of this nature are not addressed. This is of great concern to me as I fear I might not be able to live in the quiet and peacefulness of our street which it has afforded me since we moved to Chili.

I'm also concerned that a blacksmith shop with all of its requirements of using fire, various fuels and chemicals, lime byproduct -- I'm sorry. The byproducts of iron and steel waste, polluting water and smoke and toxic emissions will decrease my property values and those of my neighbors.

With this in mind, I'm asking the Board to consider the proximity of this activity if near their own homes and backyards and how disruptive this may be in a limited suburban space.

And so with respect and apologies to the Smiths, I would ask the Town to reject this request for a second shed for blacksmithing. Thank you.

MR. SMITH: May I speak?

JAMES WIESNER: Once the Public Hearing is closed you will have an opportunity.

JOE RIZZO, 4 Woodbridge Court

MR. RIZZO: Good evening. Joe Rizzo at 4 -- 4 Woodbridge Court. Thank you for the time this evening. We have also lived in the cul-de-sac since 1994 and relocated there for the peace and quiet and so forth.

You know, the thing about the concern I'm hearing in terms of a blacksmith use -- in terms of space, you know, our concern is in terms of the health and safety. So not only for -- for our neighbors -- he has been a great neighbor -- in terms of our neighborhood, also all of the other neighbors in the neighborhood. So noise in terms of the activity and so forth is very, very loud. And so I wanted to bring it up. But also the issues about, you know, blacksmithing as a whole in terms of health and safety. In terms of noise. Also -- I had some other comments in terms of some of the questions.

But we have heard the noise and so forth and we have talked to our neighbor and said --

we're sitting outside and hearing this screeching noise and so forth. But some of the questions in terms of -- I wanted to bring up is in terms of the, you know, proximity of the shed, which we have heard, it's going to be in the backyard.

Also, the placement of the shed in terms of -- and how the construction in terms of sound and so forth is important to have something that is, you know, very soundproof. Then also in terms of what types of equipment is going to be used there. Waste products, et cetera. Any kind of -- besides the very loud noise. But also any kind of noise pollution of such.

So there's a whole number of questions and so forth in terms of the use and so forth and the products themselves. So I wanted to bring that to the attention and have the consideration of the Planning Board in terms of ways to make sure that it is totally soundproof, but also from a fire perspective, health perspective, to take that into strong consideration. And so thank you.

JAMES WIESNER: Anybody else that wants to come up and speak during our public comment period?

So we'll close the Public Hearing now. Motion to close.

Fred Trott 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.

JAMES WIESNER: If Mr. Smith would like to come back up and have a couple final comments, it's your prerogative now.

MR. SMITH: Thank you. Putting up that sign has caused a lot of drama and stress in the neighborhood that I think is primarily the result of miscommunication.

I know that I and my wife, Marylou, both had asked the Harmons a number of times about the noise and were told it was fine. I know I asked Donna (Harman) specifically when I was taking down a tree for them -- now that we -- we had had -- the Town come out and do some work in the backyard to fix drainage. I said, "Now that the backyard isn't going to be a swamp, I would like to put a workshop back here to do the blacksmithing work and get it out of the front yard and out of the garage where it might be a little more palatable."

She said at that time it was no big deal. The first that we had heard about the noise from the Harmons was after the sign went up. Her husband came over and stood at the door basically and said, "We're moving and it's your fault."

It upset me. It upset my wife. It upset my daughter who was there. So this whole thing has just been a mess.

I am cognizant of the noise. I try to limit it to four-hour sessions. And in the past, when I first started, I had more time. Getting the shed is not going to put more hours in the day for me. I think I have blacksmithed maybe like twice in the last four months. From a financial perspective, it doesn't really make sense to even do this, but from a safety perspective from my home and a potential to address the sound issues by having a dedicated space that I could do something with baffling or otherwise address the sound issue, um, I feel like it would make my hobby more palatable and less noisy for the neighbors.

You know, a lot of this is -- the first I have heard of it. You know, Joe (Rizzo) told me once I was noisy and I realized that I had been using an angle grinder a lot that day. They like to sit out on their front porch and I apologized and cut back on the grinding time. You know, for me this is a good solution for my family, for my safety and if I can appropriately soundproof it, it will be better for the neighborhood, too, rather than having it come out of the -- my garage and facing the cul-de-sac and coming out. It will be in the backyard where there are trees to deaden the sound and it will be contained in a shed again that will be soundproof to the best of my ability.

JAMES WIESNER: So this blacksmithing is a hobby?

MR. SMITH: Uh-huh.

JAMES WIESNER: Not an occupation?

MR. SMITH: No. I haven't sold anything. I'm not good enough.

JAMES WIESNER: Okay.

MR. SMITH: Thank you.

PHILIP SUPернаULT: So -- so are you -- if you -- if the variance is granted and you place the shed, are you going to do more blacksmithing -- are you going to continue blacksmithing whether or not the shed is placed?

MR. SMITH: Yes.

PHILIP SUPернаULT: Thank you.

MR. SMITH: As long as I'm not violating any Town codes, it's not really any more noise than Tom makes when he is out mowing the lawn twice a week.

UNIDENTIFIED SPEAKER: Can I say something?

JAMES WIESNER: The hearing has been closed. So unfortunately you wouldn't be able to comment.

MR. SMITH: If I had been approached at any other time, I certainly would have tried to modify my behavior. Up until this notification went up for the shed, I asked pointblank a number of times if I was causing any issues and the one time I was told I was being noisy, I cooled it. You know, this is...

JAMES WIESNER: Paul (Wanzenried), I mean there is nothing in the code about a blacksmithing -- it's not really an occupation. It's a hobby. So I don't know if there is anything

that can be regulated there.

PAUL WANZENRIED: Not from -- not from a blacksmithing standpoint. No. There is nothing in the code. It's a hobby. The only recourse that the neighbors have is to file noise complaints and that's typically handled by --

MARK MERRY: So, Mr. Smith, in trying to locate this second shed, is there an advantage of moving it somewhere else on your parcel to try to minimize the disruption to your neighbors?

MR. SMITH: I have neighbors on both sides of my property. So I'm not really sure.

MARK MERRY: How deep is your lot, just to try to get it away from the dwellings? That is all I'm thinking about. If you face the door of the shed away from your neighbors.

MR. SMITH: It would be facing away. That was my plan.

MARK MERRY: So could you move it deeper on your parcel?

MR. SMITH: Sure.

MARK MERRY: Would you consider that?

MR. SMITH: Certainly would.

MARK MERRY: The door could face away from your neighbors to minimize the disruption?

MR. SMITH: Yes.

MARK MERRY: Are those things we could require, Jim (Wiesner)?

FRED TROTT: It would be up --

JAMES WIESNER: I don't know. Would have to look to Counsel for that if we can.

PAUL WANZENRIED: Did you ask me a question?

JAMES WIESNER: I asked Matt (Piston) a question about when -- I don't know where my question went now --

PHILIP SUPERNAULT: About location.

JAMES WIESNER: -- what conditions we might be able to put on it that could impact this and I don't know that we can.

MATTHEW PISTON: I mean --

JAMES WIESNER: Unfortunately, I see it as a separate issue.

MATTHEW PISTON: As long as it is within the setback requirements, he can place it on his property.

JAMES WIESNER: It's a hobby, not an occupation, so you can't legislate it.

PHILIP SUPERNAULT: The variance is around the combined area of the two sheds, correct? And the -- and the out-of-compliance-existing shed.

JAMES WIESNER: Two distinct variances there.

MATTHEW PISTON: Correct.

PHILIP SUPERNAULT: Thank you.

MATTHEW PISTON: He is not seeking a variance for a setback requirement on the second shed.

PHILIP SUPERNAULT: Right.

JAMES WIESNER: Just square footage.

FRED TROTT: We can't regulate what he does for a hobby.

JAMES WIESNER: No.

PHILIP SUPERNAULT: And --

JAMES WIESNER: That's up to the Town to -- if they -- if he is doing something that is a nuisance to the neighborhood, then it is up to the neighbors to submit a complaint to the Town and it is up to the Town to investigate it and take appropriate action.

PAUL WANZENRIED: All noise complaints are handled by -- per code are handled by the Sheriff's Department.

JAMES WIESNER: How does the code define a nuisance level? Is there a noise level?

PAUL WANZENRIED: There is no noise level. There is no decibel level. It's a very subjective thing.

JAMES WIESNER: I can remember many years ago there was the one with the motorcycle and the motocross track. There wasn't much they could do about it. Okay.

So is there any more discussion by the Board? I mean only condition that I would have would be -- and we'll get to that -- would be on B, which he would need a building permit. But -- for A, there is really nothing -- it's an existing structure. It is just bringing it into compliance at this point.

FRED TROTT: Yeah. Like -- like we said, we can't regulate what he does in the secondary shed. It is important to point out that if he didn't get the approval for -- doesn't get approval for the shed, he is just back to blacksmithing in your garage. Which --

JAMES WIESNER: Which doesn't make it go away.

FRED TROTT: It doesn't make the problem go away.

PHILIP SUPERNAULT: And that's not our issue.

FRED TROTT: Yeah.

PHILIP SUPERNAULT: We can't legislate that.

MR. SMITH: I know it's not pertinent to you guys, but measurement-wise from my garage to a hypothetical shed in the backyard would be further away from both of their properties.

JAMES WIESNER: So I'm going to do these one at a time. We'll start out with A, which is the setback variance for the existing shed. And as I say, there is no -- no conditions on this one. So let's do SEQR first. I take it this is an Unlisted, too?

ADAM CUMMINGS: It would be a Type II action.

James Wiesner 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 WIESNER: A motion to adopt 3A, which is the setback variance.

Fred Trott 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 3A: Approved by a vote of 3 yes to 1 no (Mark Merry) (Adam Cummings absent for vote) with the following condition:

1. Pre-existing, prior Town approval of existing structure.

The following finding of fact having been cited:

1. Variance requested is not excessive and its location is furthest away from neighboring properties to minimize potential impacts to them.

JAMES WIESNER: So the first one, for the setback, for the existing shed passes.  
So let's go to B. B is for adding a second 120-foot shed which goes over the 192 feet allowed -- 192 square feet allowed.  
I will do SEQR first.

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

JAMES WIESNER: So for this one, the condition we have is a building permit. So I ask for a motion to adopt the Application 3B.

Fred Trott 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 APPLICATION 3B: Approved by a vote of 3 yes to 1 no (Mark Merry) (Adam Cummings absent for vote) with the following condition:

1. Building permit must be obtained.

The following finding of fact was cited:

1. Variance requested is not excessive and its location is furthest away from neighboring properties to minimize potential impacts to them.

JAMES WIESNER: We'll take a brief recess now to shuffle spots here.

Adam Cummings joined the meeting as Chairman.

4. Application of William Kastner, 7 Omega Drive, Rochester, New York 14624 owner, for a variance of A.) Pre-existing shed to be 1.6' from side yard setback (8' req.); B.) Pre-existing shed 5.7' from rear yard setback (8' req.) at property located at 7 Omega Drive in R-1-15 District.

William Kastner was present to represent the application.

MR. KASTNER: Hi. My name is Bill Kastner, 7 Omega Drive, and I'm here to request a variance for an 8 by 10 shed that was put in about 20-plus years ago. The shed is in good condition. It's not in anybody's way. It's not harming anything in the environment. So I'm just here to request a variance.

ADAM CUMMINGS: So -- so this is to try to get your property up to code compliance or somebody caught it?

MR. KASTNER: There was a complaint from a neighbor.

ADAM CUMMINGS: Okay. Thank you.

JAMES WIESNER: I don't -- I put it up on top of -- I don't have any questions.

MARK MERRY: I have no questions.

ADAM CUMMINGS: I'm skimming this. This is the complaint that was received from -- trying to see their address. I don't see an address.

MR. MANOLITSAS: 9 Omega Drive.

JAMES WIESNER: At the bottom of it.



ADAM CUMMINGS: Oh, there it is. It's on the back. I see it.

FRED TROTT: Do you -- from the looks of it, it looks like you have a fence that is attached to the back of the shed?

MR. KASTNER: It's not attached. Very close.

FRED TROTT: Very close. You're not having any issues with lawn maintenance?

MR. KASTNER: Well, what do you mean by that?

FRED TROTT: You're able to get around it, the -- the shed and everything?

MR. KASTNER: Yes.

FRED TROTT: Okay. I don't have anything further.

PHILIP SUPERNAL: Not at this time, no. No questions.

ADAM CUMMINGS: I do have one more. These dimensions you have listed here, you measured those yourself?

MR. KASTNER: I did not.

ADAM CUMMINGS: A surveyor did it and they have been certified.

MR. KASTNER: I'm not sure who measured.

ADAM CUMMINGS: Side Table? Anything to add?

PAUL WANZENRIED: No, sir.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MICHAEL MANOLITSAS, 9 Omega Drive

MR. MANOLITSAS: Michael Manolitsas, 9 Omega Drive, neighbor of -- I submitted the dimensions of his -- what do you call it -- the survey because he gave it to me. He needed my signature for something else so I had his survey. I submitted his own survey to the Town.

ADAM CUMMINGS: From a surveyor?

MR. MANOLITSAS: From a surveyor.

ADAM CUMMINGS: You didn't trace over a survey?

MR. MANOLITSAS: No. I submitted the copy of the survey.

ADAM CUMMINGS: Okay. Thank you.

MR. MANOLITSAS: I don't know if I need to say too many, but at the advice of my friend, Director of Public Works, he said, "Don't say too many. Just say that setback requirements are there for good reason."

I would like you to enforce them, please. That's all I want to -- want to say. But he does -- he cannot take care of his property from his side because he has got the fence 4 inches inside the property line. He cannot access it without trespassing and he has been trespassing in the past. Thank you.

MICHAEL SPECKSGOOR, 5 Omega Drive

MR. SPECKSGOOR: My name is Mike Specksgoor, 5 Omega Drive. I'm the other neighbor of Bill (Kastner). I just want everybody to know I think this is a total waste of time, what he is doing (indicating). That shed is in the corner of the backyard. Nobody is around there. Doesn't hurt anything. No environmental problems. And I think it's just a total waste of time for everyone here. That's all I got to say.

ADAM CUMMINGS: Okay. Thank you for your comments tonight.

MR. MANOLITSAS: He has plenty of yard available.

ADAM CUMMINGS: Can you please say it in the microphone so we can hear it?

MR. MANOLITSAS: He has plenty of yard available for the shed to be in the right position. Why the neighbor -- if he moved it from the other side -- doesn't complain is because his side is nice and clear. Everything, all of the garbage is on my side, what is he doing. You have to look at all those things. Thank you.

ADAM CUMMINGS: Motion to close?

Fred Trott 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: Just so be clear, we're only discussing the shed and the setbacks of that shed off the rear and the side lot lines. I don't have anything else except for Mr. Kastner -- Paul (Wanzenried), I know we had a new clarification from New York State. This one technically has a wall. Did we ever get anything chimed in about a State variance on this?

PAUL WANZENRIED: No.

ADAM CUMMINGS: We did not get anything back from the State regarding this?

PAUL WANZENRIED: We have a call in. So just condition it upon a State --

ADAM CUMMINGS: A State variance?

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: So, Mr. Kastner, to explain what we have, is New York State, if it is within 3 feet of a property line with a structure that has a wall, there is a section of the New York State Fire Code that requires it -- even if we granted a variance at the local level here at the Town, the State would also have to evaluate it to do a State variance for that. So work with the

Building Department on that.

I'm not going to predetermine what our determination is, but one condition of approval would be to obtain a New York State variance. So that means even if we approve it and the State then denies your variance request, our approval would then be negated.

Correct, Matt (Piston)?

PAUL WANZENRIED: Highly unlikely the State will negate it, given the age -- given the age of the shed and the -- and based on past experiences with the State and talking with Andy on previous applications.

ADAM CUMMINGS: So it has a high probability of success. I'm just trying to explain it. If they do deny it, even if we granted you an approval, that would overrule us. Likewise, if we approved it and they approved it, then you would be all set.

MR. KASTNER: I have been in touch with Mr. Dan Farley (phonetic) with the State and we're discussing that issue.

ADAM CUMMINGS: Okay.

MR. KASTNER: Thank you.

ADAM CUMMINGS: Any other conditions from the Board?

MARK MERRY: Can I work in another question?

ADAM CUMMINGS: Certainly.

MARK MERRY: Understanding that that shed is 22 years old, is there any chance that you can try to minimize the setback variance that you're seeking and move it at all away from where it is today in that corner portion of your yard?

MR. KASTNER: I understand what you're saying and in a perfect world, that would be a good solution. But the type of shed it is -- sheds are not constructed like houses and to move such a shed, it would probably destroy it.

MARK MERRY: Due to the age of the shed?

MR. KASTNER: Right.

MARK MERRY: Thank you.

MR. KASTNER: Thank you.

ADAM CUMMINGS: So wording it another way, sir, if you attempted to move the shed, you would then have an economic detriment --

MR. KASTNER: Right.

ADAM CUMMINGS: -- meaning you would destroy the value of the shed and never be able to use it?

MR. KASTNER: Correct.

ADAM CUMMINGS: As well as monetary value to either replace or repair it?

MR. KASTNER: Yes. Somewhere around 2,000, I'm thinking.

ADAM CUMMINGS: That was going to be my next question.

PHILIP SUPERNALT: What is the shed used for?

MR. KASTNER: Garden tools and a lawn mower. Some pool supplies.

PHILIP SUPERNALT: So you use it every year?

MR. KASTNER: Yes.

PHILIP SUPERNALT: Could I ask the general shape or condition of the shed?

MR. KASTNER: It's in good shape.

JAMES WIESNER: It's been sitting there for 22 years?

ADAM CUMMINGS: 22 years. I don't have anything else other than that one condition 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 Philip Supernault seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Now I would like to ask for motion to adopt.

Philip Supernault made a motion to approve the application with no conditions, and James Wiesner seconded the motion. All Board members were in favor of the motion.

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

1. Variance requested is not excessive and there is a high likelihood that moving the shed will be detrimental to the structural integrity and the loss will be a significant economic impact to the property owner.
5. Application of Tim Danish, 143 Morgan Road, Scottsville, New York 14546 owner; for a variance to erect an accessory structure to be 10' from side yard setback (50' req.) at property located at 143 Morgan Road in AC District.

Tim Danish was present to represent the application.

MR. DANISH: Good evening. My name is Tim Danish from 143 Morgan Road and I'm looking to do a pole barn garage to replace my existing single-car garage that is attached

currently speaking.

MARK MERRY: Have you explored just adding another bay onto your existing garage rather than -- looking at your parcel the other day -- granted to your point there are other pole barns not in that particular placement next to your home -- they're offset. A lot of them are behind and -- it appears where the structure is. I'm just concerned it's a large addition to your property.

So getting back to my original question, have you explored other options rather than that size pole barn and that particular location on your parcel?

MR. DANISH: We did look into that option. The garage that is there now is very poor construction. I doubt it would pass any current building code by any means. The roof trusses are sistered 2 x 4s. Not just a single, you know, clear-span roof truss. The building is not square to the existing house itself. I know it's attached with that little, say, breezeway, but -- so it's not square to that.

And in regards to the height of it, we would have to increase the height of that wall -- height of that existing structure if we were to even expand it width-wise, as well, because the height is, I think, 8 1/2 feet right now and I have a full-size pickup that won't fit in there now. My small car will, my wife's car. But my full-size would not. I feel like it would look better to -- to me and probably adjoining neighborhoods to have a single roofline versus kind of an up-and-down all of the way across.

So I just figured if it was all one clean piece versus kind of trying to make things work with what is there. And to your point about the five joining properties, I know what you're saying. Some are behind. The issue with us going further back with the pole barn, as you mentioned, is our leach field is there for our septic system, so we're kind of constrained by that. And then with the width of the lot, it's not like I have enough room to comfortably drive around. It would be a narrow driveway to get past that leach system to then the garage itself/pole barn.

MARK MERRY: Thank you.

MR. DANISH: Yep. No problem.

ADAM CUMMINGS: This is not the first one we have seen here on Morgan Road in the AC District.

Just his lot width of 96.3 feet, it's impossible for him to put any structure and maintain 50 feet on each side.

JAMES WIESNER: The 50 feet is due to the AC --

ADAM CUMMINGS: Yep. Yep.

FRED TROTT: You're removing the existing garage?

MR. DANISH: Taking down the existing garage. I'm speaking with a few contractors now for quotes -- obviously pending approval of everything, but just seeing where numbers are, whether the current existing breezeway -- would we be able to use that existing breezeway and attach the new garage or does he have to redo this, as well?

Again, the construction of that breezeway as it is is a little rough, so to speak, so I'm not sure if it would be better -- in my best interest to just do it all in one and attach it right to the house there or would he be able to use that and build new from the breezeway out to make this garage itself?

FRED TROTT: Would that change the footage?

MR. DANISH: No, no. The -- well, the building itself, as on the diagram I showed you guys, the -- the current breezeway is measured existing as it is now. So it doesn't change width or length of that breezeway there. That is measured to the foot as it sits right now with the existing one-car garage. So it wouldn't change that at all. And the height of that breezeway would stay the same no matter what, whether we use the existing one or we just incorporate that with a pole barn construction breezeway.

PHILIP SUPернаULT: I guess I'm confused. Is this going to be a separate standing building?

MR. DANISH: No, sir. My current garage has -- like probably 8 foot or so long by 5, 6 foot wide covered walkway, if you will, enclosed. To me it -- what it looks like is the garage at some point was detached and someone attached it. You know, that is why they're not square to each other. The garage was just sitting in the yard. Someone wanted to make it covered when they left the kitchen, to get to the garage, so they're not going outside. So it shouldn't change anything in that regard.

I'm sorry. I forgot the question.

PHILIP SUPернаULT: So you're demolishing your present garage?

MR. DANISH: I would like to, yes, sir.

PHILIP SUPернаULT: You're replacing that garage with basically another garage?

MR. DANISH: Correct.

PHILIP SUPернаULT: But you're making it larger?

MR. DANISH: To accommodate an additional vehicle and other storage space would be nice, as well.

PHILIP SUPернаULT: I got confused by -- and now you have a pole barn.

MR. DANISH: Pole barn is just for the ease of construction. We're not looking for a -- you know, 16-on-center wall-set construction. It would be framed like a regular house. It's just more economical to do that. All we're basically looking for is dry storage to get the vehicle out of the elements when the time comes like now and be on our way. Just a feasible way to accomplish what I would like to have.

ADAM CUMMINGS: So I have a scenario question for you. You have got 15 feet on

your primary structure off the other side lot line. Would it be -- I know it's not your desire to have it -- we're not talking about square footage of the building today. We're talking about the side being 10 feet and it is supposed to be 15. But if we match the 15 feet on the opposite side, the east side, that would shrink it by 160 square feet and make it 27 feet by 32 feet.

Are you following me there?

MR. DANISH: No. I'm a little confused. I understand the west side setback 14.90 --

ADAM CUMMINGS: So I'm looking at -- north is up on your map. So on the east property line, you have got 14.9. I'm rounding to 15 feet. Then on the back corner it is 15.2 feet.

I'm saying to maintain 15 feet instead of 10 feet on the west side, shrinking your building's width from 32 feet to 27 feet to make it 15 feet. Did you ever think about that to mitigate --

MR. DANISH: Oh, I see what you're saying -- to match the setback on both sides.

I did not think of that myself. The reason I went with the 32 width is that allows me to do a -- one 10-foot wide door and then one 16-foot wide door. Because in addition to my wife's car and my full-size pickup, I have a little Kia runaround car, you know, for wintertime and stuff like that. That kind of thing.

At first I was going to do 2 12-foot wide doors and then I was like well, I have another car and I still have to brush that off when I go snowplowing. If I could do a 16-footer, I could fit them both in there when needed. And then in the summertime it doesn't really matter whether I put them in there or not put them in there. But it's just an idea.

PHILIP SUPERNAULT: So you're trying to get three vehicles -- trying to get a three-vehicle garage scenario? Is that what you're trying to do?

MR. DANISH: Correct, sir. Yes. 16-foot door is the -- 16-foot and a 10-foot door is the most economical thing I could come up with to accommodate having three vehicles in at one time and also, like you said, trying to keep it as tight as I can without overdoing it.

Even a 16-foot wide door is still a little tight with two cars. But it is one of the things where my wife works from home most of the time, so, you know, it's not like she needs to pull the vehicle in and out every day except to go to daycare to drop our daughter off. It can be a little tight between her car and my car and it is not really a big deal. Where if she was going every day, it might be something else.

PHILIP SUPERNAULT: Do you utilize all three vehicles all year?

MR. DANISH: I do, yes. Unfortunately.

#### COMMENTS OR QUESTIONS FROM THE AUDIENCE:

MELISSA DENAGLE, 95 Sheffer Road

MR. DENAGLE: Hi. My name is Melissa Denagle at 95 Sheffer Road. I drive by this property a lot and I just want to say he keeps his property well maintained and as a neighbor who drives by this property probably several hundred times a year, I'm in full support of my neighbor.

ADAM CUMMINGS: Thank you. Nice to hear -- we had a lot of public comments today. Nice to see some participation.

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

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

ADAM CUMMINGS: One condition of approval is you are going to have to get a building permit. So you already started that and continue on working with the Building Department on that.

Side Table, I do have one question for you. Sorry to interrupt you real quick. If he has the scenario -- right now it's being shown as an attached garage.

Does it change anything if he doesn't attach it? I like that we word it as an accessory structure to cover both bases, the way I view it.

Am I correct in that statement?

PAUL WANZENRIED: Sure. We'll go with that. It won't matter.

ADAM CUMMINGS: Okay.

PAUL WANZENRIED: Won't matter. He's --

ADAM CUMMINGS: It's still going to be a side setback.

MATTHEW PISTON: That's really all that matters.

PAUL WANZENRIED: Setback area -- not an area or detached offer --

ADAM CUMMINGS: Technically the primary structure shouldn't have even been allowed on this property if he met the code because it's only 96 feet wide.

PAUL WANZENRIED: If you want to go that route, it is pre-existing, non-conforming. We can go down that dark path.

ADAM CUMMINGS: Right. I don't want to. Thank you.

PHILIP SUPERNAULT: You could say a rabbit hole.

ADAM CUMMINGS: One condition of approval there. I just wanted to have that brief discussion about it. I was only sharing that scenario to see -- because our goal is to minimize variance requests.

MR. DANISH: Of course.

ADAM CUMMINGS: But once again, 10 feet, small lot, the rest of them were pretty spread out. We have had other ones -- they are more centrally located in the rear lots, but I -- I

don't think we have approved any at 10 feet, but we have approved some that are not near 15 on Morgan Road.

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.

ADAM CUMMINGS: I would like to ask for a motion to adopt this application with that one condition.

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

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. Variance request is minor and several other properties in the area have received similar variances in past due to their pre-existing size prior to the adoption of newer zoning requirements.
6. Application of William Farrell, 1300 Dumore, Pennsylvania 18512, Rochester Cornerstone Group Ltd., 460 White Spruce Blvd. Rochester, New York 14623 owner; for a variance to allow front yard parking (not permitted) at property located at 200 International Blvd. in LI District.

ADAM CUMMINGS: Nobody present?

PAUL WANZENRIED: I thought that gentleman was --

MR. MOSBURGER: Not I.

ADAM CUMMINGS: We won't make you stand in for them.

PAUL WANZENRIED: It's a front parking.

ADAM CUMMINGS: It's for front parking over on International Boulevard. We have had it constantly of every property on International Boulevard.

PAUL WANZENRIED: They all come in that way.

ADAM CUMMINGS: There is no avoiding it.

So, Counsel, can we move on with this without their representation?

MATTHEW PISTON: You can decide whether or not you have enough for the application to move forward. You can decide to table it. You can -- it's your call.

ADAM CUMMINGS: Let's discuss it. This will be the application of William Farrell, 1300 Dumore, Pennsylvania 18512, Rochester Cornerstone Group Ltd., 460 White Spruce Blvd. Rochester, New York 14623 owner; for a variance to allow front yard parking (not permitted) at property located at 200 International Blvd. in LI District.

MARK MERRY: Question is how bad do they want it? They can't take the time to walk in the door. Even you came late.

ADAM CUMMINGS: They might be coming next Tuesday like I was. I don't know.

MARK MERRY: That's my question.

ADAM CUMMINGS: I think we'll put that onto you, Paul (Wanzenried), to ask them why they didn't show up. But I would still like to proceed with this one. Oh, Costich did this one. Very surprised they had -- didn't have someone here.

FRED TROTT: No. But in support of Five Star, I -- in my former life, I understand why they would like front parking to keep equipment and garage space separated from the customers.

ADAM CUMMINGS: Yes.

FRED TROTT: So it makes a lot of sense to me.

ADAM CUMMINGS: And not only the customers, just the general public.

FRED TROTT: Yes.

ADAM CUMMINGS: Some heavy expensive equipment. If someone has a master key, they can make off with it pretty quickly.

FRED TROTT: Yes.

PHILIP SUPERNALT: I kind of compared this with -- with the previous applications. I didn't see in terms of topography and things like that -- I didn't see much difference. So I -- I don't have a problem with it, I guess. I mean part of me says they should walk through the door because it's not -- I mean -- homeowners are walking through the door, you know. These people have attorneys and all kinds --

ADAM CUMMINGS: But at the same respect, they did submit a lot of professional documents to give a -- almost to the point that they didn't need anybody to present it because the documents --

MARK MERRY: Unless they changed their mind.

ADAM CUMMINGS: They're stuck with what they submitted. They can't change their mind unless they come --

MARK MERRY: You can always change your mind.  
ADAM CUMMINGS: -- and you reapply.  
MARK MERRY: This person changed their mind.  
PHILIP SUPERNALT: All I have.  
ADAM CUMMINGS: Side Table?

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

ADAM CUMMINGS: Motion to close Public Hearing?

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

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

ADAM CUMMINGS: Public Hearing is closed. I don't have any conditions of approval on this one.

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 James Wiesner seconded the motion. The Board all voted yes on the motion.

ADAM CUMMINGS: Motion to adopt the application?

Fred Trott made a motion to approve the application with no conditions, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 4 yes to 1 no (Philip Supernault) with no conditions, and the following finding of fact having been cited:

1. Variance request is minor and several other properties in the industrial park area have received similar variances in the past due to the unique characteristics of this particular industrial park.

ADAM CUMMINGS: Minutes.

PAUL WANZENRIED: No. No. You have the first Application Number 1.

1. Application of Misty Irwin, 2339 Westside Drive, Rochester, New York 14624 owner; for a variance to A.) Erect an accessory structure in the front yard (not permitted); B.) front yard setback to be 50' (75' req.); C.) Side yard setback to be 5' (10' req.) at property located at 2339 Westside Drive in R-1-15 District.

ADAM CUMMINGS: Oh, you're here --

PAUL WANZENRIED: That gentleman is quiet and sat there all night.

ADAM CUMMINGS: We can open the -- what did you guys vote to do?

MATTHEW PISTON: There is a question as to posting and whether this was actually posted. So you --

ADAM CUMMINGS: In terms of the signage?

MATTHEW PISTON: You might want to consider tabling it to get that issue resolved.

JAMES WIESNER: Never posted their sign and didn't show up. So we were pulling it back to the back of the agenda.

ADAM CUMMINGS: Oh, I got you. I thought you guys already voted to table it already. There was no Board action earlier. I see.

JAMES WIESNER: They didn't show up and didn't post their sign.

FRED TROTT: We have a neighbor.

ADAM CUMMINGS: I said -- no kidding.

FRED TROTT: I didn't care what you said. We have a neighbor here that --

ADAM CUMMINGS: Yes.

FRED TROTT: Are we allowed to hear him?

ADAM CUMMINGS: We posted it, we published it, but we didn't put it on the sign. Since it was publicly noticed, can we still have the Public Hearing and then table it? We can always reopen the Public Hearing later.

MATTHEW PISTON: Or not close the Public Hearing.

ADAM CUMMINGS: Or not close it. It -- that would be better than tabling it.

I will go ahead -- or I will open the Public Hearing.

Sir?

GARY MOSBRUGER, 25 Irvington Drive

MR. MOSBRUGER: I live kitty-corner behind the Irwins. I really just had questions. There is an existing shed in the front of the home. I didn't know if this was for a third additional shed or a --

PAUL WANZENRIED: No. For that playhouse.

MR. MOSBRUGER: I was wondering what the purpose was.

PAUL WANZENRIED: Front yard.

ADAM CUMMINGS: So we're here -- that's what -- A, B -- all of them are because it's in the front yard and getting code compliance to determine if that should be allowed in the front yard.

MR. MOSBRUGER: Got you. Any reason you can't go in the backyard?

ADAM CUMMINGS: I can't speak to that answer without the applicant being here.

MR. MOSBRUGER: I don't know it concerns me. I can hardly -- never even noticed it but was curious what she was doing there and that is why I showed up. That's all.

ADAM CUMMINGS: Thank you. So we'll just leave it open.

FRED TROTT: Do we need to make a motion?

ADAM CUMMINGS: No. Just remains open.

FRED TROTT: Okay.

PHILIP SUPERNULT: So what -- what is the process for the applicant then? Moving forward?

ADAM CUMMINGS: They better get the signs posted before the next meeting unless they want to withdraw their application.

PHILIP SUPERNULT: Are they automatically on the agenda for the next meeting?

ADAM CUMMINGS: Yes. It's a continuation of this one. But since we didn't see the signs posted, I would recommend they put them up.

JAMES WIESNER: Then they get what, two or three meetings and if they don't comply, then they get tossed?

ADAM CUMMINGS: Right. Two meetings, right?

MATTHEW PISTON: I don't know that there is anything in State Law that says that, but -- but it's really within your purview. You don't have to continue hearing it.

ADAM CUMMINGS: I thought we had to do something within 62 days.

MATTHEW PISTON: Of the closing of the Public Hearing.

ADAM CUMMINGS: Right.

MATTHEW PISTON: I'm sorry. I --

ADAM CUMMINGS: That's what he is -- was saying. Two to three months. If we close the Public Hearing --

MATTHEW PISTON: Yes.

ADAM CUMMINGS: If we close the Public Hearing next month, we have 62 days from that close.

MATTHEW PISTON: Correct. I did not know that that was part of the question.

ADAM CUMMINGS: That was your question, right?

JAMES WIESNER: Yes.

ADAM CUMMINGS: Now we'll go onto the minutes. Ask for a motion to accept and adopt.

Fred Trott made a motion to accept and adopt the 10/25/22 Zoning Board of Appeals meeting minutes, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

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 ended at 8:25 p.m.