

CHILI ZONING BOARD OF APPEALS
August 25, 2009

A meeting of the Chili Zoning Board was held on August 25, 2009 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 Paul Bloser.

PRESENT: David Cross, Adam Cummings, Robert Mulcahy, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Chris Karelus, Building Department Manager; Keith O'Toole, Assistant Town Counsel.

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

PAUL BLOSER: Mike Nyhan is excused this evening due to work matters.

I would like to introduce Jim Martin, Planning Board Chair, is in attendance tonight at this meeting.

We are getting into election season, and all I ask is during public comments, that comments be contained to the application at hand and not personal political agendas. I appreciate the cooperation with that.

First, of the applications we're reviewing tonight, does anybody have any questions on the signs?

The Board indicated they had no problems with the notification signs for the applications on the agenda.

1. Application of Indus Companies, 1170 Pittsford Victor Road, Pittsford, New York 14534, property owner: Chili Avenue Associates; for variance to erect a two-story hotel to be 41' from front lot line (75' req.) at property located at 3260 Chili Avenue in G.B. zone.

Betsy Brugg, Jett Mehta and Kip Finley were present to represent the application.

MS. BRUGG: Thank you very much, Mr. Chairman, members of the Zoning Board. For the record, my name is Betsy Brugg. I'm an attorney with the firm of Fix, Spindelman, Brovitz and Goldman, and I'm here on behalf of Indus Companies on this application this evening. I know that you're all familiar with the -- a prior Microtel proposal that had been floating around for a while back. We are here tonight in connection with a new and separate application. The proposal remains for a Microtel. We're still talking about the same location, but the project is significantly different than the iteration that was presented in the past.

With me tonight is Kip Finley to answer any questions regarding site plan. I will let Kip (Finley) talk about that.

And Jett Mehta is the owner, developer, operator of this particular Microtel. And Indus Companies is in the business of owning and operating various hotels, restaurants and other businesses throughout our region.

As far as the site, we're talking about a site that sits -- approximately two acres in size, sits behind -- directly behind the Bank of Castile and the Valvoline Oil Change on Chili Avenue adjacent to Chili/Paul Village Plaza. If you're familiar with the site, it's currently a vacant lot. It is surrounded by commercial uses in the plaza and along Chili Avenue, the most intense commercial uses in the Town of Chili. And also sits adjacent to a lovely residential neighborhood to the west which sort of wraps around a portion of the site. The site is somewhat challenging in terms of development because it is a flag lot. It is, I believe, possibly the only flag lot in the Town of Chili, but you do find flag lots in various places throughout the County. By flag lot, I mean it does not have its entire frontage on Chili Avenue. Rather, it's a lot that sits almost entirely behind the two existing businesses, the Bank of Castile and the Valvoline, with an access back into the lot from Chili Avenue. Other access points are through the shopping center to Chili Avenue and Paul Road, as well.

As a flag lot, and given the various provisions of the code that apply to the development of this particular parcel, in this particular location, there are some physical constraints presented by the lot. We have done our very best to overcome those.

The earlier proposal, the earlier project that came before the Town was significantly different than what we're talking about tonight, and I will just reference it only because I know there are a number of people who were familiar with that and very interested in this project.

What originally started as a three-story building hotel, and I think it originally had different orientation, moved around, and changes were made to the site plan, is now proposed as a smaller project. We have gone from 67 rooms to 52; is that right? To 52 rooms and brought it down to

two stories. This Board had granted a height variance, but in this case, we're actually proposing a much shorter building that will actually conform to code.

And the initial proposal required a variety of variances pertaining to the site, to signage, to the building, and we have been able to eliminate most of those variances. The only variance required and really the only issue before this particular Board is the question of the front setback.

I will just walk over to the plan briefly. Can you hear me? Do I need to have a mike? All right. I will just walk over here.

What we're talking about is the front setback of the building. It is marked here at 41 feet. The code requires a setback of 75 feet for buildings that front on Chili Avenue. Anywhere else on Chili Avenue, what you're talking about is measuring the distance of the front of a building to Chili Avenue, such as in the case of any of the buildings fronting along here (indicating). Because this is a flag lot, and the unique conditions of this particular parcel, we're actually quite a bit more than 75 feet from Chili Avenue, but an interpretation has been made that a front setback should be measured within the buildable area of the lot, essentially measuring from the front of the building to the closest lot line, which is actually the Bank of Castile. That said, I believe we are over -- we are some 260 feet actually from Chili Avenue at the closest point, and 120 plus feet from the -- I believe this was the drive-thru of the Bank of Castile, and I think somewhere 160 feet from the back of the building.

So there is actually quite a bit of separation. All of the sites function properly. The setback variance is really -- it's really a variance on paper more than anything. It doesn't have actually any impact. The important thing to know about this particular variance is that it is a variance that will have actually no impact on any of the adjacent residential neighbors. Every effort has been made to give you an attractive project that mitigates and minimizes and eliminates any potential adverse impacts from the particular variance that we're talking about and from the project as a whole. But in respect to this variance, we're as far away from the neighbors as possible and this variance enables us to provide not only the required buffer, but in excess of what is required. So there is a significant green area that is provided to provide buffer to the residential neighbors. It will not only conform to code, but it will exceed code. It will be heavily screened and landscaped. We'll go through that all at different process, part of the Planning Board process, not really something before this Board. The only issue we're really here for tonight is this one particular variance (indicating) and whether this particular variance satisfies the criteria that this Board is obligated to consider under the Town law.

So I will briefly touch on those criteria. What I have done is I have actually put my presentation in writing so you have it in your record, but I will go through it. Just bear with me.

I know the Board is very familiar with the legal standards, but I'm here, so I am going to go through it relatively briefly.

In making your determination, the Board shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood in granting the variance. In this particular case, the variance we're talking about is necessary for development of this parcel, and at the same time, will have no adverse impacts on anyone. It is essentially located in an area of the site where a few feet more, a few feet less is not going to make any difference because it doesn't affect the functioning of the site, doesn't affect any adjacent neighbors or the enjoyment of their property and it is not essentially visible from Chili Avenue. The building actually sits farther than the setback requires from Chili Avenue and we have screening of this building largely by the existing businesses on Chili Avenue. We have an existing shopping center and then there is adequate protection provided for the residential neighbors from the project itself, but this variance, this particular variance the Board is considering tonight actually has no impact on any of the adjacent residential neighbors because of the nature of the particular variance that we're talking about.

In making your determination, the Board will consider whether there is an undesirable change produced in the character of the neighborhood or any detriment to nearby properties created by the granting of the area variance. And again, there is no undesirable change created by this particular variance. The lot is a flag lot. The nature of this lot is really what dictates the need for the variance. Virtually any development of this parcel would most likely require some form of relief and this is really the -- has a very minimal impact. In fact, it has no impact at all on any of the neighboring uses, and the -- and the site functions properly, and other improvements are provided that essentially make this a fabulous development for this location, make it fit for the this site, make it fit with the shopping center, make it fit with the adjacent development on the street and really have no impact on the residential uses.

Whether the benefits sought by the applicant can be achieved by some method feasible to the applicant to pursue other than the area variance. We have explored every avenue and this variance is necessary for the development of this site and for the development of this project. Whether the requested area variance is substantial. The variance is not substantial in impact, nature or amount. When you look at whether a variance is substantial, you need to look at the context in which we're looking at this. We're looking at a setback variance for a commercial use, as it relates to a commercial development in a larger commercial plaza. The front setback of this building directly relates to other commercial uses. And we don't really have any impact whatsoever. Nobody that drives by the site is ever going to say, "Wow, that building is too close to the Bank of Castile" or "too close to the shopping center." The nature of the variance is the fit within the shopping plaza. I think it is important to note while this flag lot is unique, the need for variances within shopping centers generally is relatively common, and that is because very often we have odd lots carved into shopping centers. That is the nature of commercial development.

You may have a business that comes in that needs to lease their parcel. You may have another business that needs to come in and own their parcel. You might need somebody that needs to carve out a parcel because of financing reasons. It is not uncommon to find this type of variance in other communities, in other shopping center settings.

So I think that is also an important consideration.

And I believe that adequate separation and setbacks are provided. We have adequate separation from both the Bank of Castile, the closest user, and from Chili Avenue.

The next question is whether the proposed variance will have an adverse effect or impact on the physical or environment conditions in the neighborhood or district. Again, for the reasons we have already stated, I don't believe there will be any adverse impacts whatsoever. Quite the contrary. We're generally upgrading and improving the site, providing a whole lot of landscaping, buffering for the residential neighbors that does not currently exist, and presenting and including a lot of site improvements that will improve the appearance of this property and present a very attractive project to the traffic on Chili Avenue and those in the plaza. Among the various improvements that are going to be incorporated are improvements that will really enhance the appearance of that area that brings this site together with the shopping center. A pedestrian walkway is included in the site plan. It's in the works. And we're working on other improvements related to the dumpsters and other aesthetic improvements to really upgrade the overall appearance of the front of the property.

Whether the alleged difficulty was self-created, which is relevant to the decision of the Board, but shall not preclude the granting of the variance. In this case, we believe that the variance is required because of the physical restraints of the property, the nature of a flag lot, the location of the property. It is very unique to have a parcel that sits within essentially what are the most intense commercial uses in the Town, and also sits adjacent to residential use, as well, being subject to a setback requirement that is typically measured from the street, to the front of a building in the case where we have a flag lot where the building is really screened from Chili Avenue, screened from the street, so the intent of this particular setback requirement almost doesn't fit with the particular parcel that we're talking about.

We believe that the variance that we're requesting is the minimum relief necessary, and I would be happy to answer any questions with respect to the application.

If you have any questions regarding the site plan, I was going to allow Kip (Finley) to go through that, but apparently I talk a lot, so...

MR. FINLEY: I only have one comment.

Hello. Kip Finley with Avery Engineering, for the record. And literally Betsy (Brugg) did go through -- I checked off most of my notes except one particular thing I wanted to show on the overhead projector.

During the process we were asked some of the "what if" questions through the planning process with the Town, and one of them was what other things could have been done to minimize or -- so that we didn't create this hardship. And -- I don't know if that is the projector or the lights. Just for the sake of this, this is the building that is proposed (indicating). This line is the 75 foot setback (indicating) and the one thing that I wanted to point out is when this went from the three-story building to a two-story building through the public process and the Planning Board, in order to keep a minimum threshold of rooms to make the hotel viable, we had to -- we brought the roof down, but we had to expand two bays. The two bays, about 26 feet is right here (indicating). If, for some way economically, we were able to take off any more rooms, we would be so close to meeting the 75-foot setback that with a little juggling we may not need the setback, but we have been kind of pushed into this. By the time we had the added buffer on the west side for 50 feet and kept that away from those residents, the new code kicked in between the time we started and the time we finished, which gave us 60 feet on the north side, and then the request to go down to a two-story building kind of made it to where we have no other choice than to push the front setback tighter. That is the only point I wanted to make, is that we can't do anything else to make it less or we would lose about eight rooms, which just wouldn't make it feasible. All right?

DAVID CROSS: Quick question about the number of rooms. How many are you down to now? What was the original with the last application? How many are you down to now?

MS. BRUGG: It was 67 and it is down to 52.

DAVID CROSS: And roughly what percentage did the footprint of the building grow?

MR. FINLEY: It's about -- just off the top of my head, about 15 to 20 percent. We had to add 26 feet to a building that's -- was about 100 something. In that range. So we did -- we did lower it to make the visual impacts less for the surrounding neighbors, but to do that and still keep the rooms, we had to make it longer. Which also -- I didn't show the picture, but if we turned the building 90 degrees again, it crosses the site, so it cuts off fire access. It really goofs up the entire site.

FRED TROTT: What happens to the previous zoning variance which was for the three-story?

MR. FINLEY: As far as we --

MS. BRUGG: What was the question?

MR. FINLEY: With -- the height variance we received once before would go with the property, from what I understand, but we don't need it any more. It is basically just an empty variance.

PAUL BLOSER: The only question I still have, and I think it was answered at the last Planning Board meeting, because this pretty much is still the same. I guess I will call on Jim

Martin, if you remember this. As far as this flag lot coming in, we had approvals from Fire Marshal for all access at this point, on this configuration?

JAMES MARTIN: Yes, correct. Even with the previous project, we had met all of the code requirements from a fire access standpoint as verified by the Fire Marshal.

MR. FINLEY: Just to elaborate on that, we did go to the Traffic Review Committee with the new plan, which is very similar in layout of the loop around. It still has 26 foot wide aisles for emergency access, and they were fine with the plan. Their only comment was just make sure we have clearance for power lines going into the plaza. And also just to check, I did check with the Town Engineer, Ken Hurley and Dave Lindsay, DPW Commissioner, and both of them say they really have very little for engineering comments on the new application because they had reviewed it and all of the questions had been answered through the whole process.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JAMES MARTIN: Jim Martin, 34 Sunset Hill, Chairman of the Planning Board. Yes. I would just like to point out and reemphasize some of the comments Betsy (Brugg) has already made. This application will be on the Planning Board agenda for September for all of the preliminary approval processes. I don't know who plans to speak here tonight in the Public Hearing, but certainly issues of parking, truck traffic, landscaping, all of those things will be addressed by the Planning Board, all right, during the -- you know, the hearing that we will have on this particular application. You know, this is a whole new application coming before the Planning Board, so all of those issues will be addressed again, all right, by the Planning Board as part of our process. So I just wanted to reemphasize that tonight, that those issues are really not under discussion. They should be brought to the Planning Board at the September meeting by anybody who has concerns about those particular issues. Thank you.

PAUL BLOSER: Thank you.

TERESA CROZIER, 21 Shrubbery Lane

MS. CROZIER: Teresa Crozier, 21 Shrubbery Lane. Um, I feel that it is excessive to ask that the frontage be reduced from 75 feet to 41 feet. This is Chili Avenue. Obviously the main highway in our town. Reducing the minimum frontage required by close to half should not be allowed. If you adhere to our zoning laws, some buildings just don't fit on some pieces of land.

The design has gone from three floors to two floors, but by doing that, they have had to make the footprint larger. In order to accommodate the minimum buffering to the residential properties, they're sacrificing the frontage requirement. This requirement is important and the variance should be denied. We have these zoning laws for a reason and these excessive variances do not have to be approved.

I just want to say that I really took great care in my letter to the Zoning Board and in what I said tonight, that it is totally addressed to the area variance and nothing else. Thank you very much.

PAUL BLOSER: Before I go on, I guess I would be remiss if I did not acknowledge the copy of the letter I did get from the Croziers. The Board, all members did get a copy today. I do appreciate your comments on here. They're well thought out and I understand your points of view, and I do appreciate that. This will be entered as a matter of public record with us, also.

JAMES MARTIN: Yes, just to clarify, obviously my comments addressing the application that we would be hearing in September presumes that a variance was granted tonight. I would never make that assumption, all right, as far as this Board is concerned. Okay. So I do want to go back on the record saying if the variance was to go forward, we would be hearing this in September.

PAUL BLOSER: Okay. Thank you.

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: How far back from the Chili Avenue are the Bank of Castile and the Valvoline Oil? Are they -- do they conform?

MR. FINLEY: Mr. Chairman, if it helps any, during the design of the project, I remember checking that, and I think they're probably very close to being at that 75 feet.

PAUL BLOSER: I'm just looking at it right now. They appear to be really, really close to that much.

MR. FINLEY: Give or take.

MS. BRUGG: I'm hesitant to say this, but I do believe the Town may have made interpretations in years past, interpreted the required setback differently. I believe there was a time when the interpretation of the code -- prior to Mr. Karelus, was -- the code was interpreted differently. I believe 60 foot is what the prior Building Inspector may have -- there may have been a question of interpretation at one time. I hate to say, but there may have been past issues, there may have been other things involved prior to this project.

DOROTHY BORGUS: The only other point I would like to make is the way this application is worded, "two-story hotel to be 41 feet from the front lot line, 75 feet required," would lead one to believe that we were looking at 41 feet from the setback off Chili Avenue. This lot is -- if my recollection is correct, this lot has not been subdivided?

PAUL BLOSER: It has not been subdivided at this point.

DOROTHY BORGUS: So your application reads "41 feet from the front lot line." I take that to be 41 feet off the right-of-way on Chili Avenue. I mean -- you know, Mr. Martin says he

wouldn't presume that this -- this was going to pass, and -- in his comments about the Planning Board. Well, by the same token, aren't we presuming here? This really is not worded correctly.

PAUL BLOSER: Kip (Finley), could you comment on --

MR. FINLEY: One of us will.

MS. BRUGG: I think -- I don't have the code book in front of me.

The 75 -- this is a unique lot because it is a flag lot. If you literally interpret the code, we actually don't need the variance because we are more than 75 feet from Chili Avenue. However, an interpretation was made that it would -- that the measurement should be made to the lot line, as with, um -- as was done here. The fact we're at the Zoning Board before the Planning Board is just a matter of order. As this Board knows, you can put reasonable conditions on approval such as this is based on -- there is also an application to the Planning Board. The application is for site plan approval, subdivision and also for a special permit.

It doesn't make sense -- in this case we're here at this Board prior to going to the Planning Board because we need this variance in order to then proceed with the plans for the larger development of the site. There is quite a bit more work that needs to be done to get before the Planning Board, expensive engineering and that type of thing that goes into the process.

PAUL BLOSER: That would be a condition that I would be putting on.

MS. BRUGG: The 41 foot is based upon a subdivision approval.

PAUL BLOSER: Right. It is -- this --

MS. BRUGG: This is not uncommon.

PAUL BLOSER: This application is subject to Planning Board approvals and site plan approvals.

MS. BRUGG: That's correct. It is not uncommon for applications to go in all types of orders. It happens as a nature of the meeting schedules and the need to address issues before going to the Planning Board. Certainly if we did not get the variance tonight, the effort would not be made to work on this particular plan for the purposes of a Planning Board application.

PAUL BLOSER: Okay. Then let's go back. I want to go back to address the question at hand for clarification.

The 41 foot is the front of the hotel to what point?

MR. FINLEY: I think -- if I could reiterate what I think the question was, is right now, tonight, the parcel is not subdivided, so that the way you read -- the way we're asking for it is that if we were looking for a variance for the lot as it exists tonight, it -- if it was granted and not tied to the subdivision and site plan approval, theoretically we could expand Valvoline into 41 feet off the road and put an addition on Valvoline. I think that is -- is that -- are we understanding it?

DOROTHY BORGUS: We are, but I'm just wondering how this Board is going to put a condition on 41 feet from what line? Mr. Bloser is entirely right. What does he call that line? You don't have a must be. You don't have a location. How can you put 41 feet from anything when it doesn't exist yet?

CHRIS KARELUS: Chairman Bloser, we have a lot ID we filed with the County Clerk's Office. That lot filing with the condition will sit on that lot subject to Planning Board subdivision approval. R2D is filed with the County Clerk's Office.

PAUL BLOSER: The 41 foot, again, my understanding is going to be from the front of the building to the front portion of the lot at that point.

CHRIS KARELUS: Lot line closest that provides buildable area.

PAUL BLOSER: After the subdivision is made, that is where it is going to be?

CHRIS KARELUS: Correct.

ADAM CUMMINGS: I see. So when we go off the storm water pond at 2A, it could go 41 feet from there?

PAUL BLOSER: If it is squared off, yes. And, again, this whole thing is subject to Planning Board approval, so if we say yes, we're going to grant the variance for that, it is still before the Planning Board for site plan approval and subject to their approval in the end.

Does that answer your question?

DOROTHY BORGUS: I'm very jumpy about these conditions and technicalities because we have a very serious situation in North Chili, nothing to do with this Board, but where another Board did not dot their "I"s and cross their "T"s, and I think this is wide open. I don't know how exactly you're going to word that, that that is what they get and not 41 feet from some other line that gets close even later. Thank you.

KEITH O'TOOLE: Mr. Chairman, if I may, we have a drawing from Avery dated July 10th. It shows the measurement of 41.8 feet essentially from the proposed hotel structure to what would be the -- essentially the rear line of the Bank of Castile lot if the subdivision is approved. That is part of their application materials and that should make it fairly clear as part of the record what it is we're granting. So I don't have any concerns in that regard.

PAUL BLOSER: Okay. I see that on the blueprint here also. So that is where we're taking that from.

Kip (Finley), on that print does that show the 41?

MR. FINLEY: The print underneath in the CAD drawing is actually a 41.8 feet dimension to the building because of overhangs or anything, but we requested 41 to be safe. But it is in the CAD drawing.

CAROL THOMS, 122 Stryker Road

MS. THOMS: I was at the meetings where the first application was -- was brought, and the gentleman from Indus at that time said there is no way that Microtel will build a two-story.

He said they won't go ahead and do it.

So -- and at that time I had also looked online and saw where Microtel was building. So the credibility of this gentleman from Indus to me right now, he is not credible, because he wasn't honest with the Boards. If he is saying now that they have to have that 26 feet, I'm wondering whether that is really true.

Thank you.

DAVID CROZIER, 21 Shrubbery Lane

MR. CROZIER: This is not about the distance off Chili Avenue. It is more about the applicant stretching the footprint of the building to excessive proportions. The site plan shows not more than a 5 foot sidewalk separating that rear entry from the drive lane and traffic, snowplows and delivery trucks that will be using it. They have got barely more than adequate frontage.

Their rendering shows bump-outs on the two ends for structures over the doorways. Their 41.8 feet is to the front corner of the building. It is not taking those bump-outs into consideration. I don't think they have room for them anyway. They will be back in here in front of you again at the completion of the project just like Walgreens was for new variances.

How come they're not on the site plan, those bump-outs?

PAUL BLOSER: What bump-outs are you --

MR. CROZIER: The two ends of the buildings, they have like roofs over the entrance. They're not reflected on the site plan.

PAUL BLOSER: I see what you're saying.

MR. CROZIER: The 41.8 feet is to the front corner of that building. It is not to the bump-out. The bump-out would be closer.

I don't know if they will get approval this time around. To me the concerns the Planning Board had last time around would still be concerns for any proposal that comes forward. I do know you have the opportunity tonight to lessen the impact on our neighborhood. The original footprint would have given them 42 rooms in a two-story design, much safer fit on that lot, in my opinion.

Supervisor Dunning hosted a private meeting for the neighbors that Mr. Mehta was at, and at that meeting, Mr. Mehta said he would consider 60 percent occupancy an extremely successful venture. I'm not sure if those were his exact words, but 60 percent was the figure he was using. You boil it down to 44 rooms -- 60 percent of 52 rooms is only 31.2 rooms. 60 percent of 67 rooms, the original application, would be 40.2 rooms. He will still have more rooms at 44, you know, than the 60 percent of either of those.

I'm asking you not to approve the variance and make them come in with a building that fits the site a little better, a lot more safely, and it is an extremely intense 24-hour-a-day operation and our neighborhood really needs to be protected here. Thank you.

MR. FINLEY: I would clarify that the bump-outs do work with the setbacks, if you want. They're on the plan.

PAUL BLOSER: On the -- what we have?

MR. FINLEY: They're on --

MR. CROZIER: They're not reflected on that site plan.

MR. FINLEY: The dashed roof lines. This will clarify it.

They work with the setbacks. On the front property line -- what happens with this is that on the front property line, the building and the property line aren't parallel. They're skewed a little, so at the closest corner we're asking for 41, but as the building goes back from the property line, there is room for a little canopy over the door and still keeping in the 41 feet. I just can't really show you on there (indicating), but they are -- they're not in the plan, the actual overhangs, but they do fit. We have them planned.

Paul Bloser asked for a second on a motion to close the Public Hearing portion of this application, and Robert Mulcahy seconded the motion. All Board members were in favor of the motion.

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

FRED TROTT: Is it possible, if it is already approved for the three stories, to fix the setback by having three stories?

PAUL BLOSER: I guess if we went to a three-story, yes. But I don't want to get into site plan issues. That is Planning Board. This project has been a long project. All of the committees involved and Boards involved put a lot of pressure on the designers and the owners of this to come up with something that will work here. There has been a lot of revisions and a lot of changes.

We had six variances we were looking at originally and they have scaled it down to one.

As far as looking at site plan, we can't. We're looking at the setback, from this -- from the property line that is before us.

A lot of the factors that have been brought up really are still Planning Board issues. It is not within our purview to address. I'm looking at the southwest corner here that is on the drawing and the impact. If we were to say yes at 41 foot, and they're back to us in five months for relief because their canopy goes beyond that, it would be in my mind to give a very flat no because I agree what I am hearing from the public, that if they come back for relief after the fact.

And I find it very unacceptable.

So what we do here, I want to be hard and firm, that that is our final decision, by vote.

I look at the 41 foot. I can't tell you how many times I have looked at this, and gone through the site physically and looked at it. And what would I want as a neighbor. Basically, we're making the decisions here for the neighbors. There is a lot of things that could go in here. There's a driveway. You know, certainly there is a comment made about the sidewalk being 5 foot from the driveway. Sidewalks in Chili Avenue are barely more than 5 foot. In some places the sidewalk is right at the curb, so I kind of disregard this more as a driveway than it is a main thoroughfare. So from that impact, I would say it is less. And the speeds are certainly less than it would be on Chili Avenue. So again, I'm weighing the things out from that aspect. It is not right on Chili Avenue. It's a very unique lot. Right now there is not another one that I am aware of in town that would ever be encountered with this.

I also look at any other type of business that went in there would also be looking at another setback issue because of what code is and interpretations of the code.

I think the decision is going to have to be made someplace, you know, at some time, for a setback on that -- if that is ever to be developed. And as far as what kind of business it is, that is not our call here.

I do look at the new revised prints on buffering and what they have done from the residential side, which is my biggest concern, and they have given them a nice buffering, more than we ever had before, and based on what they were looking for before.

The meeting that was spoken of that was hosted by Supervisor Dunning, I was in attendance at that meeting. It was a meeting requested by the developer and architect to have the homeowners on what they could do to be good neighbors. Supervisor Dunning offered to have that meeting here rather than all crowded into Avery's conference room where there wasn't room for it. I don't want to get into the issues of why this room was used, but I was there for the meeting so I saw what was said, what was everything. I think they have gone to great lengths to try to work with the neighbors to make it work.

I have a confidence level in the developer at this point to follow through with that. I have also stayed at two of these properties myself in the last year now for business travel. I made it a point to stay at those just to see what they were, rather than what was recommended to me by my company to stay at. I was very comfortable with the amenities and what they did there. And I know that it has no bearing on this, but it keeps coming back on what kind of business they're running. I see it to be an okay one.

Now it comes to is it going to fit and what are we doing with the setback.

Safety issues, I mean, Fire Marshal has gone through it and we got their stamp of approval. Traffic and Safety looked at it, we have their stamp of approval as it is laid out.

We have to decide with this unique situation, is it going to be acceptable from a zoning standpoint to give a variance, bottom line. I see arguments to both sides. These are one of those where you really have to look at the scale and decide what is now and in the future, what does this hold with the land at this point.

A drive-thru restaurant in there would probably be looking for a closer setback, if a drive-thru was going in there. They might be looking for a 20-foot setback or a 30-foot setback.

In the end, I think this would have less daily traffic and monthly traffic than a drive-thru restaurant would have in there. That is something that I have been tossing in my mind also, as far as what -- what type of business would go in and what kind of traffic would be going through there, what is the softest cushion. And this to me would be -- other than a nursing home, or adult care facility like that -- would be crowded with the least amount of traffic with -- than any other type of business. These are things that I am looking at from a safety standpoint.

One of the things, and this probably won't come out until Planning Board, but I know there has been some conversation with cleaning up this, where the drive comes into the back of the plaza, the side of the plaza right there at that corner, of dumpster removal, to get the restaurant's dumpster farther to the north, up to and possibly even including putting all of the dumpsters on one pad. I don't know where that is at, but it was something that was discussed, which would certainly, line of sight, and cleaning up that corner would offer a great, um -- a great improvement there also and it would compliment this setback requirement. Those are Planning Board issues. I know that is something that they're going to be looking at. I don't know where that is at.

Anybody else? Any comments?

FRED TROTT: Where is the proposed lot line on here?

MR. FINLEY: Are you asking the subdivision lot line between?

FRED TROTT: Yes, for the proposed subdivision line. Where would it be?

MR. FINLEY: It comes through the front driveway part of Valvoline. Right now there is a pond there. We're just making it bigger. It goes behind that. There is a minimum lot size, minimum dimensions for a subdivided lot, so we have to maintain that for this one.

So this is a shared storm water facility for all of these (indicating), that gets maintained, but the lot line is right there (indicating).

PAUL BLOSER: It kind of goes, cuts through the pond right there, a small portion of it.

MR. FINLEY: A little.

FRED TROTT: Then on the other side?

MR. FINLEY: The other side, the bank is already subdivided out. It runs the face of their sidewalk, along the edge of the driveway, over to this corner (indicating).

FRED TROTT: Okay.

MR. FINLEY: Right now the existing situation is a flag lot with a wide flag, and we're taking out a piece and making a narrower flag, which complies now. It is 50 feet so we don't need a variance for that.

JAMES WIESNER: I take it we're talking about -- the only thing we could do is reduce down the number of rooms. I'm assuming, and I think Planning has done that. I think there has been some sort of marketing study where the break even is, if they actually truly need those extra rooms.

PAUL BLOSER: This is the juncture we're at at this point. They have their final revision. After all of the recommendations and suggestions by the Planning Board, Architectural Committee, these are the plans before us from the efforts of all of the parties.

JAMES WIESNER: We're taking it at their word that the number of rooms is their minimum amount, that they can't go lower. There is no hard financial data or anything like that or marketing summary that the Planning Board has reviewed?

PAUL BLOSER: Not --

KEITH O'TOOLE: If I may. The Planning Board doesn't have that material on the record, no.

JAMES WIESNER: Okay. I mean that would be subject to part of their approval process, I guess, for the Planning approval?

PAUL BLOSER: This whole thing is subject to their --

JAMES WIESNER: I mean it is kind of murky, I guess.

MS. BRUGG: I will just chime in for one minute because this is a legal matter. Financial issues are not a relevant consideration in the granting of a variance.

PAUL BLOSER: Area variance.

MS. BRUGG: That's correct. We're not required to demonstrate financial hardship.

JAMES WIESNER: But is it the minimum requested?

MS. BRUGG: This is the minimum requested for the particular project proposed. There is no legal requirement that we justify. We have explained the reasoning for the downsize as being business reasons, and that is what you would get from any applicant. I don't believe this --

JAMES WIESNER: So it is in our judgment then as to whether that is reasonable.

MS. BRUGG: That's correct. It is based on the project and the actual impact of the particular variance. The question at issue is whether the benefit to the application outweighs the detriment to the health, safety and welfare of the community, and it is our position, and I think we have demonstrated clearly there is no detriment from this particular variance.

We're not here to talk about the project as a whole. We're here just to talk about this particular front setback variance. Whether this variance has any adverse impact and it does have a substantial benefit to the applicant.

As far as Mr. Mehta's credibility, I can only speak to the fact that like any business, you will see you trends with different businesses that come in for applications. The economic -- the economics of our times are very volatile, and the market has changed a little bit since we were first here. This project started I think a couple years back, really. So, you know, he was fortunate that he was able to modify -- modified the project, and that is in part due to the economics of the times that we live in. So I will leave it at that. Thanks.

DAVID CROSS: I have one question to clarify. Whether this variance would run with the land if we made it subject to Planning Board approval, if the Planning Board did not approve, would the variance -- the variance wouldn't be there.

PAUL BLOSER: Would it follow through with the land?

KEITH O'TOOLE: What you could do to avoid that problem, if it is a problem, you could put a condition of a time frame on it, or link it to the construction perhaps of a two-story hotel, as proposed on the plans submitted by Avery dated July 10th, 2009. Of course, if they deviate from that, then they would have to come back here again.

You got to keep in mind, that as a general rule, the variances do run with the land and you want to make it clear that, for example, if they decide not to build a hotel and decide to build something else back there, it may not be appropriate to have that kind of setback for a different type of use.

Thank you.

PAUL BLOSER: Counsel, then for a condition of approval, to clarify that, what would be the best way to word that?

KEITH O'TOOLE: I guess the question is what is your concern? Is it that it be for a hotel, or that it be done for a hotel within two years, or something like that?

PAUL BLOSER: I guess what I would like to say is the number one condition on this is -- is this variance is fine, subject to approval to Planning Board site plan approval, but we would like to say that for whatever reason if the Planning Board did not approve the plan, that we know that this is -- this variance is not going to follow with the land. You were just explaining how we could put a cap on it. How do we word that properly in a condition of approval?

KEITH O'TOOLE: Well, certainly subject to Planning Board approval for subdivision, site plan and special use permit for a two-story hotel. No later than blank date, whatever date you think is appropriate.

MS. BRUGG: I guess I would just have a suggestion. I'm just thinking, and I haven't seen exactly how that condition would be worded, should the approval be granted, but what is typically -- I'm trying to think how they're typically worded, because these conditions are not uncommon. But I believe that more commonly what you see is either a building permit to be pulled within, you know, a year or two years, or all other required municipal approvals from the

Town of Chili, you know, obtained within a year or something of that sort without getting, um, so detailed that you end up having to come -- the applicant ends up back at the Board for something that could be just a technical type of thing. And I certainly would leave that to you, but I would ask that you just keep that in mind in writing the conditions, that it be written to achieve the whole goal you want to achieve without getting too muddled.

KEITH O'TOOLE: I think what we're doing here, is we're considering a setback, which is based on the reduction in height from three stories to two stories from the previous application and that is the only reason we're doing this.

PAUL BLOSER: Correct.

KEITH O'TOOLE: So if you go back to three stories, it certainly wouldn't be necessary. So I think linking it to a two-story hotel, linking it to Planning Board approval, linking it to the three permits which we know they need, without necessarily getting hyper specific as to the building orientation or minor modifications that the Planning Board might impose is sufficient. Basically, the wording I just gave you.

Thank you.

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

PAUL BLOSER: Motion before us to adopt this application with condition of approval that it is subject to Planning Board site plan, use and is proposed to be a two-story hotel. Do I have a motion to adopt this application with that condition of Planning Board approvals?

FRED TROTT: I make the motion.

ROBERT MULCAHY: Second.

KEITH O'TOOLE: Is there going to be a date on that, Mr. Chairman?

PAUL BLOSER: Yes. Why don't we put date of approval not to exceed -- when is a fair amount? Six months?

KEITH O'TOOLE: You can give them a year.

PAUL BLOSER: Okay. Why don't we go 9/1/2010. Date of approval not to exceed September 1st, 2010.

With that, the Board vote.

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

MS. BRUGG: Thank you very much for your time and effort.

MR. FINLEY: Thank you.

KEITH O'TOOLE: Mr. Chairman, findings.

The Board discussed the proposed findings.

KEITH O'TOOLE: Separation between proposed hotel and existing Bank of Castile and Valvoline structures provides sufficient green space and other aesthetic setbacks in addition to proposed 41 foot setback. Nothing further.

One more request, Mr. Chairman. If you could perhaps offer a motion on those findings to the Board for approval?

PAUL BLOSER: Yes. For the Board's approval here, findings of fact. The separation between the proposed hotel and the Bank of Castile and Valvoline structures provides a sufficient green space and other aesthetic characteristics, setbacks in addition to the proposed 41 foot setback. The requested variance will not have an adverse effect on surrounding properties and is due to the unique configuration of the flag lot position.

KEITH O'TOOLE: Are you offering a motion for the adoption of those findings?

PAUL BLOSER: I'm offering a motion for the adoption of the finding of fact for the Board.

JAMES WIESNER: So moved.

ROBERT MULCAHY: Second.

The Board was unanimously in favor of the motion.

PAUL BLOSER: That finding is approved.

KEITH O'TOOLE: Thank you.

DECISION: Unanimously approved by a vote of 6 yes with the following condition:

1. Subject to Planning Board approval for subdivision, site plan, and use approval for a two-story Microtel hotel as shown on the plans submitted by Avery Engineering and Land Surveying Associates dated July 10, 2009. Date of Planning Board approval not to exceed September 1, 2010.

The following finding of fact was cited:

1. Separation distance between proposed hotel structure and Bank of Castile and Valvoline structures provides sufficient green space and other aesthetic aspects in addition to the proposed 41' setback, that the requested variance will not have an adverse effect on the surrounding properties and is unique due to configuration of the flag lot parcel.
2. Application of Ralph Troutman Jr., 6 Bucky Drive, Rochester, New York 14624 for variance to erect a 28' x 30' attached garage to be 10' from side lot line (60' req. abutting a street) at property located at 6 Bucky Drive in R-1-15 zone.

Ralph Troutman was present to represent the application.

MR. TROUTMAN: I also have an amended request that I want that request also, and then I need another request for a variance on the front. I have a proposal.

PAUL BLOSER: You have another variance?

MR. TROUTMAN: The girl in the hall said I could make this amended request to go on with the one that you have.

PAUL BLOSER: Okay. You have copies for the Board?

MR. TROUTMAN: Yes.

CHRIS KARELUS: It appears he requested 30 by 28. The amended request by his map is 30 by 30. Needing the setback doesn't change, but the submitted map does, which would be, if approved, something to submit to the Building Department. We have to see apples to apples with what was submitted and considered by the Board.

PAUL BLOSER: What is changing, the length or the width here?

CHRIS KARELUS: I guess north/south we'll call it. Previously prosed at 28. We would like the Board request that be 30 feet along that front setback.

PAUL BLOSER: Side setback.

JAMES WIESNER: Side setback.

CHRIS KARELUS: It is a corner lot.

JAMES WIESNER: So it is the depth of the garage?

MR. TROUTMAN: Yes.

JAMES WIESNER: Increasing by 2 feet.

DAVID CROSS: The depth is 2 feet.

PAUL BLOSER: But it is coming forward, correct?

MR. TROUTMAN: Yes.

PAUL BLOSER: So your setback from the street is going to be less now?

MR. TROUTMAN: Yes.

PAUL BLOSER: Is there a variance requirement for that then, Chris (Karelus)?

CHRIS KARELUS: If I read his front setback, yes, there would be. The instrument survey map shows 61.8. If that were held true in -- on the way I'm reading it, his side setback at 26.3, 2.7 -- 3.7 feet would be additional towards the roadside, so subtract the 3.7 from 61.8 and you would get what he has as far as his -- I hesitate on the front, but the frontage as a whole to the setback to his roadside.

PAUL BLOSER: And that is still there where -- we're at the 75 foot requirement, correct, by code? Current code?

CHRIS KARELUS: 60 foot required abutting a street. Let me read the district first to double check that for you.

KEITH O'TOOLE: The setbacks are typically 60 unless you're on a busy State highway, like Chili Avenue, which is 75.

PAUL BLOSER: Okay.

CHRIS KARELUS: Yes. 60 feet. 60 feet.

PAUL BLOSER: Okay. So we're really looking at two -- two issues here, two variances. One for the front, and one for the side.

KEITH O'TOOLE: Yes.

PAUL BLOSER: Okay. As this was advertised publicly to be a side setback, do we need to have proper notification for the front, or can we have the Board take a vote and table it for a month?

KEITH O'TOOLE: I think it is fairly di minimus for you.

PAUL BLOSER: I agree with you, but from the standpoint of legality.

KEITH O'TOOLE: It is confusing, because in essence, it is all a front setback when you think about it, because it is a corner lot, so... So I feel pretty comfortable.

PAUL BLOSER: So with your interpretation, we'll move forward with the amendment.

DAVID CROSS: I will make a motion to hear the amended application.

ROBERT MULCAHY: Second.

The Board was unanimously in favor of the motion to hear the amended application.

PAUL BLOSER: The Board will move forward.

It's a tight lot. It's a tight lot. You're on a corner. There is no garage there now?

MR. TROUTMAN: No.

PAUL BLOSER: Questions, comments you want to make to us on your presentation? I'm assuming it is going to be connected to the structure as it is written.

MR. TROUTMAN: It will be attached.

PAUL BLOSER: Same type of siding on the house?

MR. TROUTMAN: Same type of siding, same roof line, roofing.

PAUL BLOSER: Will the roof line be continuous?

MR. TROUTMAN: My wife wants it a little lower than the house.

PAUL BLOSER: Okay. Better than higher. Okay.

But we are staying with the same structure from that standpoint?

MR. TROUTMAN: Yes.

Depending on what I get for cost, I might shrink the garage a little bit, but I will not make it any bigger.

DAVID CROSS: What is the square footage of the existing house?

MR. TROUTMAN: It's 26 by 40, and then I have a 16 by 20 family room added on the back. That was approximately 10 or 12 years ago.

PAUL BLOSER: About 1400 square foot, almost 1500 square foot.

That's on the far corner, though, correct?

MR. TROUTMAN: Yes.

JAMES WIESNER: Will this be a two-bay garage?

MR. TROUTMAN: Yes. Approximately a 2 1/2 car garage.

ROBERT MULCAHY: How will it affect the trees that are around your property there?

MR. TROUTMAN: The builder -- the one builder I had said it won't affect the trees. I will just have to cut them off on the side toward the garage.

PAUL BLOSER: Not removal, just trim them back?

MR. TROUTMAN: Yes.

ROBERT MULCAHY: How tall is the garage going to be?

MR. TROUTMAN: I think I have 8 foot ceilings in the house. I'm not sure what the height of the house is.

PAUL BLOSER: So it won't exceed the house height?

MR. TROUTMAN: It won't exceed the house.

PAUL BLOSER: Possibly less.

FRED TROTT: Why not go -- instead of going forward those extra 2 feet, why not go back?

MR. TROUTMAN: Because on the back, there is a deck and we didn't want to lose any more of the deck. Because that deck was almost -- went the whole back of the house, until we added on the family room, so we didn't want to lose any breeze coming in through -- on the deck side of the house.

FRED TROTT: It really will only be like 2 feet.

MR. TROUTMAN: My wife didn't want it.

FRED TROTT: I would think you would want the buffer from people, that little bit of extra.

PAUL BLOSER: The garage will put quite a buffer on it.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: I was kind of taken back by that 10 feet, so I took time to drive down there today, and if he is going to be out almost to those trees, that is awfully close to the road. Now I know there is park across the street. I know he doesn't have a neighbor on the side, but also you don't want to be driving down the road and having the wall of a garage that close. That is really close to the road. And if -- I'm sure -- I hope at least the members of the Board took time to go down there to look, as I did. 10 feet is very close.

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

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

PAUL BLOSER: I just have one question, Mr. Troutman. Have you considered slightly less than -- you got 30 by 30, if you could go a little narrower?

MR. TROUTMAN: I was thinking about going down to 24 feet, yes. 24 to 25 feet. I just -- I put the 30 in there just to get a variance. I do not plan to make it 30 feet. I am going to make it narrower.

PAUL BLOSER: What I would like to do is determine a not-to-exceed size tonight closer to what you would like, what you're really looking for. I mean if we say, yeah, 30 by 30, thinking that you might be doing a 24 by 30, and all of a sudden there is a 30 by 30 --

MR. TROUTMAN: You want to put 25 foot?

PAUL BLOSER: You tell me what you want to have.

MR. TROUTMAN: Put it down as 25.

PAUL BLOSER: 25 wide?

MR. TROUTMAN: Wide.

PAUL BLOSER: By 30 feet deep?

MR. TROUTMAN: Yes.

ADAM CUMMINGS: What is the purpose of the 30 feet deep? Is that --

MR. TROUTMAN: Two-car garage and then a workshop in the back end.

JAMES WIESNER: Big garage on a little piece of property. Like I say, you look around the other houses in the neighborhood, and they are single car garages or not much above that, from what I have seen.

PAUL BLOSER: There are some -- there are to the south some two-car garages.

MR. TROUTMAN: The raised ranch across the street has a two-car garage on it.

ADAM CUMMINGS: Are there plans to keep the frame shed in the backyard? Do you still need that much storage?

MR. TROUTMAN: That is not determined right now, but I'm thinking about taking that down, if I can, and put something smaller up just for the lawn equipment.

PAUL BLOSER: Are you putting windows on the side?

MR. TROUTMAN: The side toward the park, yes, on the west side, two windows. And door on the back, and the two garage doors on the front. Right now.

Paul Bloser discussed the proposed conditions with the Board.

Paul Bloser 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 Adam Cummings seconded the motion. The Board all voted yes on the motion.

David Cross made a motion to approve the application with the following conditions, and Robert Mulcahy seconded the motion. All Board members were in favor of the motion.

DECISION: Approved by a vote of 5 yes to 1 no (James Wiesner) with the following conditions:

1. Size not to exceed 25 feet wide by 30 feet deep with height equal to or less than house height.
2. Siding, roofing, windows and doors to be consistent with existing ones on the house.

The following finding of fact was cited:

1. Request will not have any adverse environmental effects on the neighborhood.

Note: A building permit is required before the structure is erected.

3. Application of Robert Bialecki, owner; 48 Everett Drive, Rochester, New York 14624 for variance to erect a 30' x 50' detached garage to be 1,500 sq. ft, variance to allow total square footage of garage area to be 1,985 sq. ft. (3,200 sq. ft. previously approved for attached garage in 1999) at property located at 48 Everett Drive in R-1-20 zone.

Robert Bialecki was present to represent the application.

MR. BIALECKI: Robert Bialecki, 48 Everett Drive.

PAUL BLOSER: I guess I will start by stating it is not often we get a request for a lesser variance than what we previously granted. But for the public, because the previous was approved for 3200 square foot, it was approved for an attached building to the existing house structure. This is a new one. At my request, because this is a self-contained, freestanding building, back of the house is being proposed. So it is a completely separate application than as originally approved.

The applicant has presented -- do you have a copy of this in front of you?

MR. BIALECKI: Yes.

PAUL BLOSER: I guess you wanted to explain your reasons, what you need a building that size for, and what you're doing in there.

MR. BIALECKI: Well, back in '99, I had a motor home, 30 foot motor home, 24 foot enclosed trailer, and I drag raced, and I needed the space to house all -- all that. And I had other vehicles that I was working on for my personal use, as I'm a car guy, as you can see. Not a business. I don't work on other people's cars. I don't have time.

I used -- um, so I don't drag race any more. I don't have the motor home, and cost efficient would be the pole barn, the 30 by 50. You know, the vehicles have changed, and I would like to keep the existing two-car garage so Mary Ann can park her own vehicle in the garage like she always wanted to for the last 30 years.

I just want all my vehicles all in my property. We have 1.6 acres. It was always my dream to have a bigger garage so I could work in, and, you know, it was always my mother's dream to give me that, and she just passed away. You know, I'm not doing the sympathy vote here or anything, but unfortunately she passed away and now I have the means to do it. Unfortunately,

she will never see it, but it is what it is.

And I moved out here from Webster because I worked at Case Hoyt. They closed. Now I work at Hammer Packaging, which is three miles the other way at Elmgrove. And I'm just a car guy that likes the area. You know, it's quiet, and right now there is -- there is a canopy in the driveway to, um, house a car so it keeps the weather off. I have an enclosed trailer for motors and parts I have for storage, and upon your approval, the enclosed trailer will be gone. You see I -- yep. It -- the whole place will be straightened up. Because right now I don't have any room to, you know, house stuff.

I mean there is -- you know, there is stuff laying around next to the garage in back of the garage. All -- all that stuff will be gone. We buried our pool so we could do this, and it's -- it's pretty much it.

It will be neighborhood friendly, you know, because the pole barns have nice colors and upon that going up, then I will, you know, redo the house, the outside of the house to match the pole barn.

From the street, actually you will only see the two garage doors where you go around the existing garage to pull in, and that's all pretty much you will see, because there will be -- be behind the house and the garage.

My neighbor Becky Martin next door, which will see the brunt of it, she doesn't mind. Um, Mr. and Mrs. Fuller, across the street, which all they do is look out, and, you know, they will see the two doors and they don't object.

I walked around the neighborhood and nobody really minds. And if they were, they would probably be here.

PAUL BLOSER: Is it the intent also to consolidate the shed in this?

MR. BIALECKI: We -- the shed wouldn't even be seen. It would be behind the pole barn.

PAUL BLOSER: That is not my question.

MR. BIALECKI: Oops. I was hoping to keep it for lawn -- lawn -- you know, I got a tractor and all your stuff.

PAUL BLOSER: The height of this, the final height?

MR. BIALECKI: Um, Mary Ann would probably know.

PAUL BLOSER: Do you have any details on it?

MS. LAZZARO: I gave you a package that was given.

PAUL BLOSER: Might be attached. I'm sorry.

MS. LAZZARO: I'm not able to read blueprints.

MR. BIALECKI: I know it is 12 foot walls. And I think it would pretty much be as high as the house. I'm not sure.

Plus my property slopes down a little bit.

PAUL BLOSER: Is there a proposal for a driveway going back there?

MS. LAZZARO: Oh.

MR. BIALECKI: That is the other sheet. I was going to either stone or asphalt right along the existing garage and in the back of the garage so all of the -- you know, there would be nothing in the way.

MS. LAZZARO: That's just like -- this is like just a little curve.

MR. BIALECKI: It's in the -- it's in the yellow. That's my -- my little rendition of it.

It will be professionally done by Dutch Boy Pole Barns.

PAUL BLOSER: The color of the siding -- you mentioned siding similar to the house.

MR. BIALECKI: It will be a beige, beige and dark green roof and sides. You know, not caps, but the basic will be -- like a beige.

PAUL BLOSER: What is your siding on the house right now?

MR. BIALECKI: It is aluminum siding, but like I say, after this is completed, then I will have the whole house resided in vinyl.

PAUL BLOSER: Okay. One of my biggest concerns, it's a nice street. Some nice houses. It is quiet. It is well kept.

The concern I have is I know a previous Board granted quite a structure to go on, and at the time it was the -- the approval on that structure was that the -- the building would be consistent with the house, up to and including roof, siding, windows and doors. That is what we asked of the previous application here.

Putting a pole barn in the back of the house -- I understand where you're going with it. The cost of freestanding will be a lot less than trying to add on to, and match everything up so it looks good. But a concern I have, in a neighborhood like that is that a typical pole barn which actually has a metal siding, usually vertical siding is going to look like a pole barn in the back of a residential neighborhood and not a farm.

If we were to move forward, one of the conditions of approval I would probably want to put out would be that we want to match roof and siding to what the house is going to be. I think the roofing on the barn -- was that going to be asphalt shingle or metal roof?

MR. BIALECKI: Metal roof.

PAUL BLOSER: Something I would like to look at is consistency in character. Just from the neighborhood aesthetics, and to keep values of the neighboring properties. It is not just going to be a barn.

MR. BIALECKI: Oh, no. We -- well, we even thought of the doors, the two -- the two doors will match the doors on the -- on the existing garage.

PAUL BLOSER: Okay. But they're small in profile as compared to the rest of the siding and the roof on the barn. That is a concern that I personally would have. While it does set back,

you do have a fairly good sized lot, and it is still very residential in that neighborhood and I would want to maintain the characteristic of that.

I guess I am looking for -- start with questions to the -- from the Board before we open it up to comment, but...

DAVID CROSS: I got to ask. It's a large structure. Lot of vehicles.

MR. BIALECKI: Smaller than it was before.

DAVID CROSS: Our hands are kind of tied by that, but do you need -- you do need to -- I'm trying to I guess say, do you need that much room? Basically you have a 1,500 square foot pole barn to house that many vehicles?

MR. BIALECKI: Yes. I mean if I -- if I downsize it to 30 by 40, um -- you know, I mean -- I will be 59 next month, and I would like to have a lift finally in before I pass on to some other place, but -- so a lift takes up room, and, um, you know, I -- I don't plan on expanding this garage at all or, you know -- but at the present time I would just like -- I mean -- it's -- it's six -- six vehicles, you know, and plus all of the other stuff I have. I'm being generous right now, but you know, motors and stuff. You know, you need shelving and -- you know. It's just a dream I have always had.

DAVID CROSS: Condition of approval would be that no business is allowed.

MR. BIALECKI: Never. I -- I will put that in writing. Never.

MS. LAZZARO: I'll kill him. (Laughter.)

ADAM CUMMINGS: We understand that, but this goes with the next property owner, too. So whoever the next property owner is, gets this variance.

MR. BIALECKI: Really?

ADAM CUMMINGS: That is why we want to tie it to the land.

MR. BIALECKI: I don't plan on going anywhere's just yet.

ADAM CUMMINGS: That's good.

MR. BIALECKI: It's just that, you know, um, cost wise, you know, the pole barn versus the wood structure in today's economy, it's a win/win.

ROBERT MULCAHY: Is that your station wagon out in the yard?

MR. BIALECKI: Yes.

ROBERT MULCAHY: Did you paint that yourself?

MR. BIALECKI: No, no. But I do like the green, though. Either like it or hate it.

FRED TROTT: I guess one of the questions is, I noticed he was saying about the siding, that he was going to change it to match the house. Would there be a time frame that we would put on that?

PAUL BLOSER: I think I -- a reasonable time frame we could put that in there.

Were you planning on having the house sided at the time the barn was being put up?

MR. BIALECKI: Um, it would -- well, it would be after the barn. You know, you got three things going at once then, and it is really crazy. It is already crazy on the street.

PAUL BLOSER: I think we can put a reasonable time on that to be completed, as a condition of approval.

MR. BIALECKI: Now you're saying I would have to vinyl side the pole barn?

PAUL BLOSER: I'm saying if -- if I was to say upon issuance of the building permit, or C of O of the barn, whatever your final structure is, that within a certain amount of time the house siding would have to match roofing -- roofing and siding would have to match whatever is going on there to have a similar consistent look on the property.

MR. BIALECKI: Now, the pole barn will be dark green, and the house has a black asphalt roof. So are you saying I have to put a green roof on the house?

PAUL BLOSER: I'm saying I would like colors to be consistent, as long as it is not purple or pink.

MR. BIALECKI: Oh, no. Could I keep the black roof on the house, but redo the house to a beige?

PAUL BLOSER: I would like to see as a condition of approval a similar siding, particularly the siding and probably roofing colors so it blends in with the property and the neighborhood and not --

MR. BIALECKI: Oh, yeah.

PAUL BLOSER: I don't want it to look like a big barn that is just put back there.

MR. BIALECKI: If I keep the black singles on the house, because that was done just ten years ago, but re-side the house, would be --

PAUL BLOSER: Siding would match what you put on.

MR. BIALECKI: White or beige, or -- or just --

PAUL BLOSER: Materials, too. Your barn is going to be, I'm assume, a vertical panel where housing is usually horizontal.

MR. BIALECKI: Right.

PAUL BLOSER: I would want a similar like design and material so they match and compliment each other. You know, it is just -- not just color.

MR. BIALECKI: So you're saying on the house up and down?

PAUL BLOSER: I'm saying -- I'm saying more probably on the barn horizontal siding.

MR. BIALECKI: Can they do that, turn it side ways? Or -- they can?

MS. LAZZARO: Here is a picture what it looks like from the builder. More or less. I mean I when it is completed, this one here (indicating), and these are the colors. This was going to be the walls (indicating), and this was going to be the roof and trim (indicating).

Now you want us to do the house in beige and the trim -- but, see, this is a -- isn't it a metal

roof?

MR. BIALECKI: Yes.

MS. LAZZARO: You're saying we need to put that on our house?

PAUL BLOSER: I guess I will look for Board comments on this, too. We can talk about this at Board discussion at the end of general public comment. But it is something I'm looking at. We need -- the condition of approval on previous granting was like materials, so it blended. I would like to be consistent with that characteristic, to that variance. But we can continue and think about that and discuss that at the end.

I would like to hear comments from the public also.

FRED TROTT: Are we -- he had mentioned a stone and/or asphalt driveway. Would that also be --

PAUL BLOSER: Condition of approval to identify which way it is going to be, yes.

MR. BIALECKI: Oh, asphalt. Yes. Asphalt.

FRED TROTT: Now, that falls into like materials.

PAUL BLOSER: Correct.

MR. BIALECKI: Because essentially from the street or Earl (Fuller)'s house, all you will see are the two doors. You will not even see the up -- the horizontal structure of it.

MR. FULLER: I live directly across the street. My driveway.

PAUL BLOSER: Sir, you have to wait until you're called on, please.

FRED TROTT: The distance between the shed and the house, is that 12 1/2 feet? From the back of the house, to the barn -- of the pole barn.

MR. BIALECKI: I could put it anywhere. You know, if you say you want --

FRED TROTT: You just had a mark here.

MR. BIALECKI: 12 1/2 feet, roughly.

MS. LAZZARO: It was 10 feet.

MR. BIALECKI: From the house -- from the back of my existing garage to the pole barn would be about 12 1/2 feet.

Now, if you guys would like it to be 15, you know, it --

PAUL BLOSER: We would go with the Building Department's recommendation on that, from a safety standpoint on -- and Fire Department standpoint, what they would be comfortable with. I would look to Chris (Karelus) to work with you on that, for placement, exact placement.

MR. BIALECKI: Yes. He was over, and we were talking about items and things.

PAUL BLOSER: If he -- if the Building Department is comfortable with 12 1/2 feet, as you got written, then we're good with that.

MR. BIALECKI: Okay.

CHRIS KARELUS: I did not feel -- two other items I saw located on the original application, Mr. Bialecki, than the current one. Is the 20-foot trailer and 30-foot motor home still owned by you? I know you mentioned --

MR. BIALECKI: The only enclosed trailer I have now is a 20-foot enclosed trailer. Upon completion of the pole barn, that will be sold. You will never see it.

CHRIS KARELUS: So you have a stacking system that these are stored within the structure, intended to be stored, the vehicles you have listed here?

MR. BIALECKI: No. I just want to get -- put up -- put -- put in a lift and then just, you know, have the cars in there.

PAUL BLOSER: Side by side?

MR. BIALECKI: Side by side.

MS. LAZZARO: They're small cars.

MR. BIALECKI: They all roll.

MS. LAZZARO: The one that is out here is the biggest (indicating).

CHRIS KARELUS: That is what I am trying to get. The surface area taken up by the vehicles they have. I did recommend to the Board that they consider the shed -- what is in the shed and how we can associate that with the structure just to avoid having multiple structures for storage on the site.

The code also requires us, and Counsel pointed out 18 feet approximately is the ridge line height. So I would ask that the Board make sure that the applicant know that, you know, roundabout, if you can state the ridge line height of your house, because the building proposed cannot be higher than the ridge line of the home.

The only thing I have to gauge the elevation of the house is the submitted drawing back in the '99 application I put in your packages.

The other thing for the Board to consider is, it still will be 12 1/2 feet behind the existing structure. There is probably 400 foot depth to Mr. Bialecki's yard. The cleared area, if you went to the side of his property, and it falls pretty well, just the perception the building as it moves back further in from the site will be less and less from the roadside.

The doors you're proposing on this are quite high. They're 10 foot wide, not standard doors. They're more of an industrial sized door to the unit.

I just recommend to the Board that the rendered elevation back in the '99 application did support what Chairman Bloser is discussing, more of a match of the proposed addition, marrying the existing structure. Nothing else.

PAUL BLOSER: Would you be comfortable moving the structure farther back with more buffering in there?

MR. BIALECKI: Oh, sure. You know, I'm open for anything. I mean there is -- like Chris (Karelus) says, there is a ton of room back there.

PAUL BLOSER: I think once you get that building up, 12 foot is going to be awful claustrophobic very quickly.

MR. BIALECKI: Okay. So you recommend 12? I mean, 15 or 20?

DAVID CROSS: I think 25 is -- is --

MS. LAZZARO: Do we have to go for another variance from the back of the lot?

MR. BIALECKI: No. We're not even close.

DAVID CROSS: From the back of the garage to the new structure.

PAUL BLOSER: You don't even have a car length.

DAVID CROSS: I don't think 25 feet would be unreasonable.

MR. BIALECKI: Yes.

DAVID CROSS: 25 or greater. Plus you have a covered patio back there. It puts it a little further back.

MR. BIALECKI: I just want to get rid of all this crap around my house.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

PATRICK COLLINGS, 104 Fenton Road

MR. COLLINS: Patrick Collins, 104 Fenton Road. My main concern is understanding that it is a pole barn, um, it's huge compared to the size of his house, that I would strongly suggest farther back than close. Other than that, the roof line, if you go down Fenton Road, by Westside Drive, people on the left side on Westside Drive now have a red metal roof, so the area is changing to accept that. It's God awful red, but what can you do. Hopefully his green will go better with the trees around it and so forth.

Thank you.

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: I'd just like to point out now this is the second application where we haven't had -- had a drawing up.

Don't bother with this one. I looked at the one today in the Building Department. I would have liked to look again. I don't remember seeing any shed on the one that -- the drawing that was given for tonight's proposal.

MS. LAZZARO: Yes. We had a permit and everything.

DOROTHY BORGUS: But you're supposed to have everything on the drawing. I didn't see a shed on there.

PAUL BLOSER: It is not shown on the drawing. You are correct.

DOROTHY BORGUS: Where is that shed?

PAUL BLOSER: It's in the south -- it would be the southwest corner.

MR. BIALECKI: It's further back on the property.

MS. BORGUS: Is that the shed that is -- this gentleman said he wants to keep?

MR. BIALECKI: Yes. For the lawn mowers and gardening equipment and...

DOROTHY BORGUS: I didn't hear -- maybe I missed it, but I didn't hear how many vehicles we're trying to house in this barn. I hear what we don't have any more, but how many vehicles are we attempting to keep there?

MR. BIALECKI: Six.

DOROTHY BORGUS: I'm naive about this. What is a lift? What are we talking about?

PAUL BLOSER: A car lift where you can lift it up, change tires on it or brakes or clean it. They're show cars, so a lot of times people are underneath cleaning the dirt off from the pipe because they're being inspected for shows.

ADAM CUMMINGS: It's a hydraulic lift.

DOROTHY BORGUS: That is all I need to know. Thank you.

MR. BIALECKI: Now the shed is back around here (indicating).

DOROTHY BORGUS: Well, it wouldn't -- now, I know this is a newer shed, but it wouldn't seem to me if we're talking about a 1,500 foot pole barn and a garage in addition that we still need sheds.

This gentleman said he likes the neighborhood because it is quiet. I wonder how quiet it is for the neighbors if he is going to be working on these cars there.

MR. BIALECKI: Oh, don't --

MR. FULLER: Miss, we do not hear --

PAUL BLOSER: Hang on.

MR. BIALECKI: Um --

DOROTHY BORGUS: I am not a proponent of pole barns in residential neighborhoods, period. I don't care what you do with them. Unless you have ten acres, they don't look right. Are there any other pole barns on this street?

PAUL BLOSER: Not that I saw driving up and down it, no.

MR. BIALECKI: There is one.

MS. LAZZARO: There is one.

MR. BIALECKI: At 33 Everett.

MS. LAZZARO: 33 Everett, Chestnut Ridge, Fenton.

DOROTHY BORGUS: I mean a pole barn with 10 foot doors to me does not fit in a residential area. It just doesn't. I agree it should be the same house -- color and siding and roof as -- as the house, color wise. I agree with that. But by the same token, I just -- this is huge. This is huge. And I just -- I can't see it there. I -- I just think -- I know this gentleman likes his

hobby and everybody is entitled to the hobby. This is America, the way it goes. But I don't think it is reasonable to expect this kind of an operation in a residential area. It's too much. Thank you.

PAUL BLOSER: I'm also looking at what was -- what is already approved. This is much smaller in square footage than what they have approvals for. That is a big consideration also.

DOROTHY BORGUS: They must have been having a bad night the night they approved that.

PAUL BLOSER: I'm telling you. It wasn't this Board.

DOROTHY BORGUS: I know.

MR. BIALECKI: Well, can I speak?

MS. LAZZARO: No.

EARL FULLER, 49 Everett Drive

MR. FULLER: Sir, I live directly across the street from them. I walk down through that area. It's a large lot. And what he is proposing there, you would hardly see it from the street. There is plenty of space, and so I don't see any reason --

PAUL BLOSER: Sir, for the record, again, could you record your name and your address?

MR. FULLER: Earl W. Fuller, 49 Everett.

PAUL BLOSER: Thank you. We keep record of it.

MR. FULLER: Yep.

PAUL BLOSER: Thank you. You may have said it. I didn't catch it.

MR. FULLER: I didn't.

PAUL BLOSER: Thank you very much.

MARY ANN LAZZARO, 48 Everett Drive

MS. LAZZARO: I'm not Mrs. Bialecki, number one. I'm Mary Ann Lazzaro, and I live at 48 Everett Drive with Mr. Bialecki.

For the last 30 years he has wanted this pole barn basically because, as we have stated, he has a disease, a car disease and car parts. We have several of them are farmed out where we are paying monthly fees to leave them there.

As he stated, we're not looking for a sympathy vote, but his mother did pass away, and now we're able to bring all his babies home if the Board approves this pole barn.

Yes, we have already been approved for a 40 by 80, but we don't want to build that big. We don't want to demise the neighborhood. We want to put it behind the house where it won't show attraction to what it is, as, quoted, pole barn.

The neighborhood has changed, extremely. And I don't want to get in front of the Board right now with that -- Chris (Karelus) was there, and he gave us some information and I am now working on it because our neighborhood is not the same as it was 11 years ago when we moved there.

So it's -- you know. What have I got to say?

And I would also like to know this lady's name and address again. I missed it.

PAUL BLOSER: It's a matter of public record. I won't ask her to repeat it, but it is in the record. It is in the minutes. They're on file.

MS. LAZZARO: Then I will request them.

PAUL BLOSER: Thank you.

MS. LAZZARO: Thank you for your time.

Robert Mulcahy made a motion to close the Public Hearing portion of this application, and David Cross seconded the motion. All Board members were in favor of the motion.

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

PAUL BLOSER: I have written if we were to move forward with this application, conditions of approval.

Paul Bloser reviewed proposed conditions with the Board.

PAUL BLOSER: Again, we're coming back to they were approved for a huge structure, with the same siding and roofing. Now they're asking for a detached shed out back, pole barn structure. We have to look at this -- do you want -- if he is going to do vinyl siding on the house, do you want vinyl siding on the barn? How about maintenance? Metal roofs, there are some over there. There are a lot being sold for houses now, around town they're popping up. The green would be more pleasing than a red one. I will agree with that. But the -- Board discussion.

DAVID CROSS: I would like to step in and say I would be willing to say colors match only, not materials. Pole barns are -- they're made out of metal clad these days, metal roofs and I think the applicant has showed, due to cost, that that is the type of structure that he has to put up. So colors only, to me, seems reasonable.

PAUL BLOSER: Mr. Bialecki, the 10 foot doors, those are 10 foot by 10 foot doors?

MR. BIALECKI: Yes.

PAUL BLOSER: Two of them?

MR. BIALECKI: Yes.

PAUL BLOSER: Without having the 28-foot trailer, could you go with a smaller door?

MR. BIALECKI: I don't know.
PAUL BLOSER: At least in height, maybe to a 9-foot door?
MR. BIALECKI: Say a 9 by 10? Or --
PAUL BLOSER: Just a little more less of a profile. A couple of things. Ridge line is going to be a crucial factor here. You're going to have to verify and present to the Building Department the ridge line of this barn does not exceed that of the house. Okay?
MR. BIALECKI: Okay.
PAUL BLOSER: That might really address what size door you're going to have up there.
DAVID CROSS: It may also dictate where the structure goes on the lot. If the lot falls off towards the back of the property.
PAUL BLOSER: Right.
If your existing garage right now -- most of them are 7 foot high doors.
MR. BIALECKI: Which that is what -- that is what is on my garage right now.
PAUL BLOSER: Correct. So with that in mind, is there anything you have vehicle wise that you can't get in there and what would be the smallest height you can go without having a 10 foot high? Do you have anything 10 foot high?
MR. BIALECKI: Not any more. My '32 Plymouth just makes it into my existing garage. As a matter of fact, I have to get the door up and it will slide in. So I --
PAUL BLOSER: So a 9-foot door then, certainly you will save money on a door.
MR. BIALECKI: Right. Yeah. We can make that change.
PAUL BLOSER: Okay.
MR. BIALECKI: Say 9 high by 10 wide. I'm sure that is not a hard thing.
PAUL BLOSER: This also keeps it more to a residential structure than a commercial structure in appearance, with the door heights.
MR. BIALECKI: Okay.
PAUL BLOSER: We want to work with you, with this, to make it successful.
MR. BIALECKI: Okay.
PAUL BLOSER: So -- the other issue is the shed, you know, again -- how big is that shed? It is not documented here.
MR. BIALECKI: It's a 10 by 18. I just bought it last year. And, you know, it's -- it's brand new, and it houses -- I got a little four-wheeler when I used to race, but it has Harden equipment in it. We have got a John Deere tractor. That's primarily what it was bought for.
PAUL BLOSER: That's a big shed, too.
MR. BIALECKI: It was -- the legal limit, you know -- and at the time I bought that, this pole barn wasn't even thought of, but the circumstances changed.
JAMES WIESNER: How about the separation? More is better in this case. If you put it down the hill, it wouldn't be as imposing and it won't shadow the house.
ADAM CUMMINGS: I agree. I think the 25 would be good. Because the existing variance is for an attached garage that is 40 feet, so say you're at 25, it makes it more of a hindrance to try to build that 40 by 80 structure if someone chooses to.
PAUL BLOSER: House and barn separation to be no less than 25 foot.
JAMES WIESNER: First condition, no outside storage.
PAUL BLOSER: I will repeat the condition. All vehicles, trailers, motors, lawn equipment, awnings and other temporary structures to be removed from -- or to be stored inside barn.

Multiple side conversations were had by the Committee members.

ROBERT MULCAHY: I think we should have the shed taken out. I would vote for that.
DAVID CROSS: Well, where again -- where again is that shed sitting on the property?
PAUL BLOSER: Way back in this corner back here (indicating).
DAVID CROSS: The lot depth is 400 feet and it is wooded back there. Typically --
PAUL BLOSER: It was brown, too.
MR. BIALECKI: Yes.
PAUL BLOSER: It's a dark brown. It really blend in.
DAVID CROSS: I think that might be a little much to have him take that out.
ADAM CUMMINGS: Are we saying yes to put his lawn tractor--
PAUL BLOSER: It's in there now.
ADAM CUMMINGS: In the shed. He has to put it in the barn.
PAUL BLOSER: If the shed is removed, it would have to be in there. What I put in here is I don't want anything stored outside, period.
Now, if we chose to allow him to leave that shed as part of this -- he is already storing his lawn mower, garden accessories out in the shed anyway. 10 by 18 or 12 by 18?
MR. BIALECKI: 10 by 18.
PAUL BLOSER: And it is going length wise to the back. It is in the far back corner. It -- it blended in real well. I wouldn't have guessed it was anywhere near that big by looking at it.
FRED TROTT: Is that painted or is that vinyl?
MR. BIALECKI: It's Texture 1-11.
FRED TROTT: Do we want to have that match the other buildings?
PAUL BLOSER: Then it would really stick out.
FRED TROTT: I'm just throwing that out there, because we're asking the house to match.
PAUL BLOSER: No. It is going to be buried behind the barn.

MR. BIALECKI: You will never see it from the street.

FRED TROTT: I don't have an issue. I understand the concept behind separating the vehicles and the lawn equipment. As a person that kind of knows cars and stuff, you wouldn't even want the grass clippings in this -- if these cars were in perfect condition, you wouldn't want even to have that moisture and stuff in there like that. So I don't have a problem with the other shed.

PAUL BLOSER: Right now I have six conditions of approval.

Paul Bloser reviewed the proposed conditions of approval.

FRED TROTT: Would we want to throw in there anything about quiet hours? You know, I don't know how his neighbor would feel if he is working there at 3 in the morning on a vehicle.

MR. BIALECKI: I work second shift. Ain't going to happen.

FRED TROTT: Also in line of when the property goes to a different owner.

ADAM CUMMINGS: I think that is covered by the Town Code.

MR. BIALECKI: Town ordinance.

KEITH O'TOOLE: We do have a noise law.

FRED TROTT: Okay.

JAMES WIESNER: Did you say anything about architectural details and matching of colors? Is that one of the conditions?

PAUL BLOSER: We discussed it, which way to go. Dave Cross made the suggestion that we maintain with color of the house to match color of the barn.

JAMES WIESNER: So we would have it approved by Building Department approval?

PAUL BLOSER: For the color match?

JAMES WIESNER: Yes. So they had some final say? Or some --

PAUL BLOSER: We could put colors to be submitted to the Building Department.

JAMES WIESNER: With a plan submitted with it, here is what the house is going to be.

FRED TROTT: Will we have a time frame, too?

PAUL BLOSER: House and barn colors to match, and I added as approved by the Building Department.

Paul Bloser further reviewed the proposed conditions with the Board.

PAUL BLOSER: As far as completion of the barn, if the Building Department was to give you completion of -- C of Os for completion of the barn, what would be a fair time? Within six months the house would match?

MS. LAZZARO: We're getting into winter now.

PAUL BLOSER: That is why I am giving you six months. That would take you into spring.

MR. BIALECKI: Yep.

MS. LAZZARO: Our biggest goal is --

PAUL BLOSER: I will do eight months.

MS. LAZZARO: Our biggest goal is to get that building.

FRED TROTT: We want to give you a time frame so --

PAUL BLOSER: So it is not stretching out three years.

So eight months from C of O.

Paul Bloser 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 Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. All vehicles, trailers, mowers, lawn equipment, awnings, and temporary structures to be stored inside structures.
2. No business to be run out of the structure or property at any time (services for hire).
3. House siding and detached structure siding colors to match. Colors to be approved by the Building Department.
4. Overhead doors to be no more than 9 feet in height.
5. Driveway to be asphalt and continuous from the existing driveway to the new structure.
6. Ridge line of the detached structure cannot exceed that of the house.

7. House and detached structure separation to be no less than 25' from the house.
8. House siding colors to match within 8 months of the Certificate of Occupancy for the detached structure.
9. All other debris other than described above must be cleaned up and removed and/or stored prior to final Certificate of Occupancy issue. Final inspection by Building Department required.

The following finding of fact was cited:

1. Requested variances will have no physical or environmental impact on neighboring properties.
4. Application of Dennis Inch, owner; 2146 Scottsville Road, Scottsville, New York 14546 for variance to erect a 16' x 28' north addition to house to be 14' from side lot line (50' req.), variance to erect a 14' x 20' south addition to house to be 40' from side lot line (50' req.), variance to erect a 16' x 22' detached garage to be 11' from side lot line (50' req.) and 69' from front lot line (100' req.) at property located at 2146 Scottsville Road in A.C. & FW zone.

Dennis Inch and Chuck Smith were present to represent the application.

MR. INCH: Dennis Inch, 2146 Scottsville Road. I believe you have the plans and drawings, but they are posted on the board.

PAUL BLOSER: It was hard to tell on the driveway. It is so wooded up there, to really get a good lay --

MR. INCH: That is one of the things I like about it. You should have just drove up.

PAUL BLOSER: Easier said than done. By law, we're not allowed to.

MR. INCH: Oh.

PAUL BLOSER: So I did look at an aerial through satellite, but it is a fairly good size wooded lot. I know you back right up to the river there.

MR. INCH: Right.

PAUL BLOSER: So there is not a lot you can do on the back. You do have kind of a wedge-shaped lot there, and you have quite a drop-off to your other side.

MR. INCH: That's correct.

PAUL BLOSER: So you have some landscaping issues there.

Tell us a little bit about your project. What are you doing?

MR. INCH: Well, I bought the house about four years ago, and it's just a wonderful setting with the river in the back and I really enjoy living there.

The original structure was built around 1925, and not under the best, you know, carpentry of the day, let's say.

But -- so the structure needs -- needs help, and it's 900 square feet now, and we're proposing two additions to make it approximately 1600 square feet.

The zoning obviously is not for half-acre lots, and that's -- that's what the lot is currently. So the zoning setbacks obviously just don't make sense.

Charles Smith from Design Works Architecture can answer your questions about the structure probably better than I.

PAUL BLOSER: What is the elevation off the river? Do you know?

MR. INCH: The elevation to the?

PAUL BLOSER: Your basement floor off the river, from the river.

MR. INCH: Approximately 40, 45 feet, I believe.

PAUL BLOSER: Okay. So you're a ways up. Again, it is hard to tell because you really can't see it from the road there.

MR. INCH: Yes. I just went through a process of -- through FEMA, waiving the flood plain issues.

PAUL BLOSER: I did read that in the application, the paperwork.

MR. SMITH: My name is Chuck Smith. The -- the elevation at the river is -- this is sea level, 524.5. The elevation at the top of the bank is 553, so we do have almost 30 foot difference between the river bank and the house.

PAUL BLOSER: Okay. It's an aggressive project. It will be nice. The layout is very nice. I assume you're pretty much doing a full facelift on the existing structure?

MR. SMITH: That's correct. Part of the house is actually well built. There is one piece -- the piece to the south actually was built without a foundation. It's a little 10 foot by 16 foot part, so we would actually remove that for the addition that is going towards the frame shed, or towards the south, which on the site plan is -- I don't know if you can see it, but it's -- the direction towards the shed, which is on the site plan is -- is --

PAUL BLOSER: The portion that will be removed there, along that?

MR. SMITH: Right. Right. And as we look at this home, right now the home has a -- a single bedroom and a single bathroom. We would like to create a home that would serve Dennis

and his wife, Diane, for years to come, which would have a master bedroom suite and a guest bedroom and then have a more contemporary open floor plan that would take advantage of the views of the river. And to do that, we have added on both the north and the south sides of the existing building, so on the north side, um, we actually get the closest to the lot line, which ends up to be a 14 foot setback. On an 1/8 or 1/2 acre lot, in any suburban or urban location, of course a 14 foot setback is more than enough. Typically maybe you have a 10 foot or 12 maybe foot setback. So that's not unusual for a lot this size. It is just we're in Agricultural 5-acre District, so this lot kind of got left to be a -- to see you for everything we do. Because our actual legal building footprint on this lot is 10 foot by 40 foot. That is all we can legally build on.

So on the north, our neighbors are the DOT, and -- and so I don't think they would mind a nice home, 14 foot from their property line. It's a DOT transfer station.

MR. INCH: It's just an open lot.

MR. SMITH: They don't really do anything there. They don't have any buildings there. It is part of the right-of-way for Scottsville Road.

And we actually have an empty lot to the south that has been for sale, and I believe it has been in front of this Board before, but we're actually 40 foot from that lot, which we don't know what will happen there some day, but that is actually where we have a good amount of setback, more than enough for a half acre lot. So...

PAUL BLOSER: Is there currently a garage?

MR. SMITH: There is not. We -- the property lacks a garage. We're in a climate where a garage becomes very handy, so we would like to have a garage on the property. I located the garage in its -- in its -- in the proposed location, which is west of the house, buried into a hillside that, um, really, again, you couldn't see it from the road, and it fits well with the -- with the property because it would be at grade with the house. We looked at potentially putting it on the north side, towards the DOT property, but the property drops a full story there, and so if you look at -- if you look at the -- the -- the elevations of the house, this is looking at the house from the street side. You can see that it drops a full story, and this is the DOT property over here (indicating). So actually keeping the garage more on this side of the property keeps it up at the level of the house, so that you can park and walk right in without negotiating topography. So -- and this is a view from the river side. This is the original house right in here (indicating). This is the addition for the -- a kitchen area, and this is the addition for the master bedroom. You can see how it falls off on the north side, the DOT side. And so the issue with the garage and the setback -- with the garage is the setback, front yard setback is 100 feet. The existing house, right here (indicating), which is this corner right here (indicating), is 111 feet from the highway right now. So actually the house does comply.

So -- and in looking at putting the garage over here (indicating), there is a hillside designated by this little line here (indicating). So this whole area here actually climbs a full grade story to this lot (indicating), so I didn't want to put the garage here (indicating), because that is the southern side of the building and I never put garages on southern sides of houses because the southern sun is so important in this house to get sun in the house, especially in the winter, and so that is really not a -- you know, putting the garage over here (indicating) would be a potential for avoiding front yard setback, but it would be really bad for the house.

Putting it over here (indicating), you would end up down on a full story below so you would have to enter into the basement and Dennis and his wife would have to climb up a full flight of stairs every day to get into their house. This seemed tucking it into this berm, which is the reason you can't see the house from the street, because there is this berm right in here (indicating), really was a nice way to sort of bury that building and get it out of -- and get it out of the way of both the view from the street and also take any -- and taking away any views from the house. The really nice views of this house are up the river this way (indicating) because the river actually bends right in here (indicating). So all of the -- the whole house is set up, it steps like this to allow those views up the river, and it's -- it's a really -- when I -- I have been up there. I'm sorry that you couldn't have been up there. When I got up there, I was really surprised. It is really beautiful. You feel like you're in the Adirondacks. I mean it is just gorgeous.

FRED TROTT: The existing shed that is there, is that then approved by the Board? I didn't see it on the sheet here.

PAUL BLOSER: Is that an approved structure, Chris (Karelus)?

CHRIS KARELUS: No, it is not permissible. Based on size, it is not permissible. That is one of the things -- I would ask a condition to move it to 5 feet. I just know with the grade there, it is might -- something he has to contend with. Keep or rebuild it.

PAUL BLOSER: We'll pull that in.

MR. INCH: My intent would be to remove the shed. It's -- we would have no need for it.

PAUL BLOSER: Okay. We were going to ask you to pull it in to the proper setback.

MR. INCH: It might fall down before that.

PAUL BLOSER: Okay. That is agreeable, too.

MR. SMITH: The applicant agrees to remove the shed entirely.

PAUL BLOSER: Okay.

MR. SMITH: The proposed house square footage will be 1600, 1625 square feet on the living level. It's a one-story house with a -- we have a little piece of a walk-out basement on the north side. So it is -- so it's really a nice size home for a couple to live in. It's not a -- it's not a McMansion. It's a nice house.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

Paul Bloser reviewed the proposed conditions with the Board.

PAUL BLOSER: Pretty straightforward. I think this will be a nice enhancement for the property and will fit very well.

Paul Bloser 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 Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

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

DECISION: Unanimously approved by a vote of 6 yes with the following condition:

1. Existing shed to be removed within 60 days of issuance of Certificate of Occupancy of the new garage.

The following finding of fact was cited:

1. Requested variances will have no physical or environmental impact on neighboring properties.

Note: Building permits are required before construction begins.

5. Application of Anthony Liotti, c/o Thomas LeBlanc, 26 Sesqui Drive, Rochester, New York 14624 for variance to allow existing inground swimming pool to be 7' from side lot line (10' req.) at property located at 26 Sesqui Drive in R-1-20 zone.

Thomas LeBlanc was present to represent the application.

MR. LEBLANC: I'm Tom LeBlanc, 26 Sesqui Drive. I'm the new owner of this property, as of August 11th. My understanding is that when this property was built in 1975, the inground pool was put in at that time or very shortly thereafter, all based on tape surveys. Subsequent instrument surveys show that the one edge of the pool was within the required 10 foot from the side property line. The privacy fence and patio are all in proper location, but the edge of the pool is the one issue to date. My understanding is since this was the first time the property was sold, this is the first time this issue came to bear.

My understanding is this is the edge of the pool here in question (indicating). You can see that the vinyl fence is .2 feet away from the property line.

It goes up to a maximum 2.41 feet to the property line. It is my understanding that this edge of the pool here (indicating) is within the 10 feet. I know the variance was written for 7 feet. Any rough measuring with a tape measure using the vinyl fence as a guideline, taking a measure to the edge of the pool and adding 1.2 feet comes up to 8.2 feet. So obviously we're just shy of the 10 foot requirement.

Just for the reference, I'm not sure what documentation would help, but this is a visual guideline, this is a picture taken down the property line from myself at 24 Sesqui Drive. This is my fence here (indicating). This is my neighbor's property (indicating). So you can see the pool is entirely hidden by the fence in the proper location, so I don't believe there is a detrimental impact to where it is located.

Again, this is just to reference the red arrow showing the corner that is too close.

PAUL BLOSER: Okay. Thank you.

DAVID CROSS: This is a condition of sale? Or -- or -- that is why this is coming up now?

MR. LeBLANC: Resolution of the issue, yes.

CHRIS KARELUS: I just recommend keep it at 7 feet. 8 or 7. When we scaled it off the map.

MR. LeBLANC: I think that was the recommendation I was concerned about at the closing.

CHRIS KARELUS: It is more conservative for you, Mr. LeBlanc. Closer is more room for error.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

DOROTHY BORGUS: Isn't there a side lot line issue, too, and a back lot line? Doesn't he

have an issue on two sides?

PAUL BLOSER: I don't think there is in the back. Was there, Chris (Karelus)?

MR. LeBLANC: I think -- please stop me if I am misspeaking. This is all a very interesting learning experience for me, too. So this measurement from here to here (indicating) is 4.17 feet. To the patio. I believe that is okay.

DOROTHY BORGUS: I guess that is my question. Is it okay?

PAUL BLOSER: Chris (Karelus)?

CHRIS KARELUS: It scales off that the whole pool as shown on the survey map is outside of the 10 foot and the rear lot line. We're just talking about 10 feet from the side lot line.

DOROTHY BORGUS: So I guess I didn't understand that.

PAUL BLOSER: They're going by the pool and not the patio. The pool is the structure. The pool is the structure.

DOROTHY BORGUS: Oh, okay. I got you. Okay. Okay. Thank you.

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

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

PAUL BLOSER: Pretty straightforward. I'm prepared to move forward.

Paul Bloser 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 Robert Mulcahy seconded the motion. The Board all voted yes on the motion.

Robert Mulcahy 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.

MR. LeBLANC: One final question. There was a small amount of money put into escrow from the previous owner to insure his interest this would be resolved.

DAVID CROSS: We can get something in writing.

PAUL BLOSER: We'll -- you will have that within a week --

MR. LeBLANC: Fantastic.

PAUL BLOSER: -- from the Town. If he needs something earlier --

MR. LeBLANC: I think that should be fine. I just wanted to make sure there are no further actions taken on my part.

PAUL BLOSER: As a matter of public record, the variance has been approved.

MR. LeBLANC: Thank you very much.

DECISION: Unanimously approved by a vote of 6 yes with no conditions, and the following finding of fact was cited:

1. Requested variance will have no physical or environmental impact on neighboring properties.
6. Application of Yelena Revutskaya, owner; 2 Rochelle Drive, Churchville, New York 14428 for request for relief of condition placed on application to allow a 6' high fence in front setback area (4' allowed) granted on June 23, 2009 be amended due to on-site inspection completed on property for visual references at property located at 2 Rochelle Drive in R-1-15 zone.

Yelena Revutskaya was present to represent the application.

MS. REVUTSKAYA: I'm Yelena Revutskaya, 2 Rochelle Drive. I'm -- we remove shed. Like not move it, take shed. We just want a shed. And about fence --

PAUL BLOSER: I guess I will go ahead and comment. After the last meeting, I went with Chris (Karelus) to your property, and we actually walked the property lines and did some -- I will say crude measurements, but looking at the fence on the south line, the top of the fence looking across to the pool, where the measurement would be, and also, again, really walking the western property line at the front and the drop-off there. And it is significant. In looking atop across that fence, a straight line over, for a majority of that fence, we're about 2 foot off the ground with the pool, with the drop-off. By dropping down that to a 4 foot, it would make the fence look palatable. It would be very tough to do by any stretch of the imagination.

There is one across the street, but it's not a corner lot. The fence is level with the front of the house. It is just a corner lot we ran into the setback issues.

The homeowners have moved that shed that was out in front, as we asked them to. They did it immediately. That has been moved. So that is out of the way. I went back again and looked now with that shed gone just to see what the approaches are.

What Chris (Karelus) and I proposed to the homeowner is that they planted evergreens in front of the white fence going along the property at least every other panel. It would give a vegetative buffer to soften the look of this fence. There is quite a cluster of bushes right now in

that southeast corner, southwest corner. The addition of these, especially from the western approach, would greatly soften that white fence. Again, if you're coming from the east, headed west, you can see the white, but you're looking right into the yard, just because of elevations again. By lowering that fence the 4 foot, um -- we're not going to achieve a lot and I don't know how you're going to get a good look at it. You're going to almost be looking at the bottom of the pool from roadside again.

Given that thought, again, I -- Chris (Karelus) and I talked about it, and again, we thought if the homeowner was in agreement putting some vegetation along that fence, it would soften it just so it is not just so white and in-your-face looking.

Now, coming back as an amendment to our approval, the Board needs to understand, too, we would need unanimous vote among the Board members. We can't have any split decisions on this.

Chris (Karelus), do you have any comments you would like to make in addition?

CHRIS KARELUS: No. I talked to Mrs. Revutskaya and relayed the Board's decision on moving the shed. She did that. We have talked with her about what the Board would look at as far as an alternative and what the Board is considering tonight. She agreed to do what the Board asked or when she was asked as an alternative option and she said whatever time frame the Board would say she needs to do it, she will do that. She has been pretty cooperative in trying to take an approach and looking at another alternative here.

PAUL BLOSER: So you understand what we're looking for and you would be in agreement with what is proposed then?

MS. REVUTSKAYA: Yes.

ROBERT MULCAHY: They will leave the bushes that are there.

PAUL BLOSER: The bushes that are there are going to stay there. They're clustered on the southwest corner there. The southwest corner is going to stay. That is just going to be an enhancement to buffer out that fence visual a little more.

PAUL BLOSER: I think if they committed to that, then I would be in favor of leaving that as it is.

We did put down here, just for the notes, that we were looking for a 3 foot minimum in height on those -- with an evergreen type. As far as the time for planting, I'm not a -- I don't have a green thumb, so I don't know the best time of year to put these things in the ground to assure -- so we would probably want to put a sufficient time frame to complete this task.

FRED TROTT: What about say they all die, are they going to have to maintain --

PAUL BLOSER: The condition of approval -- a condition of approval is if any of these trees did die, they would have to be replaced I would say within 30 to 60 days. It would have to be maintained.

MS. REVUTSKAYA: Okay.

PAUL BLOSER: If you go to -- most like Garden Factory, they do put a warranty on their trees, as long as they're planted according to their regulation, their rules and they're watered, they do guarantee them for a period of time. The first year being the most important, to keep them watered and protected in the winter with mulch around the base for root freeze. They give you directions on how to do that. I would agree that would be a condition, that they would have to be maintained and any dead ones would have to be replaced.

With that condition of approval, is the Board prepared to revote on this, again, understanding that we -- what we're after?

JAMES WIESNER: Do you want a motion?

PAUL BLOSER: Yes. I will have to do it -- a motion here.

Paul Bloser reviewed proposed conditions with the Board.

PAUL BLOSER: Do you understand what we said there?

MS. REVUTSKAYA: Yes.

PAUL BLOSER: You will get a letter that will follow up with the specifics we have written out here.

There was no Public Hearing portion of this application since this was an amendment to an existing condition matter.

Robert Mulcahy made a motion to approve the application with the following conditions, and Adam Cummings seconded the motion. All Board members were in favor of the motion.

The meeting ended at 9:43 p.m.