

CHILI ZONING BOARD OF APPEALS
September 24, 2024

A meeting of the Chili Zoning Board of Appeals was held on September 24, 2024 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Adam Cummings.

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

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

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

ADAM CUMMINGS: The Board have any issues on signs for tonight's agenda?

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

1. Application of Christopher Santoro, 19 Caboose Circle, North Chili, New York 14514 applicant\owner; for a variance to erect an accessory structure (shed) to be 5'-0" from east property line (8'-0" allowed) at the property located at 19 Caboose Circle. PRD District.

Chris Santoro was present to represent the application.

ADAM CUMMINGS: If the applicant has anything else to add, feel free. Otherwise we'll go right to Board questions.

MR. SANTORO: Yeah. I have nothing to add. Just basically to move it to 5 feet from the property line. That's about it.

ADAM CUMMINGS: All right. Just give me one moment and I'll bring it up on the screen just to confirm the map and where he would like it to go.

MR. SANTORO: Okay.

ADAM CUMMINGS: Is that the location?

MR. SANTORO: Yep. Correct.

ADAM CUMMINGS: So to point out, the 5 foot variance, which is what we're considering tonight, is that dimension off the side. And that's all we're considering tonight.

MR. SANTORO: Yes. The left side. Yep. Correct.

ADAM CUMMINGS: Okay.

JAMES WIESNER: Was this a recent addition to the property?

MR. SANTORO: Yes. That's correct. You mean -- what do you mean by "recent"? I just moved in last month. There was no shed, so I'm looking to put a shed at that location.

JAMES WIESNER: Okay. So this is in advance of placing the building?

MR. SANTORO: Say again?

JAMES WIESNER: This is in advance of placing the shed?

MR. SANTORO: I have it there, but I'm hoping to move it over from where it is currently sitting.

JAMES WIESNER: Okay.

ADAM CUMMINGS: So it is -- right now it's 8 feet?

MR. SANTORO: Yes.

ADAM CUMMINGS: Okay. You want to move it 3 feet?

MR. SANTORO: Correct.

ADAM CUMMINGS: Okay.

MR. SANTORO: Correct.

JAMES WIESNER: That's all I have.

MARK MERRY: Thank you. Why are we looking to relocate the shed?

MR. SANTORO: Because my backyard is on a slope. So where the shed is now is -- it's -- there is flat ground there. So I want to move it over -- I rather get it 2 feet from the line, but I know New York State limits it to 5. That's fine. Basically, I just want to move it over to save some land, usable land. My flat land is limited so I'm trying to save some usable land, flat land.

MARK MERRY: Okay. Thank you.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

Mark Merry made a motion to close the Public Hearing portion of this application, and Philip

Supernault seconded the motion. The Board unanimously approved the motion.

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

ADAM CUMMINGS: With this size shed, I don't have any conditions of approval. Because it's small enough. Not needing a permit. So I will go ahead and declare the Zoning Board SEQR.

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

ADAM CUMMINGS: I would like to ask for a motion to adopt the application.

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

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

1. The accessory structure placement has limited options on this property due to the steep grade on the other side.
2. Application of Vista Villa Holdings LLC, 3313 Chili Avenue, Rochester, New York 14624, applicant\owner; for a variance to A) develop a substandard lot to be 5,170 sq. ft. (10,000 sq. ft. required). B) Erect a fence to be a height of 6'-0" (4'-0" allowed) in the front yard (corner lot). C) Erect and placement of accessory structures (shed and generator) of 7.5' (35'-0" required) front setback and 8'-0" (10'-0" required) rear setback at the property located at 100 Club House Drive. PRD District

Fred Shelley was present to represent the application.

MR. SHELLEY: Thank you, Mr. Chairman. Members of the Board, my name is Fred Shelley from BME Associates representing Vista Villa Holdings, LLC, the applicant tonight. Thank you for hearing this -- this application. As stated, there are a few variances that the applicant is requesting.

Specifically, as stated, a minimum lot area variance from 10,000 required to 5170 is proposed. The rear yard setback variance is 10 foot required where 7.5 is proposed. And a front yard setback variance where 35 feet is required and 7.5 feet is proposed.

Also, mentioned -- included with the application was a request to allow a 6-foot tall -- basically a solid panel fence to be constructed around the control panel for the pump station. However, the applicant is going to withdraw that -- that portion of the application as the pump station, which is ultimately going to be conveyed to the Monroe County Pure Waters/Gates-Chili Ogden Sewer District as indicated that they do not -- would not like to maintain the fence in that area.

If I may, I will just start with a brief -- with a brief history of the project. Vista Villas Phase 2 consists of 41 lots, proposed single-family homes on roughly 15.8 acres of land located on the east side of Archer Road and north of Black Creek. It's a portion of the over all 174 lot, 282-acre Vista Villas Subdivision, Phases 2 through 6. Those are all under the ownership of the applicant.

Phase 1 of the subdivision was completed under a separate developer entity and that is currently under construction. Going back in time a bit, Phase 2 through 6 obtained preliminary approval on January 13th, 2015. The Planning Board issued a SEQR negative declaration for Phases 2 through 6 based on the preliminary plans submitted at the time.

The 2 -- the 2015 approval waived final approval for Phase 2. However, the Planning Board issued a re-approval of Phase 2 on April 9th, 2024, this year, of the current development plan which is generally consistent with the previously approved plans. The approved plans have always included a proposed pump station facility to be located within an irregularly shaped right-of-way portion that was going to be dedicated to the Town.

The original proposal would have had this pump station on Town land within an easement to the Gates-Chili Sewer District.

Through the review and approval process, the Sewer District has indicated that they wish to have this entire facility located on land that is going to be deeded to them. So, therefore, with the conversion of this being Town land to a separate entity, that necessitates the requirement for obtaining these variances for the project.

The conversion of the -- yep. So -- that is what triggered the necessity of that.

ADAM CUMMINGS: So to be clear, this is a small parcel that is just going to hold the proposed pump station that is shown there, which is going to service the future Phases 2 through 6 that have been approved to be developed?

MR. SHELLEY: Yes. Actually, it's just the 47 lots of Phase 2. The remaining lots will be able to --

ADAM CUMMINGS: Gravity?

MR. SHELLEY: -- use gravity sewer flow to the north.

ADAM CUMMINGS: Okay.

MR. SHELLEY: The structure -- sorry. So the minimum lot relief results from the remaining area that is outside of the right-of-way. The 5100 square feet is actually going to be a portion of the Vista Villas Drive. We're maintaining the 64-foot minimum right-of-way width. The leftover land is about 27 feet on the east side and 18 feet on the west side of the property.

And this layout -- actually the size of the lot does work for the Pure Waters and the Sewer District so that is essentially where that was originally planned and where it has been maintained through this design process.

So there are no residential uses or structures that will be proposed on this parcel. It will just be for this public service, public utility service entity to operate the pump station.

Structure setbacks -- just for clarification, we already talked about the fence would be removed. However, there is a control panel cabinet indicated in the middle of the paved area there and then there is also a proposed generator which will be located on the 6 by 10 concrete pad on the west side of the paved area. So both of those, they require the front and rear setback releases as previously indicated.

The applicant has requested a modification from the April Planning Board approval which includes the addition of this pump station parcel. So we had obtained the approval for 47 single-family residential lots.

However, this will be another lot that will be joined into that. So once we hopefully get through and obtain these variances to allow this minimum-sized lot, the Planning Board will be able to grant approval or consider that for approval to -- to a lot.

Lastly, we have provided the written responses for the five factors for consideration in granting a variance. They're included in the application. We would be happy to review any of those for the Board if needed or any other questions. So with that, I thank the Board and happy to answer any questions.

ADAM CUMMINGS: I just have one quick clarification. I know the applicant is the developer right now. But as you said, this parcel is going to the Monroe County GCO, the Gates-Chili Ogden Sewer District. So just to clarify that, is -- Monroe County can't be the applicant because they don't hold the parcel yet. So the applicant is still the developer for this variance. There is procedures that the County has to do through their legislative process which will be much more months than they wanted to do to find out if they would get the variances here.

Is that an accurate statement?

MR. SHELLEY: That's accurate.

ADAM CUMMINGS: So just to make sure we're not granting --

JAMES WIESNER: If it wasn't Monroe County, they wouldn't even have to ask?

ADAM CUMMINGS: No. If it was Monroe County, they would have to ask. If it was the Town of Chili, they wouldn't have to ask.

Okay. If it was just a Town parcel on there, it would just be expanding our public right-of-way. And go through that way.

And Paul (Wanzenried) is saying "eh"?

JAMES WIESNER: I was going to say -- because that leaf-composting facility on -- behind the airport, they -- they didn't need any approvals.

ADAM CUMMINGS: The County doesn't have to get approvals from us?

PAUL WANZENRIED: No. No. No. We have tiers of government, sir. Tiers of government.

ADAM CUMMINGS: My mistake. I misspoke on that one.

PAUL WANZENRIED: You're on the low end.

ADAM CUMMINGS: I didn't realize we were that low on the totem pole. I thought we still had some Home Rule capability and the County couldn't step all over us.

JAMES WIESNER: If it was a County, they would just get it.

ADAM CUMMINGS: That is accurate as I just learned right there. If the County had just taken this, then we would have had a very big surprise at our public right-of-way. But anyway, that is where we're at tonight to help out this understanding on this project.

Jim (Wiesner), any questions?

JAMES WIESNER: A couple.

I mean where was -- this is -- so the Phase 1 doesn't need a pumping station because it's high enough.

Is that a correct statement?

MR. SHELLEY: That's correct.

JAMES WIESNER: Just needs a pumping station because we're much lower than obviously where the sewers are.

Where was the original placement of this going to be?

MR. SHELLEY: Right in the same location.

JAMES WIESNER: Same spot. So that has not changed.

MR. SHELLEY: Correct.

JAMES WIESNER: It's just a matter of who owns that little piece of property?

MR. SHELLEY: That's correct.

JAMES WIESNER: That's all I have.

FRED TROTT: It says on here "Proposed antenna foundation." So there is planning to be

an antenna on there?

MR. SHELLEY: Originally and per the standard of Pure Waters' details, they do include an antenna. However, subsequent coordination with the -- with the County, they're requesting that we remove the antenna and we're going to be connecting directly to their fiber communications so that antenna goes away.

FRED TROTT: Okay. No other questions.

PHILIP SUPERNALD: No questions.

ADAM CUMMINGS: Side Table, anything to add?

PAUL WANZENRIED: No, sir.

ADAM CUMMINGS: I think you did a good job explaining the positioning of all these things is really being dictated by Monroe County Pure Waters and the GCO District and how they want to align things for when they have to respond to events out there.

MR. SHELLEY: That's correct.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ADAM CUMMINGS: I think I will wait a while. This was an intriguing topic. Does anyone in the public have interest in sewer pump stations?

GLENN LITZENBERGER, 20 Clubhouse Drive

MR. LITZENBERGER: I used to work for many State facilities. We had pumping stations, generators. Everything here looks perfectly designed to what I'm used to working with and I fully support it. So...

ADAM CUMMINGS: Thank you. All right. We can mark down we had a public comment.

AMANDA VANPEURSEM, 17 Clubhouse Drive

MS. VANPEURSEM: I just had one quick question. Amanda Vanpeursem, 17 Clubhouse Drive.

Who will maintain that facility? Will it be Monroe County --

ADAM CUMMINGS: Yes.

MS. VANPEURSEM: -- is it going to be Gates-Chili?

ADAM CUMMINGS: No. It will be -- it's Monroe County. So the Gates-Chili-Ogden is just a designation of the towns that got into a Sewer District agreement many years ago. It's now being run by Monroe County.

MS. VANPEURSEM: Okay. Thanks.

ADAM CUMMINGS: Yep.

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

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

JAMES WIESNER: So like any concerns regarding like noise would be part of the Planning Board --

ADAM CUMMINGS: Yes.

JAMES WIESNER: So --

ADAM CUMMINGS: Yes.

JAMES WIESNER: I'm assuming they have addressed the fact that there is a house right there.

ADAM CUMMINGS: Yep.

JAMES WIESNER: I wouldn't want a lot of noise. If I was that person, let alone some of the people around there. I'm sure that is probably designed or built into the facility.

ADAM CUMMINGS: Yes. Plus it's underground.

FRED TROTT: Except for the generator?

ADAM CUMMINGS: Huh?

FRED TROTT: Except for the generator.

ADAM CUMMINGS: If the generator is running, everyone else has generators going on.

JAMES WIESNER: This is a submersible station.

ADAM CUMMINGS: Yes. This is a submersible station. But yeah, if the generator is running, the power is out.

JAMES WIESNER: Motor is above ground.

ADAM CUMMINGS: For the generator, yes. But not the pumps. The only thing aboveground is the cabinet, the control cabinet.

I would like to -- I think it makes sense -- oh, going back to the fence, Fred (Trott).

So Monroe County doesn't want a fence, correct?

MR. SHELLEY: That's correct.

So they just go back to that -- you're taking -- I just want to further clarify, you're taking that off as a requested variance; correct?

MR. SHELLEY: That is correct.

ADAM CUMMINGS: I just wanted to go back and visit that one to make sure.

MR. SHELLEY: Yes. So above ground, the only aboveground structures are the proposed control cabinet and the generator itself.

ADAM CUMMINGS: But specific to our variances here, those are for setback purposes. But for the height of the fence, I just want to make sure. We not seeing a fence so we're not going to grant a variance for a 6-foot fence where typically we are only allowed 4 feet.

Side Table, can I even put in that they have to get a permit? Because it's for the County and we don't do permits for that. So no condition for building permits or anything like that?

PAUL WANZENRIED: No.

ADAM CUMMINGS: Okay. I would like to hear -- or decide on these all as one.

Are you guys okay with that?

MARK MERRY: Makes sense.

ADAM CUMMINGS: All right. So we'll do all of them --

JAMES WIESNER: What will you do with B? What will you do with B?

ADAM CUMMINGS: B has been taken out completely. That has been withdrawn at the applicant's request. This just for A and C.

Adam Cummings made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an Unlisted Action with no significant environmental impact, and Philip Supernault seconded the motion. The Board all voted yes on the motion.

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

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

1. These variances are all related to a sanitary sewer pump station to serve the next phase of this residential development and are requirements that Monroe County Pure Waters has specified. This lot will be transferred to the Gates-Chili-Ogden Sanitary Sewer District owned and operated by Monroe County Pure Waters.
3. Application of Adam Schneider, 445 Chili-Riga Townline Road, Churchville, New York 14428, applicant, Rita Harper, 140 Bowen Road, Churchville, New York 14428, owner; for a variance to A) develop a substandard lot to be 34,972 sq. ft. (2 acres min.\87,120 sq. ft. Required). B) Proposed lot width of 100.00' (275.00' required). C) Proposed side setback of 19.2' (50.00' required). D) Proposed all classes of unique soils (Class 1-4 not permitted\Class 5-9 permitted) at the property located at 140 Bowen Road. PRD/Underlying District-AC

Adam Schneider was present to represent the application.

ADAM CUMMINGS: Just want to clarify that last part D. The Class 1 through 4 and 5 through 9 are soil classifications for prime and non-prime agricultural soils in our Town Code. So what it is saying is if that site has a Class 1 through 4, no development is permitted on it. If it has what is classified as 5 through 9 classified soils, it is permitted. In this case from a soil survey from a long time ago, those were all identified as 1 through 4.

Is that accurate, Paul (Wanzenried)?

PAUL WANZENRIED: Yes.

ADAM CUMMINGS: Okay.

JAMES WIESNER: And the thought is Classes 1 through 4 are good agricultural land in the AC District. You don't want to build on --

ADAM CUMMINGS: Correct. Correct. So I just wanted to point out what those numbers all stood for. So that's why we're asking for relief to be able to go beyond that requirement of the code.

Just to zoom in on the two maps that show it. That is the substandard parcel. If you can identify yourself.

MR. SCHNEIDER: Adam Schneider.

ADAM CUMMINGS: And just to confirm, that's the lot we're talking about?

MR. SCHNEIDER: Yes, it is.

ADAM CUMMINGS: And then on the other side, this one over here (indicating), that is the layout with your house and your septic and leach fields.

MR. SCHNEIDER: Would be? That is the proposed.

ADAM CUMMINGS: Is it?

MR. SCHNEIDER: That is the proposed?

ADAM CUMMINGS: Yep.

MR. SCHNEIDER: Yep.

ADAM CUMMINGS: Okay. Anything else to add on this one?

MR. SCHNEIDER: No. We're basically here -- I got the owners of the land that own the land right now. They're here with us. The neighbors next door. And my parents which I'm

trying to build this for.

And we're just -- want to make sure we can get the variance to do that. I would like to buy the property. I can't buy the property until we know the variance because I don't want to put any money -- we're in like a catch-22 spot. I just heard that last guy. Like "Hey, they don't have the land yet."

We're in a catch-22 spot. We just want to make sure that if we comply with everything, there is no reason we can't buy it until then. Otherwise, it will be a vacant lot that has a 100-foot width and no one can build on it, so.

ADAM CUMMINGS: Okay. Understood. And you are a unique one with the PRD designation and the underlying Agricultural Conservation zoning. So I just point that out to everybody, that is why the agricultural falls in that.

JAMES WIESNER: I don't understand that. It is PRD. So how does AC come in?

ADAM CUMMINGS: So PRD is really a zone overlay that was put on top of the AC zone. And this single lot, much like any other single lot, you have to have -- is that a minimum -- they're checking on something -- I believe it's a minimum of 50 acres.

JAMES WIESNER: So it started out as an AC --

ADAM CUMMINGS: Yes.

JAMES WIESNER: -- and then somehow it --

ADAM CUMMINGS: The zoning map update turned into PRD.

JAMES WIESNER: Why would the AC still apply then?

ADAM CUMMINGS: Because -- I would let Paul (Wanzenried) allude to that one. And correct me if I am wrong on this one.

JAMES WIESNER: I thought we only have one zoning.

ADAM CUMMINGS: One is an overlay. The actual zoning is AC, but then it has an overlay over the top of it which is PRD.

MR. SCHNEIDER: Is that prior to when the house originally on there was built?

ADAM CUMMINGS: I don't remember when it was AC. But I don't want -- I don't want to dwell on it too much. That is why we're at the parameters we're at tonight on those ones. So we'll get to those parts of it, but that is where we got a blending of the two.

And correct me if I am wrong, if we solely looked at this as a PRD, we couldn't even consider this one because it's not big enough. You would have to buy an accumulation of 50 acres of surrounding land.

JAMES WIESNER: PRD for development.

ADAM CUMMINGS: Right. So even though the zoning map has it, but when a parcel doesn't fall into that, that's when it goes to the underlying zone. The underlying zoning is the AC, which is why we have the parameters here. This would allow a future single-family house to be built.

MR. SCHNEIDER: Understood.

ADAM CUMMINGS: That's why we're here. We can't set two parameters for a PRD because we aren't at that big massive PRD zone -- or zoning acreage.

JAMES WIESNER: So you dropped it down to AC and now you need the AC variances --

ADAM CUMMINGS: Yes. Dropping it down means going to the underlying. Yep. Yep. We had a -- not in PRD, but we had a similar one over on Stryker years ago, Carol Thoms' house.

Any other questions?

JAMES WIESNER: No.

FRED TROTT: Do you plan on building on the same footprint of the house that is there?

MR. SCHNEIDER: No. That is why we're trying to get the variance. It's going -- the footprint, the 100 feet wide you're saying? Versus what is there? Or the same house size?

FRED TROTT: The same house size. I was just wondering.

MR. SCHNEIDER: No, there is no way. I don't know. I don't even know how these four boys even lived in that house together with the two parents. It is tiny, tiny. This room -- this room is -- half this room is the size of the house.

UNIDENTIFIED SPEAKER: I don't think you could build. 972 square feet.

MR. SCHNEIDER: Four children and two adults in there. It is very small.

ADAM CUMMINGS: Yeah. Once again, that wouldn't meet our 1200 square feet or 11.

PAUL WANZENRIED: How many bedrooms?

ADAM CUMMINGS: I heard four kids. I don't know how many bedrooms.

UNIDENTIFIED SPEAKER: There is five kids.

MR. SCHNEIDER: Sorry. Five kids.

ADAM CUMMINGS: What would be our minimum house?

MR. SCHNEIDER: One of them lived in the closet. I do remember that.

PAUL WANZENRIED: Three-bedrooms, probably 1150.

ADAM CUMMINGS: Okay. So to point out, the 1150 would be our estimated max -- or sorry -- minimum we would have, so.

JAMES WIESNER: This is just a sliver of a piece of property, too.

MR. SCHNEIDER: It is a small piece of property. Obviously, it's overgrown. It's really bad at the moment. There is trees just growing everywhere. I know the neighbor here, he is ready to see something done with it, too. It -- it is a mile and 1/2 down -- my parents live in Hilton now. And my parents are getting older. Nothing against them, but my dad is old. And I need to move them closer to me and this is the best property I found to do that for them. So...

ADAM CUMMINGS: Any other questions, Fred (Trott)?

FRED TROTT: No. No other questions.

ADAM CUMMINGS: And just a clarification. As you said, it has an existing house on it. It has been actively farmed?

UNIDENTIFIED SPEAKER: No.

ADAM CUMMINGS: No. It is not like we're losing farmland. Just happens to be on a survey from 1976.

PHILIP SUPERNULT: Most of these houses that just now --

ADAM CUMMINGS: So they're pre-existing, non-conforming. If they were keeping the same footprint and the same house there, they could just leave it. However, that house doesn't -- the square footage doesn't meet modern standards so, therefore, they would have to come in for some sort of variance. This alleviates a lot of that.

And as -- I will open up the Public Hearing, but as it was stated, this would help improve this piece of property that is sitting there that has a half-house historically.

PHILIP SUPERNULT: These houses that are there right now exist on a Class 1 through 4 soils probably.

ADAM CUMMINGS: Could be. Or that is how it was mapped back in 1976.

So go ahead and I will open up the Public Hearing.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

JOHN BASILE

MR. BASILE: I'm the next-door neighbor. I wanted to get a clarification on the distance from the side of my property to whatever structure is going to be built.

ADAM CUMMINGS: Yep. So you're on which side?

MR. BASILE: East.

ADAM CUMMINGS: So on this map it would be the right-hand side. I will zoom in so you can see it. The building structure is 23.6 feet.

MR. BASILE: Okay.

PAUL WANZENRIED: That is to the property line and then whatever distance from the property line to your house.

MR. BASILE: Correct.

ADAM CUMMINGS: I don't know the distance to your house.

MR. BASILE: And you're not going to find out. Kidding.

ADAM CUMMINGS: Not with this map.

MR. BASILE: That's all. Thank you.

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

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

ADAM CUMMINGS: One condition of approval will be just to get a building permit. So if we do approve it, continue on with that.

You would have applied already so just continue on with the Building Department on that.

PAUL WANZENRIED: He also has also got to do -- yeah, he knows.

MR. SCHNEIDER: Yes. I have a lot of stuff to do, but we didn't want to move forward with any of that until we knew this was okay.

PAUL WANZENRIED: He has got to do a site plan.

ADAM CUMMINGS: Site plan and he is not subdividing, right? But he does have to have a site plan?

PAUL WANZENRIED: Yep.

MR. SCHNEIDER: Yep.

ADAM CUMMINGS: Our code already says that so I will not cover that one.

MR. SCHNEIDER: He has -- has been a great help, Paul (Wanzenried) has been. We do appreciate that.

ADAM CUMMINGS: Like the other one, I'm not seeing any real reason to split these up. Unless somebody sees otherwise. All right.

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

ADAM CUMMINGS: Now, I will ask for a motion to adopt with the one condition of approval.

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

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

1. Building permit must be obtained.

The following finding of fact was cited:

1. The variance request does not change the character of the area as there other similarly sized lots in this area and it is not possible to meet the 50-acre requirement for PRD regulations. The existing house has occupied this lot for many years with no adverse impacts to the neighboring properties.
4. Application of Richard Morris, 3457 Chili Avenue, Rochester, New York 14624, applicant/owner; for a variance A) for the area of accessory structures (Shed A, B, C, and D) of 449.11 sq. ft. (192 sq. ft. allowed). B) Setbacks of accessory structures of 5.00' (8.00' allowed). C) Area of accessory structures (screened room) of 305 sq. ft. pre-existing nonconforming (192 sq. ft. allowed). D) Height of fences in the front yard. (Florentine secondary front) of 6.00' proposed (4.00' allowed) at the property located at 3457 Chili Avenue. R-1-20 District.

Richard Morris and India Morris were present to represent the application.

ADAM CUMMINGS: Good evening.

MR. MORRIS: Good evening. How you doing?

ADAM CUMMINGS: Good. How are you?

If you have anything else to add on this? I can start -- wherever would you like.

MR. MORRIS: I don't really even know what to say. I'm just coming here to see what I got to do, whatever.

ADAM CUMMINGS: Okay. So this one is -- appears to be more of a code compliance update. So you do have four sheds up there. So I will go through that first one. Because that is a pretty accurate number. We usually don't get them down to the hundredths place, the square footages.

The accessory structures, that's how far away. Just to go through the images.

So this is Structure B, as we talked about.

This brown structure is at A. I'm -- I'm not sure.

MR. MORRIS: I don't know. If it is A, B. I don't know.

ADAM CUMMINGS: I don't remember it. Oh, I see it. Here is A (indicating). There is B (indicating).

PAUL WANZENRIED: That makes it C.

ADAM CUMMINGS: Yep. So that would be C and then D is somewhere else.

This is a measurement showing 5 feet right to there (indicating). And then -- because that is at 6 feet.

And then that is the pre-existing enclosure over here. And there we go.

So there is A, B and C and then D would be the --

JAMES WIESNER: One against the house?

ADAM CUMMINGS: Oh, there it is. I was looking for dark black lines. Yes. The frame shed that is right here connected to the house. Okay.

FRED TROTT: Screened porch?

ADAM CUMMINGS: So the screened room is this building in the center.

FRED TROTT: Is that not an accessory structure?

JAMES WIESNER: So why aren't they together, the screened room and the shed?

ADAM CUMMINGS: That is a good question.

Paul (Wanzenried), is the screened structure -- is the screened room included in the total 449.11 square feet of accessory structure area? Because I don't have the dimensions of each of them.

JAMES WIESNER: They're under the same section of code.

PAUL WANZENRIED: No.

ADAM CUMMINGS: No?

PAUL WANZENRIED: You will see that -- hang on.

ADAM CUMMINGS: So C is its own --

PAUL WANZENRIED: I separated it out. A, B, C and D are the first Variance A. Variance C is the area of the accessory structure, the screened room labeled on my denial page.

ADAM CUMMINGS: Why did you separate out accessory structures in varying types?

PAUL WANZENRIED: Because we separate -- we in the Town separate out accessory structures. Sheds go with sheds. Gazebos go with gazebos and pergolas go with pergolas and on down the line.

JAMES WIESNER: So he is really looking for 754 square feet?

ADAM CUMMINGS: No. We don't add them together. They're separate. It's not a cumulative of accessory structures. It is 192 square feet for each type of accessory structure.

Correct, Paul (Wanzenried)?

PAUL WANZENRIED: That's the way we have looked at it, yes.

JAMES WIESNER: Okay. Well, it's different.

ADAM CUMMINGS: And then these are all existing structures, correct?

MR. MORRIS: The -- to my -- the shed that is attached to the house?

ADAM CUMMINGS: Yes.

MR. MORRIS: Yes. That is pre-existing. That was already there and the screened room is already there. And I got a permit for B to have there and -- and A and C are just little Costco plastic, screw little sheds that I put on a little platform that I built.

ADAM CUMMINGS: And then the 6-foot tall fence --

MR. MORRIS: Yeah.

ADAM CUMMINGS: -- that is existing, too.

MR. MORRIS: That wasn't -- so I don't know if y'all know too much about that property. So that property had a -- I don't know how big it is, but it was 4 feet deep and it was really huge. It was a pond. And I got rid of it because my daughter was outside and I just pretty much closed it off. That is -- was a chain-linked, gated fence that's on the side of Florentine. That was all torn up and broken up. It also had trees that was tied up into it. I had the tree stump -- I had the tree gutted out, ripped out and I replaced it.

Because like I said, my daughter was in that backyard playing around. That is why we moved out here to Chili. And that fence that I put up was put up by a professional so I could have something. But I created a -- I guess if I needed a -- dump trucks or anything to go through, because I knew I was going to do more things to that yard later on.

ADAM CUMMINGS: But it sounds like, regardless of gates and all that, you put the 6-foot fence on but didn't check -- because it was a 4-foot fence and you brought it up to a 6-foot height.

MR. MORRIS: Right. I don't know nothing about that. That fence been up -- I have been here since 2015. That fence been up since 2016.

ADAM CUMMINGS: Okay. Once again, this is a code compliance effort.

MR. MORRIS: Yeah. But you guys -- you guys got to understand my frustration. Right? So the back person on my -- the neighbor only caused this ruckus to you guys. You know what I'm saying? I have been dealing with Gerry down here doing anything I needed because he taught me. "You need to get this done. This got to be done."

I don't know nothing about that. I come from the city. I lived out here and I'm just trying to make a nice living space for my family. I never spoke to this lady a day of my life since I been here since 2015. And she got mad because I wanted to clear some limbs climbing over the fence on my side.

So she still bothers me. I'm going to call the police. I don't know what is going to happen, but I'm just frustrated. I don't want it to escalate --

ADAM CUMMINGS: We're not here for civil neighbor disputes.

MR. MORRIS: Yeah, but -- you know what I'm saying? But I wouldn't be going through this if it wasn't for her. I'm not saying I'm trying to get thrown under the radar. But I don't bother nobody. You know?

I got my neighbor here that is to my -- that is on the side of Florentine. I got my other neighbor that is down the street on the cul-de-sac. And I don't bother nobody. I know everybody almost in that cul-de-sac. This is the only lady that wants to give me grief.

ADAM CUMMINGS: I will interrupt and I want to make sure to keep it focused on -- we're trying to gather the history of why there is so many structures.

MR. MORRIS: Well, the structure for the fence, I didn't know -- I didn't know I needed a permit for it. I was just only putting a fence up there to protect my daughter at the time when she was being born. She was two years old and I wanted to make sure the gate, the house was in -- you know, saying it was enclosed. That is the only reason I put it. I didn't see a reason to put a gated fence there.

And I know that my family is big. I'm a family a five. I got two girls, a son and my wife. I wanted to make sure I keep everybody enclosed. You know what I'm saying? Like if we have parties or get-togethers, I don't need everybody knowing what is going on. It is a gated fence there.

ADAM CUMMINGS: We don't care if it is gated. I just want to make sure we keep -- we are only here for the height. By code if it was 4 feet tall, you wouldn't even be here about the fence. There would be nothing in -- we're only here discussing the height of it.

MR. MORRIS: Well, we wouldn't be here if it wasn't for her.

UNIDENTIFIED SPEAKER: Can I --

ADAM CUMMINGS: No. Not until the public hearing comments can anyone else. This is just between the Board and the applicant. We will have an opportunity for the public to talk. So have no fear on that.

So I think we have covered that one -- on these ones.

MR. MORRIS: And the A and C that you see there, I -- me and my wife run an in-home daycare. I am a Monroe County Child rep. I sit on a Board. And those are there for me to make sure I put stuff in there for my kids that -- if I don't want it to get wet. You know what I'm saying?

Like it is a small little shed. It doesn't even take up space. If anybody should be BS'ing about something is my neighbor right here that sits on his gate.

ADAM CUMMINGS: Let's -- let's focus on the stuff that's on your property and the inventory of the items we're looking to consider here and the variances that you're requesting.

MR. MORRIS: All right.

ADAM CUMMINGS: I just want to make sure -- that goes to everybody as we're here about these specific variances, these four things. We're talking about square footages. We're going to talk about heights and we don't need to talk about opinions. We don't need to talk about

how we feel about each other. I understand there is frustration. I just want to make sure to keep it clear I don't want to escalate anything here tonight.

But we are here to just consider the inventory of structures, the square footages that result and that is all.

MR. MORRIS: Okay.

ADAM CUMMINGS: Okay.

JAMES WIESNER: Just trying to understand what was pre-existing.

MR. MORRIS: That screened room, that big thing that you see that is sitting there in the middle of the door -- and apparently, I didn't know if that was an add-on that they saying that is attached to the house. They staying it's a little shed. That was there already, too.

JAMES WIESNER: So when you moved in, both the shed was attached to the house and the screen room were already there?

MR. MORRIS: Yes. The only thing I added was A, B and C and the tall fence.

ADAM CUMMINGS: And that would make sense because that is not on the survey. The survey is drawn with dimensions of that frame shed with the screen room but doesn't have dimensions of that and doesn't -- actually depicts it as a chain-link fence. That is why it has got -- and a board fence over on this side, on the north side. But it looks like it calls out chain-link on the rest of it.

MR. MORRIS: And that fence is the taller than the side that I put up. So I just don't understand. That fence that -- that was originally there, that is coming up to my backyard, that is attached to my side of the house, is taller than the fence that I put there. That is why I felt comfortable to put that fence there.

ADAM CUMMINGS: I understand. It is because you're a corner lot from Florentine Way. That's why it's a shorter -- a permitted fence or Florentine Way. And your side yard, even from your house here, this could all be 6 feet along your back property line.

MR. MORRIS: Okay. Thank you. I'm going to do it.

ADAM CUMMINGS: Up until where you reach your house. So your house, extending that line all of the way down, that is as far back as you can go 6 feet. It has to be 4 feet on your side yard -- which is actually a front yard. And then it can be 6 feet in these back parts. But it has to be 4 feet here by code requirement. That is why we're tonight, because you had a 6 foot which is 2 feet higher than what we allow by code.

MARK MERRY: So we have several structures.

ADAM CUMMINGS: Yes.

MARK MERRY: We are over by how many permitted combined?

ADAM CUMMINGS: It's not about permits. It's about the square footage.

MARK MERRY: Square footage. I'm sorry.

ADAM CUMMINGS: We're just over double. Just over double on the accessory structure sheds and we are -- it's -- about 100 -- about 100 -- 100 square feet over. So there would be a third over on the screened room.

MARK MERRY: Which is pre-existing --

ADAM CUMMINGS: Correct.

MARK MERRY: -- non-conforming?

ADAM CUMMINGS: Correct. Correct. And on the sheds --

MR. MORRIS: A and B didn't even --

MARK MERRY: So, sir, one of the things we try to do as part of the Zoning Board in the past is we try to reduce the number of variances or the degree of a variance. Okay? So follow me here.

Is there any way you could do that? Can you reduce either the number or the square footage of those sheds that you have on your property today?

MR. MORRIS: B is like -- like built. Like one of the Amish-type buildings. Like it's nothing I can do. That is my tool shed. I have got all my tools in there.

And A and -- and A and C has stuff in there for the -- for the kids. You know. So I got little small things already in the yard. I mean I'm already taking up my backyard with -- you know what I'm saying -- which is fine for me. I'm doing -- putting little things for they kids put they stuff in and store it away.

But I got bikes in there. I have no room for the bikes. So they're out there for a reason. They're not just sitting there.

I get what you're saying, can I downsize it. But if I'm going to do that, I might as well do what most people that you guys hate -- when they just throw stuff in the yard and just cover it with a tarp and make my yard look like crap.

Then she show -- well, I won't go there. I'm just saying my yard would look like crap. You know what I'm saying? So my yard is taken care of neatly. I would not have my yard look like nothing but prestige, like cleanliness. Since I lived there. I work hard every day making sure that yard is cut and making sure that it looks presentable when people pass that house every single day. Every week I'm out there. I'm out there more than probably anybody of them in their yards in that neighborhood. And I do it --

MARK MERRY: I can appreciate that. I guess I will take my question to the next step.

If it came down to losing rather than reducing, what would you rather do? Would you rather consider reducing than losing that square footage if your variances were denied tonight?

MR. MORRIS: If I'm reducing, I'm losing it anyway. So it's a no-win situation.

ADAM CUMMINGS: I think what he is getting at -- we're trying to minimize -- our goal as a Board is to try to minimize the variances that come in. So an opportunity that is being

discussed here is if one of the sheds was reduced --

MR. MORRIS: To my -- out of the A and C?

ADAM CUMMINGS: -- meaning the square footage variance that you're requesting would be reduced, that helps justify our decision. That much relief. It minimizes the relief request. For instance, Shed A is 5 feet off. If Shed A were to be consolidated and that stuff moved into the other building and A was taken off of the inventory, that would then increase the setback which would get rid of the setback of accessory structures where you need 8 feet. You would no longer need a variance of 5 feet because you would have 8 feet to Parcel B and we would be all set on that side setback.

Then that would lessen the variance request for square footage for sheds.

MR. MORRIS: Oh, I see.

ADAM CUMMINGS: You would still get a variance -- you could still get a variance approved by this Board. But it's not as drastic as what was proposed. We are trying to minimize it if we have options.

And I do need to point out for everybody's satisfaction here is, we can understand and appreciate that you're trying to do it for your family and -- and that is the ultimate goal. However, our goal is we listen to applicants and the applications to the land. Not to a particular person, their uses, their families or their practices. Because variances stay with the land forever.

So if we grant a variance for a shed that is -- this is not for this one, but a shed that is five times the amount that is allowed, that stays for the -- in perpetuity. So there could be five property owners after this. So we are not considering it on a personal basis.

MR. MORRIS: There is a neighbor like two down --

ADAM CUMMINGS: So I'm just saying for how we --

MR. MORRIS: -- that is bigger than mine put together.

ADAM CUMMINGS: I'm trying to explain what we try to do here in terms of variances. It is not to you as just the applicant. We are looking at the land and those variances to that land. Not the uses, the storage of materials.

I'm not trying to get you to compare to the neighbors or to compare what your use is and cleanliness and things like that. I'm just trying to explain to you what we're trying to do, our job is tasked to do here. We think of the land and the applicant -- the applications that are applied to that land.

Does that make sense to you?

MR. MORRIS: Yeah. I got what you're saying.

MARK MERRY: Thank you for that clarification.

ADAM CUMMINGS: And so for instance, this is an example of us pursuing modifications. So one other alternative could be -- is moving Shed A away from the side lot line so that it is 8 feet off and then you don't need a variance for 5 feet. That is specific to one.

MR. MORRIS: I got what you're saying.

ADAM CUMMINGS: You would still leave the square footage for sheds, but it removes one of the other variances. That is our goal, to minimize as best we can.

MR. MORRIS: So if I move Shed A, could I put Shed A somewhere else?

ADAM CUMMINGS: You could and at that point, we would modify your application tonight to get rid of the letter B. Okay?

You would still have the same one for letter A with that square footage because Shed A is 40 square feet in that 449.11.

Is that easily understood on that part of it?

MR. MORRIS: Uh-uh.

ADAM CUMMINGS: Now what he was getting at on his proposal, it would reduce it by 40 square feet if A went away all together, which is a 10 percent reduction. That is a quantitative, a numerical number that can say we reduced something.

MR. MORRIS: Okay.

ADAM CUMMINGS: That is where he is getting at.

In terms of applicants, if we deny something today, it stays with the land forever. So, therefore, you would be given a time frame to remove all of the sheds. And you would have to comply with that and Code Enforcement would be the ones tasked with enforcing that. That is how this works, is we try to find the compromise in there. We appreciate that you came in here and these code compliance ones do pop up. We don't get everything in Town. It's too big of a Town to do that. But we try to be fair and balanced.

MR. MORRIS: You didn't get me either. Somebody gave me.

ADAM CUMMINGS: I can't speak to that.

MR. MORRIS: I will get rid of A.

ADAM CUMMINGS: So you want to -- so you would revise it to get rid of A?

MR. MORRIS: Yeah. It's small. It's on my neighbor's fence anyway. I can clear it off. He has been so gentlemanly to kind of let me have that for the moment. So I can clean that up for him.

ADAM CUMMINGS: So if you get rid of A, that would eliminate variance request B and it would reduce the letter A to 409.11 square feet. I appreciate that.

MARK MERRY: Thank you.

MR. MORRIS: Thank you.

FRED TROTT: In the same vein, I will say this to you. If it goes on the deck, would it still be considered a shed?

ADAM CUMMINGS: If it goes on the deck?

MR. MORRIS: I can't do it. I worry about it, Fred (Trott). I been in compliance with Monroe County for OCFS, for Family Services. I can't do that. I wouldn't even attempt that.

ADAM CUMMINGS: I think -- I think going on the deck it would still be a detached structure, correct, Paul (Wanzenried)?

PAUL WANZENRIED: Uh-huh. But once again, the frame shed off the back of the house, that one is being labeled as an attached one because it's not directly -- it might be attached to the house. But it is not accessible to the house. From within the house.

ADAM CUMMINGS: Any other questions?

FRED TROTT: You're saying the chain link fence is 6 feet high?

ADAM CUMMINGS: On the west side. On this side.

JAMES WIESNER: The fence on Florentine is too high?

ADAM CUMMINGS: No. The boarded fence is 6 feet here. That is what we're considering out here. I didn't go and measure here. He is saying that this one is higher.

MR. MORRIS: No. No. No. That's my neighbor's side. That has been there. That is the chain-link side.

ADAM CUMMINGS: That is what I am saying. So that is what he is asking.

FRED TROTT: I'm just asking if that is 6 feet high.

MR. MORRIS: No. That's chain-link.

ADAM CUMMINGS: Well, chain-link can be 6 feet.

MR. MORRIS: That is not high.

FRED TROTT: I thought --

MR. MORRIS: I could go over and shake hands and hug if you want to.

FRED TROTT: I thought you said --

MR. MORRIS: No, no. This right here -- the 6 feet side on the opposite side -- yeah, right -- no. On the other side. Right there (indicating). Go up and curve into my yard. Right there. That side right there. That was there already. And I just added that 6 feet side to corner it off and bring it down the same height that was.

ADAM CUMMINGS: I think his confusion is over on this side, you said that this side of it was taller.

MR. MORRIS: No. I was just talking about that side, connected to my house.

PAUL WANZENRIED: He is talking about the existing --

MR. MORRIS: I understand. That is what I was talking --

FRED TROTT: I didn't understand. I apologize. No other questions.

PHILIP SUPERNAULT: Building C, if something could be done about that, what would that lower the total square feet to?

ADAM CUMMINGS: Another 40 square feet would be brought down.

PHILIP SUPERNAULT: Any chance of that happening?

MR. MORRIS: I just got rid of A.

PHILIP SUPERNAULT: I'm trying to get you --

MR. MORRIS: I mean if that was the case, what is the point of me coming in? I'm trying to keep something. Like I mean...

PHILIP SUPERNAULT: Okay. No more questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

PAUL HUSSAR, 2 Florentine Way

MR. HUSSAR: Question for you. I live at 2 Florentine Way. Paul Hussar, H-U-S-S-A-R. I live at 2 Florentine Way.

So I am on where the 6-foot fence side is. I'm looking directly at it.

My question is, if he had that put in by a fence company in 2016, they would have had to obtain a permit; correct?

PAUL WANZENRIED: No.

ADAM CUMMINGS: No.

MR. HUSSAR: Why is that?

PAUL WANZENRIED: Chili does not permit fences.

MR. HUSSAR: So if you don't permit them, why do you --

PAUL WANZENRIED: We have a height regulation. We have a height regulation. You have a height regulation. You can have 4 foot in the front yard, 6 foot on the side and rear yards.

Mr. Morris' issue is the fact that he has a primary front and second front. His primary front is his address on Chili Ave. The secondary front is Florentine. Given that there are two fronts, he cannot have a 6 foot on which -- he considered it is his side yard. Most people would.

MR. HUSSAR: Sure.

PAUL WANZENRIED: But it is not. It is a secondary front. Therefore, it can't have a 6-foot fence.

MR. HUSSAR: Wouldn't a fence company have to know that if they are going to have to put a fence up in Chili?

PAUL WANZENRIED: You'd be surprised.

MR. HUSSAR: That's why I'm asking. Isn't it part of their job to know that?

ADAM CUMMINGS: No. So normally they just construct and since we don't require a permit, then that monetary and that tracking doesn't happen. We have had it numerous times where they come in front of this Board and they get caught and we have to have them come in.

MR. HUSSAR: That would be an idea. We address that at some point to try to prevent

this.

ADAM CUMMINGS: That is not for this Board to decide.

MR. HUSSAR: Just pointing out because it prevents the problem they currently have --

ADAM CUMMINGS: That's a good question.

MR. HUSSAR: -- of a fence that has been up for almost ten years, eight years. So --

ADAM CUMMINGS: Not for this Board's jurisdiction, but a good question.

MR. HUSSAR: I mean I have the -- probably the best visual sight line into his backyard from my home. And none of his structures are obtrusive to me at all, including his fence.

ADAM CUMMINGS: So a question to you. So you're saying that the 6-foot fence provides good screening of his backyard to your viewing?

MR. HUSSAR: Oh, it absolutely does a great job. If you take it to 4 feet, I would be able to see absolutely everything he does in his yard from anywhere inside my home and my front porch.

ADAM CUMMINGS: Okay. One other prime question is has this ever obstructed your viewing as you're driving down Florentine Way? Does it get in the way?

MR. HUSSAR: No. Because his front fence, the part where that arrow cuts in up there, so -- so where the structure -- where that fence comes in, he has got a very long driveway.

ADAM CUMMINGS: Okay.

MR. HUSSAR: So when you pass his fence, I still have 40 feet before I get to the stop sign. Maybe more. I would have to measure it. But it's a fair distance to the point that I can see coming all of the way down both ways.

ADAM CUMMINGS: Okay. Thank you.

MR. HUSSAR: I would say the house on the right obstructs your view of the corner more than his does. So that is not even remotely --

ADAM CUMMINGS: Okay. I just wanted to ask the question. Thank you.

MR. HUSSAR: Yeah. Yeah. Thank you.

MATT NESCI, 3461 Chili Avenue

MR. NESCI: So it is on the A side. So I have a raised ranch. I can see directly into the property.

I think -- a couple things. The pictures were a little bit dark. It didn't look like it looks in person there. They are well maintained. When I looked at them, I'm like "What is that?"

But they are well maintained and like the plastic ones are new. To me, it doesn't take away. I think everything that the Morrisses do to maintain their property actually has helped.

And I know we're not talking about personality, but from a neighborly standpoint, I -- I have been there twice as long as him and he knows everybody in the neighborhood and he is always the first one to help. So...

JAMES HINKLEY, 28 Florentine Way

MR. HINKLEY: I was going to say exactly what these two gentlemen said. It looks good. Doesn't obstruct your view. You have a lot of time when you're driving down Florentine Way. After you pass that to see the road, there is no obstructions in anyone's vision or anything.

And I'm curious, too, because where the fence is located in the spot -- and there is a slope. I don't know where someone -- where you measure from for 6 feet. That is the max obviously. But if you're in his yard, that might be 4 because his house is on top of like a hill, right? So I didn't even think about that.

ADAM CUMMINGS: So the topography -- the measurements always come from the ground where it is. But yes, topography will always dictate things. While it says 6 feet -- but it is not 6 feet flat everywhere.

MR. NESCI: Yeah. Other than that, I don't have anything.

MS. MORRIS: From the children standpoint, we have children running in the yard. 6 feet. Swim suits. Summertime and apparently people peaking in our backyards, taking pictures. Privacy standpoint, it's just really not safe, I would say, with that 4 feet with them privacy-wise and them running around.

So I would prefer if possible to keep the 6 feet for privacy and, you know, the safety of the children. That's it.

ADAM CUMMINGS: I will say we did receive a written letter -- or email rather from the neighbor to your rear, to the south with some pictures on it related to drainage, some water impacts and a few other things to -- to just make sure you keep it maintained. So we can't condition that, but we do ask that you keep maintaining it.

MR. MORRIS: Drainage?

ADAM CUMMINGS: Regardless of where we are --

MR. MORRIS: I --

ADAM CUMMINGS: Once again, I want to make sure to keep this one clear for us, that this one, we're here talking about accessory structures and heights and square footages.

But I will pose a question of -- because with more square footage of roof area, you do get some rain runoff.

Do you have any collection areas of rainwater where it comes in on your property?

MR. MORRIS: First of all --

ADAM CUMMINGS: You said it used to be a pond?

MR. MORRIS: Yeah.

ADAM CUMMINGS: Where was that pond located?

MR. MORRIS: That pond was in front of the screened room shed.

ADAM CUMMINGS: So you got the screen room and the pond was here?

MR. MORRIS: Yeah. That landscaping area right there, that was the pond. It was just -- it had a lot of lilac trees and blah, blah, blah. Whatever. They just -- it made it look like -- to me it looked beautiful in the summertime and spring or whatever, but then come fall, it looks like a jungle. And I just had -- I just pulled out everything along with the pond and my daughter's situation.

ADAM CUMMINGS: Okay. So you're saying it was a pond. It might have been this (indicating) deep?

MR. MORRIS: No. It was 4 feet deep.

ADAM CUMMINGS: Interesting.

MR. MORRIS: That pond was deep.

MR. BASILE: It was an indoor pool before that.

MR. MORRIS: Yes. Indoor pool that turned to what -- aquarium for the fish.

That -- that property, it slants anywhere. Where my A is at and the C is at, rain comes down regardless. I don't -- before I even put that B there -- that is the reason why I put B there. It was just saturated. Like it would soak.

So by me -- by you saying that I have to keep it clean, it already rains in that area. Like I had to put more dirt in -- I had to put two tons of dirt in last -- last year just to level my ground. Because when my kids go out to play, they go into like a -- the back of the fence, towards her backyard and it is just sludge regardless. I have nothing to do with that. That's not my control. That's just the way my yard is. It slants down regardless.

So that shed and that B has nothing to do with water coming down.

ADAM CUMMINGS: Okay. So where did you add the dirt? This area?

MR. MORRIS: No. I added dirt --

ADAM CUMMINGS: In the landscaping?

MR. MORRIS: All over there. I leveled all that over last year.

ADAM CUMMINGS: All that makes it over to this way (indicating).

MR. HUSSAR: Keep in mind Florentine goes like this (indicating). When you pull down, it (indicating) -- so it is on a huge slant.

ADAM CUMMINGS: Yeah. That is -- heads towards Chili Ave.

PAUL WANZENRIED: So you filled the pond in?

MR. MORRIS: Yeah.

PAUL WANZENRIED: Okay.

MR. MORRIS: Filled the pond in.

ADAM CUMMINGS: Which was the landscape area.

And then drainage does come from the west and the rear of your lot. I know there is a drainage easement there.

MR. MORRIS: I got it right outside -- the side -- my secondary yard, it is right out there --

ADAM CUMMINGS: There is a drainage inlet right there.

MR. MORRIS: Yes. But I don't see how if she says that I need to keep that clean and drainage -- I can't control that. I keep it clean from the branches coming over on my side and I go in and I rake it and everything. That --

ADAM CUMMINGS: The branches aren't going to cause drainage to that extent. But I would just ask with these roof structures on here, don't have any gutters downspouts heading it --

MR. MORRIS: That is not even heading into her yard. It doesn't go -- it goes in my yard to the side.

But still, that yard would get saturated regardless because I'm on a downward slope. I had my -- my roof has nothing to do with if water comes down and -- whatever. Plus she got like 30 tall trees sitting there that is going to soak up all of the water anyway.

ADAM CUMMINGS: Correct. I'm just saying with this one, try to keep it directed on there --

MR. MORRIS: I have been doing that for the longest, sir. Like I don't need nobody to tell me how I been doing stuff. And I have been going -- because you guys are talking with me because of this woman.

She has already -- I know you don't want to talk about it, but now you making it sound like -- because she emails you, right? And told you to make sure I keep it clean.

So now you just giving you -- another awareness for her to call you guys and say, "Oh, he ain't doing this." And guess what? You're going to give me another letter.

ADAM CUMMINGS: I'm going to interrupt you on this one. I'm just pointing out that it was a good question and a point of fact that if this directs it that way, I'm asking you just to keep it on your property. Which you were doing --

MR. MORRIS: See but what you are doing --

ADAM CUMMINGS: -- so just continue doing it.

MR. MORRIS: Yeah, but you guys are going to come to her rescue every time she opens her freaking mouth.

So what do I got to do to stop it? Do I got to call the police? Do I got to the call the Town? I have a couple people in my back pocket, too.

MR. NESCI: Hold on. Stop.

ADAM CUMMINGS: That's good advice.

So your applications are what we considering here. I'm just pointing out that with those structures -- and it goes with all structures that go next to the property lines -- just make sure to keep it on your property. It is just a reminder. A friendly reminder.

If you're doing it, then that is great. I did not go out onto the property for specific reasons because we don't go onto private property. We stay on public property for a reason.

I'm just pointing it out, that it was a good question and I wanted to check on it. That was it. All right.

But I would like to move on with this. I think I have to make a motion to close the Public Hearing. Or did I do it already?

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

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

ADAM CUMMINGS: Moving on with this one, I would like to remain where we were at. We revised it already. For A to be -- the accessory structures, with A being removed. Which also removes or revises letter A to be 409.11 square feet.

Letter B is withdrawn at the applicant's request. We won't be considering that.

Letter C is the screened room and that one remains as is. The height of the fences in the front yard specifically on Florentine Way would be 6 feet.

On this one, I'm going to keep each of those separate in terms of our decisions. Just point it out to you. To -- to move on with this.

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

JAMES WIESNER: You know, removing that 40 -- 40 foot shed is -- is just nitpicking in my opinion.

ADAM CUMMINGS: Well, it does allow us to get rid of the side setback.

Would you feel better to -- to --

JAMES WIESNER: To me, I mean if the Board wants to remove it, it's up to them. I just think that's -- I can go put my arms around this thing and pick it up and move it. It is not even a structure to me. I mean I -- I -- I put --

ADAM CUMMINGS: I'm not as strong as you are, but I take your word.

JAMES WIESNER: I have seen these on people's decks all of the time. I don't even -- I mean yes, if we're doing a complete inventory, but I don't consider that significant by any stretch of the imagination.

ADAM CUMMINGS: Well, that's a good question. So what about the -- Mark (Merry) brought it up and I went along and agreed with it because it does minimize our variance on that side setback. So --

JAMES WIESNER: But you're not doing away with the setback anywhere. You still got it. We're doing it with one shed, but you're still -- the rear -- the rear setback is 5, too.

ADAM CUMMINGS: We're only talking about the side setback.

JAMES WIESNER: So -- but the other one, the B is less than A.

ADAM CUMMINGS: Oh, you're right. That is 5.9.

JAMES WIESNER: You're not -- you're not really doing away with it.

ADAM CUMMINGS: So what you're saying is the 5 feet covers all three of them. So if we got rid of A, we would still have to do --

JAMES WIESNER: You still have a variance.

ADAM CUMMINGS: We would have to do a variance for 5.9 feet. I missed that.

MARK MERRY: In lieu of what?

ADAM CUMMINGS: Because it's not a rear lot. It's a side lot.

MARK MERRY: Correct. Correct. But if you move A --

ADAM CUMMINGS: If you move A, we still have to grant a variance for this one. Because we were doing the 5 foot, it covers both of them.

MARK MERRY: Right. So you're still minimizing the variance.

ADAM CUMMINGS: But I was eliminating this 5 feet. That is incorrect. We would be reducing it to 5.9 feet.

MARK MERRY: You're still minimizing the variances.

JAMES WIESNER: By a foot.

ADAM CUMMINGS: Yes. But I can't remove letter B.

MARK MERRY: You can't take B out.

ADAM CUMMINGS: I have to revise letter B to be 5.9.

PAUL WANZENRIED: That is why it is plural.

ADAM CUMMINGS: Yep. I missed that. I'm sorry.

JAMES WIESNER: I mean we just let someone have 5 feet on the first application tonight.

ADAM CUMMINGS: Yes. Each one also stands on their own.

MARK MERRY: Correct. Each one stands on its own. Very good point.

ADAM CUMMINGS: Totally different conditions on Caboose Circle.

MARK MERRY: Correct.

ADAM CUMMINGS: But it is a good point that 5.9 -- so letter B cannot be stricken or removed, withdrawn, whatever word you want to use. It has to be revised to 5.9 feet, regardless of taking A away.

I guess, sir, it goes back to you, how strongly -- two of us have voiced our opinion on it. Not that was it a vote.

You -- you compromised and removed A. Do you feel strongly enough you would like to risk it and keep it on there? And keep the request at 449 and some change square feet? Or do you want to keep it as you revised it to be the 409 and remove A?

MR. MORRIS: What you mean if I keep it and risk it?

ADAM CUMMINGS: So meaning we don't know how the Board will vote tonight until we vote. We can't say how we'll vote ahead of time. But you run the risk, if we say no, you don't get -- if we say no to the square footage, then you technically don't get any of those. So you would have to revise your inventory to be 192 square feet and that's it.

MR. MORRIS: But square B has a permit.

ADAM CUMMINGS: So B is 192 square feet. So you could leave B, but then you couldn't have any of the other things.

MR. MORRIS: I will just take the reduced A.

ADAM CUMMINGS: So we'll do that.

Once again, I have to state I was incorrect on removing B. It just revises it to be a setback on this because we have to do that to keep B and C because of this setback right here. It is not a rear setback. It's a side setback of 5.9 feet which would still cover it. Because you will have 8 feet over here and -- and you can't move these structures. This one is built like you said. It's an Amish-built one. You can't move 2 -- 2 feet easily without removing the entire shed.

MR. MORRIS: Right.

ADAM CUMMINGS: Okay. So the SEQR still stands for that. So we'll move on to motion to adopt and we'll do application A, which is the accessory structures B, C and D for a total of 409.11 square feet where 192 square feet is allowed.

Fred Trott made a motion to approve the Application 4A with no conditions, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

ADAM CUMMINGS: Board vote.

JAMES WIESNER: So we're voting on A right now?

ADAM CUMMINGS: No. He is still going to leave A off. So -- sorry. Letter A. I was thinking Shed A. Just starting with letter A.

JAMES WIESNER: Letter A.

ADAM CUMMINGS: Yes.

JAMES WIESNER: 49 square feet?

DECISION ON APPLICATION 4A: Unanimously approved by a vote of 5 yes with no conditions and the following findings of fact were cited:

1. The applicant reduced the number of shed accessory structures to 409.11 sq. ft. by agreeing to remove Shed A.
2. The accessory sheds are used to store items under cover instead of in the yard area, which provides a more positive aesthetic view to the neighbors.

ADAM CUMMINGS: So that one -- square footage-wise you're approved on that.

Now, letter B, the setback of -- setbacks of accessory structures to be revised to be 5.9 feet. I ask for a motion to adopt the application.

Mark Merry made a motion to approve the Application 4B with no conditions, and Philip Supernault seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 4B: Unanimously approved by a vote of 5 yes with no conditions and the following findings of fact were cited:

1. The applicant reduced the number of shed accessory structures to 409.11 sq. ft. by agreeing to remove Shed A.
2. The accessory sheds are used to store items under cover instead of in the yard area, which provides a more positive aesthetic view to the neighbors.

ADAM CUMMINGS: You're approved on that one.

Letter C is for the screened room. That one was a pre-existing, nonconforming. It has been there for -- I don't know the exact amount of years, but that is the one that used to be next to the pond. Lack of a better term. Or the pool. So ask for a motion to adopt this application.

Philip Supernault made a motion to approve the Application 4C with no conditions, and James Wiesner seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 4C: Unanimously approved by a vote of 5 yes with no conditions and the following findings of fact were cited:

1. The screened room accessory structure has occupied this property for many years with no historical complaints.
2. Its central location is well-screened and not easily visible from neighboring properties.

ADAM CUMMINGS: And then letter D is the height of the fence in the front yard on Florentine, the secondary front that he has. I ask for a motion to adopt this application for letter D, the height of the fence.

Philip Supernault made a motion to approve the Application 4D with conditions, and Fred Trott seconded the motion. All Board members were in favor of the motion.

DECISION ON APPLICATION 4D: Unanimously approved by a vote of 5 yes with no conditions and the following findings of fact were cited:

1. The subject property has a long approach driveway, which limits the potential for view obstructions from the taller fence.
2. Additionally, the topographic grade of this property is lower in this area so the fence will appear shorter to the neighboring properties compared to a code-compliant fence height.

ADAM CUMMINGS: So you are all set with those. Please continue to work with Paul (Wanzenried) in the Building Department for anything that may pop up.

MR. MORRIS: Yes, sir.

ADAM CUMMINGS: And keep your yard clean.

MR. MORRIS: Thank you. Thank you, everyone.

ADAM CUMMINGS: We have a unique one with the minutes from the last time. So at the July meeting we weren't able to perform an action because we only had --- three people for the quorum, but Mark had to recuse himself because he wasn't here for the July meeting. So I ask for a motion to accept and approve the minutes from the July meeting.

You're going to recuse yourself?

JAMES WIESNER: So what are you asking?

ADAM CUMMINGS: This is the July meeting first.

MARK MERRY: I'm out.

James Wiesner made a motion to accept and adopt the 7/23/24 Zoning Board of Appeals meeting minutes, and Fred Trott seconded the motion. All Board members were in favor of the motion with the exception of Mark Merry (abstained).

ADAM CUMMINGS: The August meeting. This time you two have to recuse yourself. You weren't at the August meeting.

So I'll ask for a motion to accept and approve the minutes?

Mark Merry made a motion to accept and adopt the 8/27/24 Zoning Board of Appeals meeting minutes, and Adam Cummings seconded the motion. All Board members were in favor of the motion with the exception of Philip Supernault and Fred Trott (abstained).

UNIDENTIFIED SPEAKER #1: We were told we had to come to this meeting for a zoning.

ADAM CUMMINGS: For what?

UNIDENTIFIED SPEAKER #2: For -- we were supposed to be in this meeting for an in-law suite.

ADAM CUMMINGS: So I -- for what property?

UNIDENTIFIED SPEAKER #2: 2870 Chili Avenue.

ADAM CUMMINGS: I don't have that on my agenda.

UNIDENTIFIED SPEAKER #2: I have -- we have approval from Gerry and all that.

ADAM CUMMINGS: I know nothing about that.

JAMES WIESNER: They're saying there's a fifth application.

ADAM CUMMINGS: I'm saying that there appears there was a fifth application. It did -- so the issue we would have, we couldn't legally hear it tonight because it's not on the public notice. If it is not on the public notice, we -- even if we did an action tonight, we would have to redo it again next month because that would be an invalid action.

So I do apologize for that one. I'm not sure where the mix up came up. Paul (Wanzenried) is looking at it right now.

You said it was for an in-law --
UNIDENTIFIED SPEAKER #2: Suite. I showed up and talked to Gerald. "You got here just in time. You're all set for the 24th."
ADAM CUMMINGS: When did you do that?
UNIDENTIFIED SPEAKER #2: That was last month.
ADAM CUMMINGS: Really?
UNIDENTIFIED SPEAKER #2: Yes.
PAUL WANZENRIED: I don't know what is going on.
ADAM CUMMINGS: He would have to have a denial letter.
PHILIP SUPERNALUT: We don't set the agenda. We receive the agenda.
ADAM CUMMINGS: Well, I technically set it, but it is after we get all the denial letters and that. I apologize on that one.
UNIDENTIFIED SPEAKER #2: What do we have to do now?
ADAM CUMMINGS: We'll get back in touch with you.
But more than likely, what is going to happen, if yours is already in, you will be on the agenda for the October meeting and we'll put you at the beginning of that one.
UNIDENTIFIED SPEAKER #2: So where would you like to live?
UNIDENTIFIED SPEAKER #3: Yeah, right. Good old Town of Chili.
ADAM CUMMINGS: Just out of curiosity, what variance do you need for the in-law? Is it a setback off the side?
UNIDENTIFIED SPEAKER #3: Do you see how he has a side street?
ADAM CUMMINGS: Yes.
UNIDENTIFIED SPEAKER #3: I do, as well. I'm on Chili and Dortmund.
ADAM CUMMINGS: Yeah. I can take a look at it here. We're not doing a Board decision or anything.
UNIDENTIFIED SPEAKER #3: So straight back from the house, but I guess it is just --
MATTHEW PISTON: You never closed.
ADAM CUMMINGS: Hold on. Let me turn off the recording. I don't want to --
MATTHEW PISTON: You never closed. There was a motion to adjourn.
ADAM CUMMINGS: You're right. And then I made a second and didn't vote. All right. So we have to close the meeting first.
Motion to adjourn?

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

The meeting was adjourned at 8:21 p.m.