

CHILI ZONING BOARD OF APPEALS
November 23, 2010

A meeting of the Chili Zoning Board was held on November 23, 2010 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Vice Chairperson Adam Cummings.

PRESENT: Robert Mulcahy, Michael Nyhan, Robert Springer, Fred Trott, James Wiesner and Vice Chairperson Adam Cummings.

Chairperson Paul Bloser was excused.

ALSO PRESENT: Keith O'Toole, Assistant Town Counsel; Ed Shero, Building & Plumbing Inspector.

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

ADAM CUMMINGS: I guess first off, the signs? Anybody have any issues with the signs?

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

1. Application of Michael DiVito, owner; 2 Black Cedar Drive, Rochester, New York 14624 for variance to erect a bay window to be 8' from side lot line (10' req.) at property located at 2 Black Cedar Drive in R-1-20 zone.

Michael DiVito was present to represent the application.

MR. DI VITO: Mike DiVito, resident of 2 Black Cedar Drive, corner of Chili Avenue and Chestnut Ridge Road.

The -- my wife and I built the home just four years ago, and because of the lot that we selected, um, ultimately we had to do an L-shape on the -- on the -- for the house, the footprint. So the garage ran along the west side of the property.

Because of that, we ultimately had to work with the Town and Dennis (Schulmerich) at the time, and we had to move the house to the -- to the east as much as we could, because we couldn't get the cars out of the garage, because the land tapered to -- to a large extent.

Well, the best laid plans -- I'm not a builder, but we were subcontracting our own property. We were fortunate to be able to do that. But there are things that crop up, and such as a \$6,000 retaining wall on the -- on the west side there so we could, you know, salvage the space that we needed to back out.

Well, what ended up happening, we ended up being so far to the east -- we had to be farther to the east as we could. We were actually 10 feet, 9 inches. At the time I didn't quite realize the significance of it for us in the future.

The original plan was to have a window on that east wall of the house, and that, um -- that footprint of the house, that's the master bedroom over there on the east end.

At this point -- at this point, we have no -- no window on that -- on the east side of the house.

Since we moved in, we bought that east lot. We have our own lot, and now we have the lot to the east of us. Pride Mark sold us that one, as well. So we do have that property, because our intent is to have -- when the grandchildren come over, we let them go out the back door and play on that, on the east side of the house, because of the -- you know, we have Chestnut Ridge with Chili Avenue, and we have Black Cedar.

And -- and what has been bothering us pretty much for the time is that we don't have the view to the lot to check -- to check on the kids when they are out there. So that has been -- that is our primary interest, and -- as I say, we -- we ended up so close to the lot line. Because of the lot that we ultimately selected with the pond being there, we were forced to push the house to the east as much as we could.

So we ended up buying the lot, and -- and that -- that being available to us, we decided to ultimately put in a -- not just a window, but a bay window, because we know with a bay -- we only want to go out 2 feet. With a bay, you can look to the north, and if you look at -- you know, you can also see to the south, which is to Chili Avenue, so that would give us a real comfort level for us for watching the kids when they're out there.

Um, what else can I say? Questions, I would be glad to answer any questions.

JAMES WIESNER: No. I mean you -- you own the lot to the east, you said?

MR. DI VITO: Correct.

JAMES WIESNER: Is that a full building lot? I mean, could you --

MR. DI VITO: I'm assuming that it is. I'm assuming that it is. Believe me, that is not our intention.

JAMES WIESNER: Only questions I have.

MICHAEL NYHAN: You won't be changing any of the footers? You will just simply install a window that will extend 2 feet out from your current wall?

MR. DI VITO: Exactly.

ADAM CUMMINGS: Only question I have, will you match the house, siding, trim?

MR. DI VITO: Identically, sure.

Adam Cummings made a motion to open the Public Hearing portion of this application, and James Wiesner seconded the motion. All Board members were in favor of the motion.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Adam Cummings 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 to close the Public Hearing.

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

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

Adam Cummings reviewed the proposed conditions with the Board.

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

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

1. Siding and trim type and color must match the main house.
2. Any permits and/or inspections required by the Town of Chili must be obtained.

The following finding of fact was cited:

1. The proposed variance will not create an undesirable change in the character of the neighborhood or to nearby properties.
2. Application of Holy Light Church of God, c/o Lester Nelson, 366 Tremont Street, Rochester, New York 14608 for variance to erect a 10 1/2' by 4' open porch to be 6 feet from front lot line (75' req.) at property located at 32 Ballantyne Road in RAO-20 and FPO zone.

MR. NELSON: I'm Lester Nelson from Holy Light Church of God. What we are asking for is to put up an open porch on top of the building. The zoning says 75 feet from the active property line. It came up that we were about 6 feet away from it -- 7 at the most. The only thing we're putting up there is so when they come out of church, they can have some type of structure for the rain and the snow.

If you look at the plans and the picture that I supplied, it shouldn't change the characteristic of the neighborhood, and -- as we look at it now, the church is upgrading, so we're putting siding around it and -- it's just upgrading it. All we're looking for is just to be able to put a top on it, so when they come out, they just won't get wet. The top is within the concrete stoop that they have. And it doesn't receive -- on one side no more than 4 feet. On each side of it. And 2 feet before you come in. So I didn't think that it was going to be as much as it was now. That is why I didn't pull a permit or come before the zoning.

ADAM CUMMINGS: So you said it is not going to go to the edge of the stoop?

MR. NELSON: No. Actually, Ed (Shero) came down there and he stopped me from building it. I didn't think I needed a permit or to come to Zoning. But it is up now. I have pictures to support it. We have 4 feet on each side of it, and 2 feet up in front. So it -- so it doesn't proceed the stoop, which you have four steps coming in. That is why I didn't think it was, um -- 75 feet from the variance. We looked at all of the houses around it, and the same porch, that is -- the same roof system, that is what I put up there.

ADAM CUMMINGS: You said you're siding the church now?

MR. NELSON: Yes. We just stopped on the front, because it is going to tell me what I need to do. If I have to take it down or continue going up.

ADAM CUMMINGS: All right.

MR. NELSON: That's about it. That's the reason we're going, because -- we're doing an upgrade and we want to be able to come in and don't get wet, or the snow.

MICHAEL NYHAN: Just so I understand, this structure is going to match the footprint of the stoop that you have in front, with the exception of the sides; is that correct?

MR. NELSON: It will match it, and then with the -- with the trusses that I built up there, it's coming with the same peak so everything will flow right with the existing building.

MICHAEL NYHAN: But it won't extend out beyond --

MR. NELSON: No --

MICHAEL NYHAN: The steps towards the roadway other than a step itself; is that correct?

MR. NELSON: It's within the steps. So actually 10 feet -- 4 feet on each side and 2 feet in the front.

MICHAEL NYHAN: Only question I had.

ADAM CUMMINGS: Motion to open up for public comment?

Robert Mulcahy made a motion to open the Public Hearing portion of this application, and Michael Nyhan seconded the motion. The Board was unanimously in favor of the motion.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Adam Cummings 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 to close the Public Hearing.

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

MICHAEL NYHAN: The structure has been there for how many years now? Do we know how long the structure and steps were there? They were all built in compliance; is that correct?

ED SHERO: Yes.

ROBERT MULCAHY: They had 75 feet for the building before the State came in.

MICHAEL NYHAN: Before they came in and purchased the land and built the highway? Okay. Go ahead.

ED SHERO: I don't think it was ever 75 feet, but...

ROBERT MULCAHY: Close to it.

ED SHERO: Irrespective, the church -- it is a prior nonconforming use anyway. It is just a covering.

ADAM CUMMINGS: Similar to the last application, I am going to put on a couple of conditions of approval for this variance if we grant it. The siding, type and color must match the existing building, as you're going to renovate it right now, and any permits and/or inspections required by the Town of Chili will need to be obtained.

MR. NELSON: Yes.

ADAM CUMMINGS: I think you understand that.

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 Michael Nyhan 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 5 yes with the following conditions:

1. Siding and trim type and color must match the main building.
2. Any permits and/or inspections required by the Town of Chili must be obtained.

The October 26, 2010, meeting minutes were approved as modified.

The meeting ended at 7:18 p.m.