

CHILI ZONING BOARD OF APPEALS
November 26, 2013

A meeting of the Chili Zoning Board was held on November 26, 2013 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: Adam Cummings, Robert Mulcahy, Michael Nyhan, Fred Trott, James Wiesner and Chairperson Paul Bloser.

ALSO PRESENT: Michael Jones, Assistant Town Counsel; Ed Shero, Building & Plumbing Inspector

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: Signs? Good with signs.

The Board indicated they would hear all of the applications.

PUBLIC HEARINGS:

1. Application of Mr. and Mrs. Eric Pierson, owners; 103 Chestnut Drive, Rochester, New York 14624 for variance to allow the total square footage of two utility sheds to be 216 sq. ft. (192 sq. ft. allowed) at property located at 103 Chestnut Drive in R-1-20 zone.

Eric and Amy Pierson were present to represent the application.

MR. PIERSON: Eric Pierson, 103 Chestnut Drive.

MS. PIERSON: Amy Pierson, 103 Chestnut Drive.

PAUL BLOSER: So you're adding a second shed. Are your intentions -- I'm assuming the way this reads -- to keep the second shed there?

MS. PIERSON: Yes.

MR. PIERSON: Yes.

PAUL BLOSER: And this new one is going to be in the opposite corner from where the other one is, correct?

MR. PIERSON: That's correct.

PAUL BLOSER: Prefab shed or something you're building?

MR. PIERSON: Well, it was -- it was prefab, but they will have to build it on site. I assume it comes in pieces.

MS. PIERSON: It comes in sections and he will just set it up on site.

PAUL BLOSER: And what is this compared to what your other shed is? Are they going to be similar?

MS. PIERSON: Um --

MR. PIERSON: Dimension wise?

MS. PIERSON: Appearance?

PAUL BLOSER: How they appear.

MS. PIERSON: One is a barn style. The existing one is a barn style. The new one will be more of a cottage style. We need the taller walls for storage.

PAUL BLOSER: Colors?

MS. PIERSON: Colors. This is going to be like a sage green or tan trim to blend into the woods behind the house.

PAUL BLOSER: What is the other one?

MS. PIERSON: The existing one, since it's a barn, we went with red so it looks like a red barn.

MR. PIERSON: White trim.

PAUL BLOSER: This is a kit you're going to put together?

MS. PIERSON: No. The installation crew from Home Depot will be putting it together.

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: Total of the two sheds is 216 now, right?
PAUL BLOSER: If the application is correct, yes. 216 total square foot.
MICHAEL NYHAN: Two sheds will be in the backyard?
PAUL BLOSER: Only problem I have -- what color is the house?
MR. PIERSON: The house is a yellow house, yellow ranch.
MS. PIERSON: We have no one behind us. We back up to woods. That is why we wanted to do this (indicating) because we wanted to camouflage with the woods.
MICHAEL NYHAN: There are houses, though, on either side?
MR. PIERSON: Yes.
MS. PIERSON: Both neighbors have stated that they do not care what color the sheds are. Both neighbors on either side of us we have spoken with them and they do not care what color the sheds are. In fact, they actually like the red for the barn and this in the sage green.
PAUL BLOSER: Only thing I will say is typically when we're doing sheds, we try to keep things similar in colors. The fact we already have a red shed and now you're adding a third color to the property, that is the only question I will put before the Board to consider on this, if you want --
MICHAEL NYHAN: This is a 6 foot fence around the yard?
MR. PIERSON: Not a 6 foot. I think it's a 4 foot fence.
MICHAEL NYHAN: Chain link?
MR. PIERSON: Yes.
PAUL BLOSER: Any other discussion from the Board?
All I will ask for condition of approval if the Board so moves to pass this, that a final lot map be submitted, tape map updated with where the shed actually falls at the time of completion.
MS. PIERSON: Okay.
PAUL BLOSER: If there is -- there is no permit required for this because of size.
I will also put down to attach a photo of completed shed. Since there is no permit, there is no final inspection on it, so I would like a photo submitted of the shed completed with the updated map to the Building Department.
MS. PIERSON: With the weather changing, we're not sure if we can get the shed installed, you know, in the next month. How long is this variance good for?
PAUL BLOSER: Variance carries with the property.
MS. PIERSON: Okay.
PAUL BLOSER: That's not a question. So there is no building permit, so there really is no end to the thing. If you have questions, you can address them to the Building Department.

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 conditions, and Michael Nyhan seconded the motion. All Board members were in favor of the motion.

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

1. An updated lot map shall be submitted to the Building Department which shows the accurate location of all of the sheds on the property.
2. A photo of the shed shall be submitted to the Building Department for the files.

The following finding of fact was cited:

1. The proposed variance will not have an environmental or negative impact on this or neighboring properties. The requested structure is consistent with similar structures in neighboring lots.
2. Application of Mr. and Mrs. James Smith, owners; 16 Brian Drive, Rochester, New York 14624 for variance to erect a 16' by 20' utility shed to be 320 sq. ft. (192 sq. ft. allowed) at property located at 16 Brian Drive in R-1-12 zone.

James Smith was present to represent the application.

MR. SMITH: Hi. James Smith. 16 Brian Drive. My wife is not here. She is carrying a cold so we left her home. Hope that's not a problem.

PAUL BLOSER: So you have got a fairly good size storage unit you want to put up also.

MR. SMITH: I know it sounds huge. It sounds huge to me.

PAUL BLOSER: They don't take long to fill.

MR. SMITH: Exactly. If you can tell by the tape map that I submitted there, there is a shed or kind of an addition on the back of the garage which was the previous use for general storage. It's like a half basement, so there is really not much downstairs to store.

Two years ago my father, who is now 93, moved in with me and now it's a case of not only

storing myself, but all his stuff he doesn't want to get rid of while he is still alive. Basically the house is looking like a disaster with storage, so I want to put up the additional space out back.

I know I could have gone with a 12 by 16 which wouldn't use a variance. I was hoping that the additional 8 feet I'm actually moving towards the house won't actually affect the background to any of my neighbors per se. Just moving -- just 8 feet additional length towards -- towards the depth of the yard.

PAUL BLOSER: Now, you show this is an overlay of the shed.

MR. SMITH: Right.

PAUL BLOSER: Are you removing the old shed?

MR. SMITH: Right.

The 8 by 10 is really not an 8 by 10. It's almost useless for storage and will be coming down, and actually a shed -- because it's on the tape map there, you can see 7' 8" I think they show on the tape map there. I will be moving it in closer. There's a fence back there. And I'll be moving it in closer, a little bit closer to the house so I can leave a bigger space between the shed and the fence to make it easier for yard care, mowing, that type of stuff. So it will be in about 8 1/2 feet off the property line --

PAUL BLOSER: Are you --

MR. SMITH: -- off the back line.

PAUL BLOSER: Are you removing the old shed?

MR. SMITH: I'm sorry. That old shed will be coming down.

PAUL BLOSER: Prior to construction of the new one?

MR. SMITH: Yes. When -- right now it's full, okay? So when I get around to doing the construction, all that stuff will come out of there. The shed will come down, be removed. And be discarded and then a new shed is going on that to replace part of that and I'll -- little bigger floor plan there.

PAUL BLOSER: Okay.

MR. SMITH: The material itself, it's going to be a pole barn type design. It will have corner posts on it. A gravel floor, a little more permanent flooring on it. Typical -- it's going to be sided just like the house. It's going to have -- so it will blend in right with the property. It will have the same type of siding that is on the rest of the house.

PAUL BLOSER: So are you putting the slab in this then or just leaving the gravel floor?

MR. SMITH: Gravel. No. I wasn't going to pour a slab. That way if it ever wanted to be removed, we didn't have to deal with a big slab back there.

PAUL BLOSER: Are you building this or are you having it done?

MR. SMITH: I'm having it done. Actually my -- I have a -- call him my brother-in-law. He is married to my deceased brother-in-law's wife. And he is a contractor. And he's -- he will be doing the work. I will be assisting.

PAUL BLOSER: Ed (Shero), due to the size of this, do you want drawings?

ED SHERO: Yes. We'll need drawings for the building permit.

MR. SMITH: When I get the permit.

PAUL BLOSER: Let me rephrase that.

Do you want stamped drawings?

ED SHERO: I don't think they will have to be stamped.

PAUL BLOSER: Okay.

ED SHERO: As long as they meet with the building code.

MR. SMITH: Right.

PAUL BLOSER: You want drawings to see the structure, what they're doing with this so you have an idea what is going on?

ED SHERO: When they're making the application for the permit, they submit drawings then. We need a little more detail than this. First of all, I have to be able to read it.

MR. SMITH: Got you. Okay. That is why I asked. You know, I -- I had talked to a guy about drawing.

ED SHERO: It's a good start but probably a --

MR. SMITH: Because of the size, I decided I wanted an actual -- blueprints, actual drawings done so you can see the roof structure and all that type of stuff.

ED SHERO: Got it.

MR. SMITH: Okay.

PAUL BLOSER: Jim (Wiesner), questions?

JAMES WIESNER: I don't have any questions, Paul (Bloser).

MICHAEL NYHAN: Any electric to the shed?

MR. SMITH: There was no plans for electric, no.

MICHAEL NYHAN: And the -- will there be gutters?

MR. SMITH: I was going to put gutters on it, yes, just so it looked like a small 11 foot house out back there, I guess. It will have a front regular overhead garage door on the front of it which will be facing my house, and on the south side, which will be away from all of the neighbors, will have a single -- what is the standard -- 32-inch door on it near the back of the shed for entrance so I didn't have to go through the main door all of the time. I wasn't planning on any windows.

MICHAEL NYHAN: Where would your gutters drain to?

MR. SMITH: Actually, I was -- they were going to be -- I wanted to put them into a ground system so they don't pool out there. Run them down into a pipe in the ground and run them a little.

MICHAEL NYHAN: Into what? What would they run to?
MR. SMITH: Into my yard.
PAUL BLOSER: French drain.
MICHAEL NYHAN: Putting in a French drain?
MR. SMITH: Yes.
FRED TROTT: What kind of roof will you have on it?
MR. SMITH: Standard shingle, just like on the house.
FRED TROTT: Nothing further.
MR. SMITH: In fact, I have shingles that match the house from when we reroofed.
ED SHERO: Nothing to add.
MR. SMITH: Nothing until I open my building permit.
ED SHERO: We already went over that.

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 to close the Public Hearing.

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

MICHAEL NYHAN: Did we get what the windows would be? The siding will match the house. Are there windows on this?
MR. SMITH: Wasn't planning on it.
MICHAEL NYHAN: No windows.
MR. SMITH: No windows.
MICHAEL NYHAN: Just walk-through door and overhead door.
MR. SMITH: Just a walk-through door and overhead door.
PAUL BLOSER: What color did you say this will be?
MR. SMITH: It's a tan, same color -- it's the same color, same siding.
PAUL BLOSER: As the house?
MR. SMITH: As on the house.
PAUL BLOSER: On conditions of approval, building permit and inspections must be obtained from the Chili Building Department as required. Permit must be obtained prior to building starts. Materials (i.e. siding, roofing, trim doors, gutters, et cetera, to match main dwelling.)

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.

PAUL BLOSER: Forgot to put on here that -- just lost my train of thought. Existing shed must be removed within 30 days upon construction completion.

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

1. Building permit and inspections must be obtained from the Building Department, as required.
2. Permit must be obtained prior to commencement of construction.
3. Materials (i.e. siding, roofing, trim, doors, colors, etc.) of structure to match that of the dwelling.
4. Existing shed must be removed within 30 days of construction completion.

The following finding of fact was cited:

1. The proposed variance will not have an environmental or negative impact on this or neighboring properties. The requested structure is consistent with similar structures in neighboring lots.
3. Application of Mr. and Mrs. Jeffrey LeBlanc, owners; 70 Humphrey Road, Scottsville, New York 14546 for variance to allow existing utility shed to be 368 sq. ft. (192 sq. ft. allowed) and to be 14.5' high (12' high allowed) at property located at 70 Humphrey Road in PRD zone.

Ed Martin was present to represent the application.

MR. ED MARTIN: Good evening. My name is Ed Martin. I'm an engineer with

LandTech here tonight representing Jeff LeBlanc in his application. Jeff had hoped to be in attendance tonight but is out of town traveling due the Thanksgiving holiday with family out of state.

The application that we submitted to you is somewhat unique in the fact that this structure has already been constructed, so I have the unenviable task to stand before you and justify that.

As I explained to Mr. LeBlanc, I was not doing back flips, so to speak, to take this job on, because clearly it is self-created, which is not -- does not preclude you from approving it, but it does make the case much more difficult.

After visiting the site, I contend and I spelled this out in the application before you that the built pool house, while it does exceed the area and the height as allowed by your code, it does not pose any additional impact to the neighborhood, to the environment, to the character of the neighborhood or impact to neighbors.

I provided several pictures in there showing you how the pool house sits relative to the house. You will see that it is done in the same architectural styles and color scheme. The 30-inch additional height you would be hard-pressed to even tell that from standing out there. Any neighbors standing at the property line would have a hard time even seeing it from the separation. This is on a 20 acre lot.

So with that I would contend that the pool house as-built poses no additional impact that the conforming shed would have. So with that, I would be happy to answer any questions that you would have.

PAUL BLOSER: Obviously the peak of the shed is lower than the peak of the house?

MR. ED MARTIN: Yes, sir.

PAUL BLOSER: From the photographs, and I will ask the Building Department this also, have there been complaints of anything being stored under there? I mean, I'm looking at it. It looks like a pool house. But no complaints of lawn mowers or equipment or cars or anything else be stored underneath there?

ED SHERO: Not that I'm aware of. We never really inspected the building. This came about because there was the open permit for an in-ground pool and this being part of the barrier, that's when we discovered it was built.

PAUL BLOSER: Are there any at this point, any other -- is the pool permit closed at this point?

ED SHERO: No. The pool permit is not closed because this is part of the barrier. If this has to go, they have to replace it with something smaller or a fence.

MICHAEL JONES: We're presently prosecuting the case in Town Court and we can't gain compliance until this issue is resolved, because as Mr. Shero said, the permit requires a barrier. The shed is part of the barrier, and until we resolve whether there will be a variance or they have to take it down and put a fence up -- so I directed them to come here and seek approval. I don't take the position this should be approved or not approved, but this is the route the applicant chose to try to obtain compliance.

PAUL BLOSER: I do understand. I was aware of that. I didn't have any information on the pool, if that had been closed out or not. I was strictly asking if that had been fulfilled or are we leaving everything open.

MICHAEL JONES: Not until this is resolved can we do that.

PAUL BLOSER: That's all I wanted.

FRED TROTT: Can I ask a question? Just a little bit more, what -- what you're talking about, as far as -- because the pool shed is on a fence?

MICHAEL JONES: Correct. Well, the shed is part of the fence. So -- but the shed doesn't have a permit. So they can't get their pool permit closed because part of the whole deal is the structure, and the structure is not permitted as far as -- without the variance. So we were unable to resolve that issue until we resolve the shed issue.

MR. ED MARTIN: If I could maybe chime in, the detail in the lower center part of the plan I submitted, the 11 by 17 plan. You will note that the pool house occupies about a 16 feet of the fence, so if -- if a pool house has to come out, now there is a gap in the fence so they can't approve the pool.

FRED TROTT: I see. I understand that.

Is it permissible to have -- not from the sides, but pool house in the fence line? I mean, it's not out of character, right?

ED SHERO: No. We had them before. There are certain requirements with boards outside, but it's definitely doable.

FRED TROTT: That's all I had.

PAUL BLOSER: Ed (Shero), do they meet the setback requirement, the front edge of the pool to the front edge of the shed?

ED SHERO: I don't know. I don't know -- looking at the map, I don't see -- I -- I have never been to the property, nor has my assistant to measure that, so I couldn't tell you what the distance is.

MR. ED MARTIN: I'm sorry, the front edge of the pool to the --

PAUL BLOSER: The distance between the edge of the overhang of the shed and the edge of the pool is a 10 foot requirement.

MR. ED MARTIN: Got you.

PAUL BLOSER: Is that correct, Ed (Shero)?

ED SHERO: I think in-grounds are 15.

PAUL BLOSER: 15. Okay. I -- that's why I want -- I'm curious about that because that

may require --

ED SHERO: That's a good question.

PAUL BLOSER: -- an additional variance and I need to have that addressed.

ROBERT MULCAHY: It doesn't look like 15 foot.

FRED TROTT: It doesn't look like 15.

MR. ED MARTIN: I think what you're seeing there, though, is the -- is the fence in there -- oh, you mean in the picture?

FRED TROTT: Uh-huh.

MR. ED MARTIN: Okay.

PAUL BLOSER: I can't see on the drawings or any place, any dimensional data to look at.

MR. ED MARTIN: I wasn't aware of that. The picture on the last page, that's obviously the pool cover, so somewhere to the right of that edge is where the actual pool is.

PAUL BLOSER: Okay. I'm going to -- Counsel, you can tell me where to go with this, but I'm inclined right now to table this until I have more information.

MICHAEL JONES: Mr. Chairman, I think that's a good idea. I would agree with that. Sure.

PAUL BLOSER: Because I don't -- I would rather have a complete package, and if there is something open up in Court, on a decision, this could be another piece of the pie that would need to be resolved and I would like to have it all done at one time.

MICHAEL JONES: Mr. Chairman, that piece of the pie you asked wasn't considered during any of our discussions in Court, so that has not been addressed prior to now, so it might be a good idea to adjourn meeting on this application and get it addressed.

PAUL BLOSER: I will make a motion to adjourn this meeting, pending additional details on a drawing for actual setback and placements, and I -- I would like to know also on this building, you have the building, the delineations for the wet areas, the designated wetlands.

MR. ED MARTIN: I'm sorry?

PAUL BLOSER: Does this encroach on that --

MR. ED MARTIN: No. There are no wetlands within the area of development.

ADAM CUMMINGS: Flood zones.

PAUL BLOSER: Flood zones. I apologize.

MR. ED MARTIN: We submitted a flood plain permit to Dave Lindsay and I got an e-mail today that it looks good. They will have to make sure they have venting. It's minimal, though, and I think it is already compliant, but he will double check that.

PAUL BLOSER: Again, on the lot map, I would like to see exact placement where that shed is from all your boundaries, including the edge of the pool.

ADAM CUMMINGS: The pool is not drawn on the lot map.

PAUL BLOSER: An accurate lot map showing where all these items are, placements of them and setbacks.

MR. ED MARTIN: Could we go through the items again, because we do show -- I mean, we do show the house and the fencing and the pool house and even with setbacks to the property lines.

MICHAEL NYHAN: Right.

ADAM CUMMINGS: We don't have a proximity to the pool. We would like the outline of the pool.

MR. ED MARTIN: Okay.

PAUL BLOSER: Ed (Shero), not to get technical on this, but on the pool placement, on an in-ground pool, certainly you have got a wall thickness.

Do you go edge of outside of wall or edge of inside of wall on an in-ground pool, for your measurements?

ED SHERO: We go to the waterline. Which would be inside.

PAUL BLOSER: Then -- just so the applicant knows what dimension we're looking for.

Any other questions?

MR. ED MARTIN: No, sir.

PAUL BLOSER: Okay. Then I make a motion to have this application tabled --

MICHAEL NYHAN: Excuse me, real quick.

Did we go through anything else that may be required before we do that so we know when he comes back -- is there any other additional information we'll need?

PAUL BLOSER: Just placement of the pool, where it fits in relationship.

Do you have a setback from the house on that, the pool?

ED SHERO: No, not on this map, but I don't have the pool permit with me. It may be on the pool permit application.

PAUL BLOSER: Okay.

MR. ED MARTIN: I'm confused. The pool itself, short of their final inspection is compliant, though, right? The only thing is the setback?

ED SHERO: Well, there is a couple things on the pool. We couldn't approve the barrier because of the shed. I don't believe we ever did an alarm test or an electrical inspection.

If -- you been in the pool house?

MR. ED MARTIN: Just stepped in.

ED SHERO: Because I think on your drawings --

MR. ED MARTIN: The architectural show plumbing. There is no plumbing in there.

ED SHERO: There is no plumbing?

MR. ED MARTIN: There is not.

ED SHERO: That was my question.

PAUL BLOSER: The photographs look like it is coming up the outside of the shed, next to the shed, the utility house, whatever it is.

MR. ED MARTIN: Correct. You're talking about the pool -- yes. It's on the south side.

PAUL BLOSER: Okay. Are you all set then?

MR. ED MARTIN: Yes, sir, I am.

PAUL BLOSER: Again, I make a motion to table this pending further information to complete this application.

ROBERT MULCAHY: Second.

DECISION: Unanimously tabled by a vote of 6 yes for the following reason:

1. This application is unanimously tabled at the request of the Zoning Board Chair due to lack of complete information regarding location and setback locations of structure in relation to the pool.

Note: Applicant to obtain new sign at the Building Department to post and maintain as per Town regulations. Application will be heard at the December 17th Zoning Board meeting.

Mr. William King addressed the Zoning Board on a non-agenda related item.

The 10/27/13 Zoning Board meeting minutes were approved.

The meeting ended at 7:43 p.m.